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26. Danish Report

on the European Social Charter

Concerning articles 2, 3, 4, 9, 10 and 15 and 2 and 3 of the Additional Protocol

for the period 1.1.01 to 31.12.04

April 2006

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 2
The right to just conditions of work

Article 2
Paragraph 2
Questions A-C

Report will follow as soon as possible

Article 2
Paragraph 3
Questions A-E

Report will follow as soon as possible

Article 2
Paragraph 3
Questions A-E

Report will follow as soon as possible

Article 2
Paragraph 5
Question A

According to the Danish Working Environment Act §51, section 1, 2. the weekly restperiod, as far as possible, shall be on Sundays and as far as possible at the same time for all employees at the company.

Article 2
Paragraph 5
Question B

The Danish Working Environment Authority can order, that circumstances that contravene the “rule of Sunday”, should be rectified at once or within a grace period.

Article 2
Paragraph 5
Question C

The Danish Working Environment Act applies to all workers performing work for an employer at Danish ground.

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In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

Paragraph 2 – Public holidays with pay

The Danish report states that there are nine public holidays established by practice. Whether or not employees are entitled to public holidays with pay is regulated by collective agreement. According to the report it is customary practice that employees are entitled to equivalent time off *in lieu* if they work on public holidays, but since also this question is regulated by collective agreement it is not possible to state whether the practice applies to all employees. The report further states that no information is available on whether and how workers not covered by collective agreement benefit from Article 2§2, but it is assumed that the principle of equivalent time off *in lieu* also applies to them.

The Committee asks the Government to provide evidence indicating that the great majority of workers benefit from public holidays with pay as required by this provision of the Charter.

Reply:

“It is not possible to give a full reply to this question at this point of time. The reply will follow later. “

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

Paragraph 3 – Annual holiday with pay

In reply to the Committee’s question in the previous conclusion, the Danish report states that if an employee is ill or has an accident when the holiday is to begin, he or she is under no obligation to take the holiday (Section 13, paragraph 2 of the Holiday Act). However, if the employee falls ill or has an accident during the leave period the holiday is lost and cannot be taken at another time.

The Committee considers that employees who fall ill or have an accident during their annual holiday should be entitled to take at another time the days lost in this manner, at least to the extent necessary to ensure that they have the two weeks’ holiday required by the Charter (Conclusions XII-2, p. 62).

Having noted that under Section 4 paragraph 2 of the Holiday Act rules more favourable to the employee may be stipulated by other means, notably collective agreement.

The Committee asks whether rules provided for by such other means exist to guarantee that the large majority of workers in practice benefit from the protection of Article 2§3 of the Charter in this respect.

Reply:

“It is not possible to give a full reply to this question at this point of time. The reply will follow later. “

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

Paragraph 5 – Weekly rest period

The Danish report states that following the entry into force of Order No. 9 of 6 January 2000 on restrictions in the application of the Working Environment Act (WEA) the provisions of WEA pertaining to the weekly rest day now also apply when employees perform their work at home. As regards other categories of employees still not covered by the statutory rules, the report states that no information is available in this respect, but it refers to the existence of collective agreements.

In the previous conclusion, the Committee asked in what cases and under what conditions collective agreements may provide for a postponement of the weekly rest day over a period of longer than twelve days. The report states that in such cases permission must be obtained from the Working Environment Service (WES) and equivalent rest days shall be provided. In giving its approval, WES takes into account the duration of the postponement of the rest day, the frequency and whether the postponement may represent a danger to the employee given the nature of the work involved. According to the report it is a general condition for approval that the employees can perform their work without any risk to safety and health.

While recalling that it has held that twelve consecutive days of work before entitlement to a two-day rest period is a maximum (Conclusions XIV-2, p. 703), the Committee considers that in the Danish case the safeguards, notably that the prior approval of the Working Environment Service, are such that the situation is in conformity with the Charter.

The report further states that if in exceptional cases it is not possible to compensate rest days “adequate protection shall be provided.”

The Committee asks what exactly is meant by adequate protection here, if appropriate the explanation could be illustrated by examples.

Reply:

"The Working Environment Act § 51 opens possibility to deviate from the rule concerning a weekly rest period within a period of 7 days when you are working with caretaking of human beings, animals and plants and for work which is necessary to preserve objects of value. It is a condition, that it should be necessary for reasons of protection or to ensure continuous provision of services or sustained production

According to the Working Environment Act § 56 corresponding compensatory rest periods shall be provided, or appropriate protection shall be provided in exceptional circumstances of such a nature that it is not possible to provide compensatory rest periods. The protection could be exceptional safety precautions, labour organizational or administrative measures, including breaks and periods of less burdening work.

The social partners has the possibility to make an agreement to rearrange the weekly restperiod. However there are not allowed to be more than 12 days between 2 restperiods. The Danish Working Environment Authority has not approved any agreements or given dispensation to more than 12 days between 2 restperiods."

Pending receipt of the information requested, the Committee concludes that the situation in Denmark is in conformity with Article 2§5 of the Charter.

Article 3
The right to safe and healthy working conditions

Article 3
Paragraph 1
Question A

The Danish Working Environment Act only encompasses work performed in Danish territory, including loading and unloading of ships and shipyard work aboard ships.

The Danish Working Environment Act, encompasses work for an employer. However, exception is made for

- work in the private household of the employer,
- work exclusively performed by the family of the employer, who belong to his household, and
- work performed by the military and which can be included under actual military service.

However, certain provisions in the Working Environment Act (the extended area) also apply to the exceptions listed above as well as for work that is not performed for an employer, i.e. self-employed. This includes rules about performing work, technical equipment, and substances and materials.

List of main legislative provisions for the period- 2001-2004.

Acts:

The Working Environment Act was amended by act no. 425 of 9 June 2004.

The Working Environment Act was passed in 1999. The most recent amendment to the Act was made in 2004 in response to the working environment reform adopted by the Danish parliament in May 2004. This reform stipulates, among other things, screening of the working environment of all Danish enterprises within a period of seven years; an obligation for enterprises to seek consultancy advice; and introduction of a smiley scheme to illustrate the state of working environment of the enterprises.

Executive orders:

Order no. 247 of 2 April 2003 on exemption from the application of the Working Environment Act in respect of work performed in the employee's home.

Health and safety activities at the enterprise:

Order no. 575 of 21 June 2001 on the health and safety activities at enterprises as amended by order no. 491 (2002) no. 557 (2004) and 1506 (2004).

Health and safety certificates and smileys

Order no.1497 of 20 December 2004 on the publishing of the enterprises' health and safety working environment (smiley).

Order no. 924 of 21 October 2001 on attainment of health and safety certificates through accredited inspection and demands on the inspection body controlling of the enterprises.
http:/

Order no. 923 of 21 October 2001 on health and safety certificates obtained through certification of the enterprises' health and safety management system.

Counselling

Order no. 555 of 17 June 2004 on the authorisation of health and safety consultants to assist enterprises in complying with improvement notices on the use of consultancy.

Order no. 554 of 17 June 2004 on the use of authorised health and safety consultants to solve specific problems.

Order no. 553 of 17 June 2004 on the use of authorised health and safety consultants to assist for a period of time.

Duties under the Working Environment Act

Order no. 559 of 4 July 2002 on special duties of manufacturers, suppliers and importers etc. of substances and materials pursuant to the Working Environment Act as subsequently amended by order no. 229 (2004), no. 162 (2004) and no. 497 (2004).

Order no. 642 of 28 June 2001 on gene technology and the working environment.

Order no. 574 of 21 June 2001 on the duties of project makers and counsellors under the Working Environment Act.

Performance of work

Order no. 559 of 17 June 2004 on the performance of work

Conditions at workplaces

Order no. 478 of 10 June 2003 on the protection of workers from explosive atmospheres.

Order no. 589 of 22 June 2001 on the conditions at construction sites and similar workplaces.

Order no. 96 of 13 February 2001 on the conditions at permanent workplaces.

Work equipment

Order no. 727 of 29 June 2004 amending the order on the use of work equipment (the use of scaffolding, ladders and rappelling).

Substances and materials

Order no. 1502 of 21 December 2004 on asbestos.

Order no. 292 of 26 April 2001 on work with substances and materials (chemical agents) as amended by order no. 496 (2004).

Order no. 201 of 23 March 2000 on the control of major-accidents hazards involving dangerous substances.

Rest time

Order no. 324 of 23 May 2002 on rest periods and rest days as amended by order no. 611 of 25 June 2003.

Labour inspection

Order no. 1286 of 14 December 2004 on advanced approval notice.

Order no. 1156 of 25 November 2004 on the exemption of the Labour Inspection's inspection of certain health and safety regulations.

Penalty

Order no. 107 of 28 February 2002 on the application of administrative ticket fines at the violation of the Working Environment Act.

Article 3

Paragraph 1

Question B

Special measures taken to protect the health and safety of workers engaged in dangerous or unhealthy work:

Order no. 559 of 4 July 2002 on special duties of manufacturers, suppliers and importers etc. of substances and materials pursuant to the Working Environment Act as subsequently amended by order no. 229 (2004), no. 162 (2004) and no. 497 (2004).

Order no. 478 of 10 June 2003 on the protection of workers from explosive atmospheres.

Order no. 589 of 22 June 2001 on the conditions at construction sites and similar workplaces

Order no. 727 of 29 June 2004 amending the order on the use of work equipment (the use of scaffolding, ladders and rappelling).

Order no. 1502 of 21 December 2004 on asbestos.

Order no. 292 of 26 April 2001 on work with substances and materials (chemical agents) as amended by order no. 496 (2004).

Order no. 201 of 23 March 2000 on the control of major-accidents hazards involving dangerous substances.

Article 3

Paragraph 2

Question A

According to the Working Environment Act, the Danish Working Environment Authority (DWEA) is responsible to see that the Act and the statutory orders issued on the basis of the authority of the Act are respected.

Regarding the working environment for employees performing work "on the seas or in the air," particular working environment rules have been issued by the relevant authorities, i.e. the Danish Civil Aviation Administration, the Danish Maritime Authority, and the Danish Energy Authority.

Moreover, according to the Working Environment Act, the DWEA is, inter alia, responsible for

- advising enterprises, the social partners, and the public about working environment issues.
- assisting the Ministry of Employment with the preparation of rules pursuant to the Act.

The primary tasks of the inspectors are thus inspection and consultancy concerning the working environment

The DWEA has aimed to divide all enterprises in three levels according to whether the enterprises have a poor, average or good working environment. The purpose was to prioritise the DWEA resources in relation to the enterprises that have the greatest needs, i.e. that the enterprises with the worst working environment receive the most frequent inspections.

Choice of enterprises for inspection

Since 1 January 2003, the DWEA has concentrated its inspection work on the sectors and enterprises that have problems within one of the following four prioritised areas: serious accidents, including deaths; heavy lifting; monotonous, repetitive work; and psychosocial working environment.

The DWEA has selected 16 of the 48 sectors with the most or greatest problems in relation to one or more of the prioritised areas. This new prioritising has meant that the DWEA has spent a significant number of inspection hours on the four prioritised areas, and that it has been possible to assign a significant percentage of the responses to these four areas. At the same time, monitoring of the 16 selected sectors has been intensified.

Supervision of project designers and consultants, as well as suppliers, has been intensified in the same manner by carrying out measures or involving project designers and consultants in measures where possible. The purpose of these activities has been to make it possible for enterprises to prevent working environment problems to a greater degree by taking the working environment into account at an early stage, for example before delivery of machines and products, as well as in project design and consultancy.

Different types of inspection: work-place inspections, systemic inspections

The DWEA has developed five methods of inspection:

Adapted inspection has two dimensions: the measures taken by the enterprise itself to improve the working environment, and the working environment standard in the enterprise. This method of inspection involves both dialogue with the enterprise, aimed at getting the enterprise to take measures towards improving working environment problems, as well as efficient and consistent monitoring of compliance with the legislation. The situation of the enterprise in relation to the two dimensions (own measures and working environment standard) determines its level on a scale of one to three, where level three is the worst.

Detailed inspection encompasses supervision of particular problems or problem areas at an enterprise or workplace, without examining the entire enterprise or workplace, e.g. investigation of accidents or complaints.

Inspection of suppliers involves supervision of the safety and health aspects related to products from a supplier.

Inspection of project planners and consultants includes supervision of the obligations and responsibilities of project planners and consultants pursuant to the Working Environment Act.

Special inspection includes supervision of elevators, boilers, container tanks, pipeline systems, natural gas plants, high-risk enterprises, and genetics laboratories.

Since 1996 the prioritisation of the inspection work carried out by the DWEA has been based on the action programme "Clean Working Environment 2005". The programme presents seven visions that are to be made particular priorities up to 2005.

As a supplement to the above, an additional priority was made in 2002 at the request of the Ministry of Employment, in that the social partners have declared that up until 2005 the following four significant working environment problems are to be made particular priorities: serious accidents, heavy lifting, monotonous and repetitive work, and psychosocial working environment.

On this basis the DWEA had laid down the following principles for the prioritisation of their inspection services:

- A significant number of the inspection hours and a significant proportion of the reactions had to be attributable to the four prioritised areas.
- The sectors with the most and greatest problems among the four prioritised areas were to be made the highest priority.
- The DWEA was to prioritise inspection of the enterprises with the worst working environment.
- Adapted inspection was to be utilised as the usual – and primary – method of inspection.

To support the regions and ensure that efforts were directed where the problems were greatest, a special description had been drafted for the inspection of enterprises in the sectors that have the most and/or greatest problems within the four prioritised working environment areas.

Moreover, distinction had been made in connection with the selection of enterprises for inspection between sectors in which the DWEA has previously conducted adapted inspections, and those sectors in which the Authority had not previously conducted such adapted inspections.

In sectors where the DWEA was familiar with the enterprises' working environment level from earlier inspections, enterprises with poor levels of prevention were prioritised for return inspections.

In the sectors in which the DWEA had no such familiarity with the working environment of the enterprises through adapted inspection, enterprises were selected on the basis of the following primary criteria:

- Especially problematic subsectors.
- High numbers of reports relevant to the four working environment areas in relation to the number of employees.
- Complaints within the four working environment areas and the nature of the complaints.
- Previous reactions and experience with the compliance of the enterprise.
- Local knowledge, e.g. experience from previous inspections.
- Size of enterprise.

DWEA staff and inspections during 2004

Total number of enterprises (companies)	289.000
Number of enterprises (companies) in each size category	
1 – 9 employees	140.469
10 – 49 employees	43.043
50 – 249 employees	7.816
> 250 employees	853
Total Number of employees	2.537.012 (2.633.963)
Total number of self-employed	96.951

Number of inspectors	600
Number of visits	30.600

Article 3
Paragraph 2
Question B and C

When an inspector discovers conditions that are in contravention of the DWEA's rules, he has a variety of methods to choose from, according to the seriousness of the situation.

Inspections are focused on certain sectors, and there are certain identified key problems that the inspectors are encouraged to concentrate on; this means that the inspectors are expected to use their discretion and focus on serious problems.

Use of legal sanctions

The inspectors may propose an administrative fine (imposed by the DWEA when there has been a clear violation) or a police report; both are used in about 200 cases yearly. The administrative fines are used about 150 times yearly and the police reports are used about 500 times yearly.

Prohibition order

When there is imminent danger for safety and health the inspector may issue a prohibition order. This is issued on the spot and takes effect immediately; work may not be resumed until shortcomings have been remedied.

Immediate improvement notice

Immediate improvement notices are used in case of serious violations, and their use means stoppage of work. This notice is issued on the spot; a stopgap solution may be permitted.

Improvement notice with deadline / Report on significant problem

This is the inspectors' main instrument and is used when there is a violation of the DWEA rules but no imminent danger to safety and health. The employer is given a certain amount of time to effect repairs, depending on the nature of the risks and the volume of necessary planning and other work. The employer must inform the inspector about what action he has taken to solve the problem.

In case of the above notices, the inspectors are likely to conduct unannounced inspections to check what is being done to rectify the situation. Inspectors seemed to find this useful, and it may also be helpful to employers.

Advice

The inspectors may and do give employers advice even when there is no need to resort to an improvement notice. It is a question of giving information or recommendations on how to improve the working environment.

Number of violations – 2004:

Number of improvement notices issued	16.972
Number of cessation of work activities	1.979
Number of Administrative fines imposed / proposed by	120

L.I. (on the spot fines included)	
Number of cases presented to the public prosecutor	490

Occupational accidents reported to DWEA

If an occupational accident results in one day or more of unfitness for work in addition to the day on which it occurred, the employer is obliged to report it to the Danish Working Environment Authority (D

WEA). Accidents in the shipping, fishing, aviation and offshore industries do not have to be reported to the Danish Working Environment Authority, and therefore do not figure in its statistics.

Table 1 shows the number of reported occupational accidents in the period 1998-2003, broken down by their seriousness and the year in which they occurred. The figures include reports received up to 17 January 2004. By that date, 38,970 occupational accidents that had occurred in 2003 had been reported. This figure is somewhat lower than in the preceding years. However, experience indicates that approximately 3,000 further reports of occupational accidents that occurred in 2003 will be received after 17 January 2004.

It should be noted that the extent of under-reporting of occupational accidents is estimated to be approximately 50 per cent. In other words, only half the accidents that should be reported are in fact reported to the Danish Working Environment Authority.

Over the period 1998-2002 there has been a significant fall in the absolute numbers of reported occupational accidents, from 50,148 in 1998 to 43,930 in 2002.

Table 1: Reported occupational accidents 1998-2003, by type (seriousness) and year. Source: The Danish Working Environment Authority

Type (seriousness)	Year						Total
	1998	1999	2000	2001	2002	2003	
Fatal	80	69	68	50	57	51	375
Other serious accidents	5,563	5,586	5,339	5,101	4,821	4,569	30,979
Other	44,505	44,389	42,813	41,798	39,052	34,350	246,907
Total	50,148	50,044	48,220	46,949	43,930	38,970	278,261

The incidence of reported occupational accidents in the period 1998-2003 has been calculated by comparing the number of occupational accidents in a given year with the number of people in employment in that year. The incidence is stated as the number of occupational accidents per 10,000 employed persons in the year in question.

The incidence of reported occupational accidents fell from 186 to 158 during the period 1998-2002, corresponding to a reduction of 15 per cent. According to

“Overvågningsrapport 2002” (“Surveillance Report 2002”), the fall in the period 1993-2002 is statistically significant.

Occupational diseases reported to DWEA

Doctors and dentists are obliged to report suspected and confirmed cases of occupational diseases. The figures for cases of occupational diseases are compiled according to the registration year, i.e., the year in which they were reported.

Table 2 shows the number of reported cases of occupational diseases in the period 1998-2003, broken down by category of main diagnosis. The number of cases of occupational diseases reported in 2003 was 11,413, which is somewhat lower than the level of the preceding five years. The figure fell from 14,456 in 1998 to 11,413 in 2003.

The extent of under-reporting of occupational diseases is not known, but studies indicate that it is considerable.

Table 2: Reported occupational diseases 1998-2003, by category of main diagnosis and year. Source: The Danish Working Environment Authority

Main diagnosis	Registration year						Total
	1998	1999	2000	2001	2002	2003	
Infectious diseases	181	167	181	188	163	115	995
Cancer and pre-cancerous conditions	204	194	207	177	183	238	1,203
Blood and metabolic disorders	6	4	3	3	2	3	21
Mental disorders	679	745	870	1,213	1,423	1,551	6,481
CNS dysfunction*	95	77	61	88	51	35	407
Other nervous system disorders	130	88	98	26	20	21	383
Hearing impairment	2,025	1,724	1,447	1,578	1,606	1,380	9,760
Other sensory organ disorders	312	288	474	343	392	308	2,117
Circulatory disorders	154	153	149	153	182	166	957
Non-allergic respiratory disorders	485	378	412	354	259	231	2,119
Allergic respiratory disorders	378	326	338	298	263	243	1,846
Disorders of the digestive system	79	47	76	72	56	47	377
Skin diseases	1,561	1,371	1,366	1,545	1,418	1,268	8,529

Musculoskeletal disorders	7,800	6,765	6,851	7,340	6,309	5,511	40,576
Genito-urinary disorders	5	3	7	7	8	5	35
Disorders of pregnancy and child-birth	-	3	8	6	2	7	26
Inadequately defined conditions	113	73	99	104	96	108	593
Suddenly occurring injury (non-accidents)	249	229	209	95	133	176	1,091
Total	14,456	12,635	12,856	13,590	12,566	11,413	77,516

* CNS dysfunction includes various forms of impairment of the central nervous system.

The incidence of reported occupational diseases fell considerably during the period 1998-2003. However, incidence rates of occupational diseases must not be over-interpreted, as they are subject to considerable uncertainty.

Article 3
Paragraph 3

General surveillance of trends and developments in the working environment is provided by the tripartite Danish Working Environment Council, which advises the Minister of Employment and the DWEA, and makes recommendations for priorities, improvements and legislative changes. An active dialogue is maintained among the parties. The twenty members of the Working Environment Council are appointed by the Minister from among the employers' organisations, the Trades Unions and the Local Authorities' Association. The appointments are for four-year terms and the Council meets monthly.

According to article 66 in the act the Working Environment Council shall participate in the organisation and performance of all working environment work through providing consultancy for the Minister of Employment and issuing recommendations to the Minister of Employment on:

1. the overall objectives and setting of priorities for working environment work,
2. allocations of the resources which are made available under section 68 between sector working environment councils and the Working Environment Council,
3. following up the work of the Working Environment Council.

(2) The Working Environment Council shall on its own initiative discuss matters which it finds of importance to the working environment and shall give its opinion on such matters to the Minister of Employment. For the purpose of the Council's political discussions and setting of priorities, it may implement development and analysis activities of a cross-disciplinary nature. The Council shall issue opinions before the Minister of Employment approves sector working environment councils in pursuance of Section 14(1).

(3) Through representatives appointed by the Council from amongst its members or from the outside, the Council shall participate in the drafting rules and submitting proposals for new rules, drawing their authority from this Act. Furthermore, the opinion of the Council shall be obtained before such rules are laid down.

(4) Each year, the Working Environment Council shall issue a report to the Minister of Employment concerning developments in the working environment, and improvements which the Council considers desirable.

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In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

Article 3 – Right to safe and healthy working conditions

Paragraph 1 – Issue of safety and health regulations

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

Content of the regulations on health and safety at work

The Committee examined the general scope of the regulations in Conclusions XIV-2 (pp. 185 and 186). The report contains some of the information requested on the content of protective and preventive measures provided for under Danish legislation.

Protection against dangerous agents and substances

– Protecting workers against **asbestos**. The Committee took note in the previous conclusion that regulations provide for a total ban on asbestos and products containing asbestos, and limit values concerning asbestos-in-air concentrations have been set at a level lower than those established by Community Directive 83/477/CEE of 19 September 1983¹ on the protection of workers from the risks related to exposure to asbestos at work, as amended by Directive 91/382/EEC of 25 June 1991². In the light of all this information, the Committee considers that the situation is in conformity with Article 3§1 of the Charter on this subject.

– Protecting workers against **ionising radiation**. The Committee recalls that it in the previous conclusions it had considered the situation in Denmark to be in conformity with Article 3§1 on this subject. However, it reiterates the questions to which no replies were provided on whether the maximum dose allowed for employees who were only occasionally exposed were not higher than those set for the general public and whether measures had been taken to ensure that activities entailing an exposure that exceeds the normal maximum dose were restricted to what was necessary so as to deal with a heightened danger to life and health.

Protection of non-permanent workers

In reply to the general question on measures to take account of the occupational health and safety needs of persons on fixed-term and temporary contracts, the report states that Working Environment Act No. 681/1975 protects temporary workers to that same extent as other workers.

The Committee indicates that for the situation to be in conformity with Article 3§1 of the Charter, states must take the necessary measures to equip non-permanent workers (temporary agency workers and fixed-term workers) with information, training and medical surveillance adapted to their employment status, in order to avoid any discrimination in respect of health and safety in the workplace. These measures must ensure that such workers are afforded adequate protection, including against risks resulting from a succession of accumulated periods spent working for a variety of employers, exposed to dangerous substances, and, if necessary, must contain provisions prohibiting the use of vulnerable workers for some particularly dangerous tasks.

The Committee therefore asks the Danish authorities to indicate how the regulations apply the Charter in this regard.

¹. Official Journal No. L 263 of 24/09/1983 p. 0025 – 0032.

². Official Journal No. L 206 of 29/07/1991 p. 0016 – 0018.

Reply:

Dansk Institut for strålehygiejne

“The National Board of Health order no. 823 of 31 October 1997 on dose limits for ionizing radiation fully implements the Council Directive 96/29/Euratom of 13 May 1996 laying down the basic safety standards for the protection of the health of workers and the general public against dangers arising from ionising radiation. According to the National Board of Health order no. 823/1997 the annual dose limits apply to permanent workers as well as non-permanent workers.”

DWEA

“Referring to executive Order No. 559 of 17 June 2004 on the performance of work Denmark is of the opinion that the Danish Working Environment Act ensures that non-permanent workers should be protected at the same level as permanent workers:

**Executive Order No. 559 of 17 June 2004 on the performance of work
Training and instructions**

.....

18.-(1) The employer shall ensure that each employee – irrespective of the nature and duration of the employment relationship – receives adequate and appropriate training and instructions in performing the work safely. Information shall be given about any risks of accidents and diseases specific to their jobs, including information about any occupational-medicine studies that the employees have access to. Training and instructions shall particularly be given:

1. on recruitment;
2. in the event of a transfer or a change of job;
3. in the event of the introduction of new work equipment or a change in equipment;
4. in the event of the introduction of any new technology.

(2) The training and instructions mentioned in subsection (1) above shall be adapted to the development taking account of new risks and shall be repeated periodically if necessary.

19. The employer shall pay any expenses connected with the training referred to in section 18, which shall take place during working hours.

20. The employer shall ensure that employees from outside enterprises engaged in work in his enterprise receive appropriate instructions regarding the health and safety conditions of the enterprise which are relevant to their activities in his enterprise.

21.-(1) An enterprise employing persons whose services have been hired out to the enterprise or otherwise made available to the enterprise by an outside enterprise shall be under an obligation to ensure that the work is planned, organised and performed so as to ensure safety and health and in accordance with the rules laid down by the working environment legislation.

(2) Prior to the commencement of such employment the enterprise shall give the outside enterprise the following information which the latter shall be under an obligation to communicate to the persons to be employed:

1. the required professional level, including whether special qualifications are required;
 2. any requirements of health certificates; and
- the special nature of the work, including any risks.”

Personal scope of the regulations

At the Committee's request, the report confirms that the scope of application of the Working Environment Act extends equally to self-employed workers as provided by Section 2 of the Act.

Conclusion

The Committee concludes that the situation in Denmark is in conformity with Article 3§1 of the Charter.

Paragraph 2 – Provision for the enforcement of safety and health regulations by measures of supervision

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

Employment injuries and occupational diseases

The Committee takes note from the report and from the ILO Yearbook of Labour Statistics (2001) that in contrast to the trend over recent years, the number and frequency of declared accidents (in comparison with total employment³) have decreased greatly during the reference period, from 51 416 accidents reported in 1996 to 44 843 in 2000 with an incidence rate of around 1,6 %. This improvement covers almost all sectors of activity. The number of fatal accidents has also decreased but compared with the total number of accidents, their incidence has remained stable, at around 0,1 deaths per 100 accidents, where 64 deaths were recorded in 2000⁴. The Committee notes the same positive developments concerning occupational diseases.

Activities of the Labour Inspectorate

The Committee examined the general organisation of inspection services in Conclusions XIV-2 (pp. 203-205).

The report provides updated information concerning the activities carried out by the inspectors of the Working Environment Service (WES). The number of inspections which had decreased considerably in comparison with the early 1990s, had stabilised compared with the previous reference period (60 500 visits in 1999). The Committee notes that "in order to maintain an efficient system of inspection, there must be a minimum number of regular inspections to ensure that the largest possible number of workers benefit from the right enshrined in Article 3 as soon as possible" (Conclusions XIV-2, p. 128). In order to be able to make the necessary assessment,

The Committee needs information on the number of workers concerned by the visits and/or the proportion of establishments covered or subject to inspections.

Reply:

"The Danish Working Environment Authority can inform following concerning 2004:

DWEA staff and inspections during 2004

Total number of enterprises (companies)	289.000

³ 2 692 000 in 1998, according to the ILO Yearbook.

⁴ The data concerning fatal accidents appearing in the previous conclusion were wrong.

Number of enterprises (companies) in each size category	
1 – 9 employees	140.469
10 – 49 employees	43.043
50 – 249 employees	7.816
> 250 employees	853
Total Number of employees	2.537.012 (2.633.963)
Total number of self-employed	96.951
Number of inspectors	600
Number of visits	30.600

«

Article 4

The right to a fair remuneration

**Article 4,
Paragraph 1
Question A, B,C:**

The Danish labour market is characterised by the autonomy of the social partners, including their freedom to regulate pay and working conditions without any interference from the State. There is thus no general legislation in Denmark concerning for instance remuneration, including minimum wage, occupational pension schemes, continued training and dismissal.

It is assessed that nearly 80% of the employees on the Danish labour market are covered by a collective agreement. This means that about 20% or about 500,000 employees are not covered by a collective agreement, but are instead covered by an individual agreement with their employer. In the public sector the coverage is about 100%, while it is about 60% in the private sector.

The authorities are still not in possession of data concerning minimum wage, including rules on remuneration for overtime work in fields which are not covered by any collective agreement.

As mentioned in earlier reports the level of pay and working conditions in the fields covered by collective agreements have a significant rub-off effect in fields that are not covered by any collective agreement. Generally, the trade unions supervise that no wage dumping takes place on the part of non-organised employers in relation to the ordinary wage in the field concerned. If such wage dumping takes place, the trade union will try to make the employer conclude a collective agreement. If this fails, the union will support its demand by taking industrial action against the employer.

The minimum wage laid down in the collective agreements varies from one occupational field to another. The Danish authorities have no statistical data concerning minimum pay in the more than 1000 agreements existing on the Danish agreements. Most collective agreements in Denmark – both in the private and the public sector – run for a period of three or four years and are renewed on 1 March or 1 April of the year of renewal.

The Danish authorities can, however, inform the Committee that the minimum wage for a cashier in a supermarket – a low wage field in Denmark – was according to the collective agreement covering this field DKK 89.50 per hour as per 1 March 2004 and about DKK 172,000 per year. It can further be mentioned that it is possible according to the agreement to negotiate supplements to minimum pay and that the average hourly wage of cashiers was in 2004 DKK 97.61 and DKK 187,800 per year. If the employer's and employee's contributions to the labour market pension savings are included in the hourly wage it was DDK 102.8 in 2004.

**Article 4
Paragraph 1
Question D**

As regards the average incomes of specific groups a table is enclosed showing the development in incomes drawn up by the Confederation of Danish Employers (DA), (Labour market report, 2004).

Development in incomes							
Type of income	1997	1998	1999	2000	2001	2002	2003
Wage income incl. pension	DKK 1,000 per year						
High level of qualifications	383	401	422	439	461	480	498
Skilled/semi-skilled	247	258	268	281	292	306	315

work							
Sales and services	195	201	210	214	224	234	239
Typical minimum wage	151	158	163	168	173	178	184
Wage income excl. pension							
High level of qualifications	354	366	387	401	417	429	441
Skilled/semi-skilled work	234	244	252	263	269	279	285
Sales and services	185	190	197	201	207	215	219
Typical minimum wage	143	149	153	156	158	162	165
Disposable wage income							
High level of qualifications	180	189	199	207	217	226	232
Skilled/semiskilled work	133	140	145	153	158	166	170
Sales and services	110	114	119	122	127	134	136
Typical minimum wage	89	94	96	99	101	104	107
Wage income excl. pension							
				Annual change perc..			
High level of qualifications	4.3	3.5	5.6	3.8	3.8	3.0	2.7
Skilled/semi-skilled work	2.9	4.0	3.3	4.4	2.2	3.8	2.0
Sales and services	3.3	2.7	3.7	1.9	2.7	4.1	1.7
Typical minimum wage	2.3	4.3	2.4	2.3	1.3	2.1	2.3
Disposable wage income							
High level of qualifications	3.7	5.2	5.0	4.4	4.7	4.0	3.0
Skilled/semi-skilled work	2.7	5.0	4.0	5.1	3.7	4.9	2.2
Sales and services	3.1	3.8	4.3	3.1	4.0	5.1	2.0
Typical minimum wage	2.5	4.9	2.8	2.8	2.3	3.0	2.5
Real wage income							
High level of qualifications	1.5	3.4	2.5	1.6	2.4	1.6	0.9
Skilled/semi-skilled work	0.5	3.2	1.5	2.3	1.3	2.5	0.2
Sales and services	1.0	2.0	1.9	0.3	1.7	2.8	0.0
Typical minimum wage	0.3	3.1	0.4	0.0	0.0	0.6	0.4

The table is based on the level of the Structural Statistics (2003) published by the Confederation of Danish Employers (DA) written backwards with the rate of increases from the Economic Trends Statistics of DA. The full-year income is based on a 37-hour working week during the whole year (with the exception of holiday and public holidays). Disposable income is the wage income excl. of pension payments and tax. The temporary pension savings in 1998 and the special pension savings scheme in 1999 and 2000 have been treated as taxes and as from 2001 as pension.

Source: Statistics Denmark and DA.

Article 4 Paragraph 2

No legislation exists concerning overtime pay. The question of overtime pay is a matter regulated by collective bargaining. In employment relationships that are not covered by any collective agreement, the agreed pay and working conditions, including the question of overtime pay, will appear from the employment contract of the person concerned.

The Danish authorities have no statistical data concerning overtime.

Article 4
Paragraph 3
Question A:

The Equal Pay Act (consolidated act no. 756 of 21 August 2003) determines that all employers must pay the same wages to women and men, including equal pay conditions, for the same work or work of the same value. The Act, which dates back to 1976, was changed in 1986, 1989, 1992, 2000, 2001, 2002 and 2003. The Act covers all employees. However, the Act does not apply where an equivalent duty to give equal pay follows from a collective agreement.

Article 4
Paragraph 3
Question B:

To maintain the high level of participation rate for women and men and at the same time diminish the gender segregation on the labour market and promote equal pay is in focus in the Government's gender equality effort on the labour market. The Ministry of Employment regularly publishes statistics on gender equality wages mapping out the wage differences between the sexes on the Danish labour market, most recently "Men and Women's Wages" from June 2004 published by The Danish National Institute of Social Research (SFI). The total pay gap in 2001 was 13-19 per cent depending on the choice of pay concept and whether it is wages per hour or salaried employees.

In August 2003 the social partners DA and LO published a joint report "Women and Men's Wages". With this report the social partners agreed on a common understanding of how the problems of equal pay can be analyzed and where substantial reasons for differences in pay between men and women is to be found. The report analyzes the gender-related differences in pay and the report concludes that the unexplained difference in pay is 3-4 % for persons paid per hour and 6-7 % for salaried employees on the private labour market.

As a new initiative to intensify the work on equal pay, the Government has proposed new legislation to make larger companies compile gender segregated wage statistics. The main purpose of the statistics is to ensure that companies work actively on the equal pay problem. Furthermore, the Government has proposed legislation on "childbirth equalization" on the private labour market. The purpose is to increase equality between women and men via an equalization of the employers' expenses for their employees' maternity leave. This arrangement could mean that an employer will be more willing to hire women in the child bearing age and that female dominated and male dominated areas with a more equal distribution of the expenses for maternity leave to a greater extent will have the same economic conditions which will contribute to decrease the pay gap between men and women.

Article 4
Paragraph 3
Question C:

According to the Equal Pay Act an employer must not dismiss an employee because this person has claimed for equal pay. The respondent must prove that there has been no breach of the principle of equal treatment.

If the dismissal has taken place more than one year after the employee has claimed for equal pay the person has to establish facts from which it may be presumed that there has been discrimination, it shall be for the respondent to prove that there has been no breach of the principle of equal treatment.

The most important element however is that the employee whose salary because of gender discrimination is lower than persons from the opposite sex has a claim for the paydifference.

In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

Paragraph 1 – Adequate remuneration

The Danish report recalls that minimum wage standards are fixed by collective agreement and may vary from sector to sector and from one category of employees to another. According to the report wage levels are laid down in “many thousands of collective agreements covering the Danish labour market” and the authorities do not have statistical information regarding the wages fixed by these agreements. As regards the coverage of the collective agreements, however, the report states that is 100 % in the public sector and an estimated 75-80 % in the private sector.

The report further states that the lowest wage fixed by collective agreement is that of a cashier in a supermarket: about 79 Danish crowns (DKK; 10,60 €) per hour which corresponds to about 152 000 DKK (20 458 €) on an annual basis (before deduction of tax and contributions). The authorities have no information on the lowest wages paid to workers not covered by collective agreement, but it is pointed out that there is a considerable “spill-over” effect from the agreement regulated areas.

From Eurostat information the Committee notes that the average gross monthly wage of a single male manual worker in manufacturing industry was 2 660 € in 1999 and the corresponding net wage was 1 332 €. In comparison the gross monthly wage of the supermarket cashier mentioned above would amount to 1 704 € (about 64 % of the average of the manufacturing industry worker).

In view of the scant information contained in the report,

The Committee once again has to point out that in order for it to assess the situation properly each report must contain information on the lowest wages actually paid in the labour market, whether determined by collective agreement or by other means, as well as on the national average wage. Both the lowest wages and the average wage should be given net of any tax and social security contributions. If the information is not readily available, the Committee invites the Government to carry out any surveys necessary to make the appropriate estimates.

Reply:

“Reference is made to the 26. report concerning Article 4, para. 1, questions A-C. As stated the minimum wage laid down in the collective agreements varies from one occupational field to another. The Danish authorities have no statistical information concerning minimum pay in the more than 1000 agreements existing on the Danish agreements. An example is given as regards the minimum wages determined in one collective agreement.

Furthermore reference is made to the 26. report Article 4, para. 1, question D. A table showing the average incomes of specific groups is enclosed. The table drawn up by the Confederation of Danish Employers (DA), (Labour market report, 2004), illustrates the development in incomes.”

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

Paragraph 2 – Increased rate of remuneration for overtime work

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

In its previous conclusions, the Committee asked to receive all relevant information on measures regulating working time flexibility, in order to assess their impact on the workers' right to an increased rate of remuneration in compensation for overtime work.

According to the report, there is no available data on working time flexibility since matters relating to remuneration and conditions of work are regulated through collective agreements.

The Committee recalls that Article 4§2 requires that all workers be granted the right to an increased rate of remuneration for overtime work. It therefore stresses the importance of obtaining the necessary statistical data in order to assess whether all collective agreements regulate working time flexibility in conformity with Article 4§2 and whether all workers are covered by such agreements.

In the absence of such data there is no evidence that the situation of Denmark is fully in conformity with the Charter.

Reply:

“Reference is made to the 26. report concerning article 4, para. 2, questions A-B. It is stated that no legislation exists concerning overtime pay as the matter is regulated by collective bargaining. In employment relationships not covered by any collective agreement, the agreed pay and working conditions, including the question of overtime pay, will appear from the employment contract of the person concerned.”

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

Paragraph 3 – Non-discrimination between men and women workers with respect to remuneration

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

The right to equal pay in the public and private sectors is enshrined in consolidated Act No. 639/1992 on equal pay.

The Committee asks exactly what the notion of pay covers for the purposes of this law.

Reply:

“The Equal Pay Act that was originally adopted in 1976 has been amended in 1986, 1992, 2000, 2001, 2002 and 2003. The Act provides that any employer who employs men and women shall give them equal pay, including equal pay conditions, for the same work or work of equal value.

The more detailed definition of the wage concept in relation to the equal pay principle is found in Article 141, par. 2 according to which “‘pay’ means the ordinary basic or minimum wage or salary and any other consideration, whether in cash or in kind, which the worker receives directly or indirectly, in respect of his employment, from his employer.” In accordance with the general understanding the pay concept used in the Equal Pay Act includes all forms of remuneration for work irrespective of how it is determined (collective agreement, individual agreement, etc.) and irrespective of the form of pay (time-based, piece-rate pay, normal pay rate, minimal pay or minimum pay). Both work-related and personal supplements are included. The same applies to severance pay and redundancy payments. It is also irrelevant whether the remuneration is paid compulsorily or voluntarily. The European Court of Justice has ruled that the pay concept includes perks and fringe benefits, pay during sickness, holiday, pension, etc. “

The law requires employers to give equal pay to women and men, including conditions of payment, for equal work or work of equal value (Section 1 paragraph 2).

According to a previous report, although the law contains no explicit provision to this effect, any agreement or collective agreement at variance with the principle of equal pay is null and void. This is because a law dating from 1683, stating that any clauses in breach of a binding law are null and void, is still applied by the courts, and this applies to Act No. 639/1992 (see Section 5).

Act No. 639/1992 stipulates that the value of work is assessed on the basis of a general evaluation of qualifications and other relevant factors (Section 1 paragraph 3).

The Committee wishes to know if it is possible to seek points of comparison outside the firm to determine whether work is equal or of equal value.

Reply:

“A bill introducing a reporting duty for certain enterprises has been tabled in the Danish Parliament (the Folketing).

Statistics Denmark produces analyses and pay statistics broken down on gender. These statistics are collected in the publication “gender and working life”.

The Ministry of Employment has most recently, in June 2004, financed the publication of “men’s and women’s wages”. This report describes pay differential on the Danish labour market.”

The Committee learnt through the ILO that in June 2000 the Ministry of Labour launched a job evaluation programme to examine the impact of the present job evaluation systems on pay differences and the usefulness of job evaluation in achieving equal pay. The Committee has learnt that the final report of this programme was published in January 2001 and requests a summary of the findings and/or a copy of the report.

Act No. 639/1992 was amended in 2001 (Act No. 445/2001) and now contains a provision requiring employers with more than ten employees (i.e. half the private sector) to supply statistics on wages and specifically on differences in pay between the sexes at the request of an employee, a staff representative, a union representative or the Equality Appeals Board.

According to the report on pay differences published by the National Social Research Institute (SFI) in 2000, the difference between men’s and women’s pay was about 18 % in the private sector and 10 % in the public sector in 1996. It has therefore remained stable in the 1990s. According to the report, in addition to length of service, education, professional experience and leave, the difference in pay is also based on sex⁵.

The Committee asks for information on the notion and impact of “leave” on the difference in pay between sexes.

Reply:

“No explicit data are available in Denmark concerning the impact of the access to “leave” on pay and any differences in pay between sexes.

However, as will appear from the replies given below there are factors that seem to indicate that “leave” may be part of the explanation for the existing pay gap.

There is a prohibition against discrimination following from the exercise of the right to absence from work in connection with pregnancy and maternity.

According to Danish case law, discrimination in connection with pregnancy, maternity and leave will generally result in payment of compensation amounting to between 6 and 12 months’ pay.

⁵ Summary of the report in English in *EIRO Comparative study on gender pay equity: the case of Denmark*, consulted on the Internet site of the European Industrial Relations Observatory (www.eiro.eurofound.ie).

An initiative has been taken in Denmark to set up a maternity fund to cushion possible loss of earnings in connection with maternity.”

The Committee learnt through the ILO that the Equality Board’s report on wage fixing, completed in 1996, shows a tendency for a narrower gap between men’s and women’s pay where employees are not covered by a collective agreement. The Committee wishes to know the reason for this. It notes also that following the February 2000 round of collective bargaining the Danish Employers’ Confederation (DA) and the Danish Trade Union Confederation agreed to keep a closer check on equal pay issues and present a report on the subject in March 2002.

The Committee asks to be informed of the results of these initiatives⁶.

Reply:

“On 9 September 2003, the Confederation of Danish Employers (DA) and the Danish Confederation of Trade Unions (LO) published a joint report on equal pay in Denmark.

This report is used actively as a basis for the continued work of the social partners to achieve equal pay.

The National Social Research Institute (SFI) and the Ministry of Employment have also carried out the above-mentioned analysis “men’s and women’s pay”.

The analysis shows that differences in level of education/training and work experience have earlier been decisive factors to explain differences in pay. These factors are still relevant, but declining in importance in line with a development where women are now close to outperforming men when it comes to levels of education and training.

Another major explanation for the pay gap is the work functions as men and women perform different work functions. Major differences continue to exist in the choices of occupation of men and women and these choices have a major impact upon their work functions and their pay and career development.

A major contributing factor is also that men and women are generally working in different occupational sectors. Finally, part-time work and child care responsibilities are also important factors.”

Any allegation of wage discrimination may be taken before the courts. In those cases where the obligation to pay wages is embodied in a collective agreement, cases may also be submitted to arbitration under certain conditions. Cases of alleged discrimination may also be reported to the Committee on Gender Equality (*Ligestillingsnævnet*) set up by virtue of Act No. 908/2000 on equal treatment between men and women, but only when the employee concerned can prove that his or her trade union refuses to handle the case. So it is rather like a safety net. It can order the payment of compensation when equal treatment is violated, and its decisions can be appealed in the ordinary courts. It can also initiate judicial proceedings.

The law was amended in 2001 (Act No. 440/2001) and now stipulates that when a person feels he or she has been the victim of a violation of the equal pay principle and manages to produce sufficient evidence to warrant the presumption of direct or indirect discrimination, the onus of proving that there was no violation of the equal treatment principle lies with the employer.

Any employee who has been the victim of wage discrimination may claim the difference in pay (Section 2 of Act No. 639/1992). The Committee asked for further information from Den-

⁶. *Ibid.*

mark in order to know whether the victim in addition to back pay may claim for any form of compensation and also whether in such cases the employer may be liable to sanctions, either criminal or administrative.

Since they have not answered, the Committee insists that the next report provide answers to these questions.

Reply:

“The Equal Pay Act (2003-08-21 no. 756) provides that an employer who acts in violation of the Act may be held liable to pay compensation, i.e. the difference in pay. Furthermore, a claim may be made for a maximum of 78 weeks’ pay if a worker has been dismissed for claiming equal pay and it is found that the employment relationship cannot be restored.”

The Committee wishes to know what factors the courts and the Committee on Gender Equality take into account in order to determine whether or not there has been a violation of the right to equal pay for equal work or work of equal value, particularly when no task evaluation system is used.

Reply:

“The starting point in connection with an evaluation of equal pay is the principle of equal pay for equal work or work of equal value.

In connection with disputes concerning this matter special emphasis is on the concept of the value of the work that includes the work itself assessed on the basis of its type and nature, the qualifications required for the performance of the work and other factors, including the conditions under which the work is performed.

The case law can be illustrated by the so-called Shamban case (Industrial arbitration of 06.03.1991 – the Union of Female Workers (KAD) v. Shamban); in this case the Arbitration Court found it of particular importance that the two groups had been recruited without special qualifications and that the two groups were involved in the same production process. The Court found it irrelevant that the work functions were different and took place in separate premises.

On the other hand, the Arbitration Court found in the Færch case (Industrial arbitration of 05-07-1991 KAD v. Færch A/S) that the emphasis should be on the very concrete differences in the performance of the work of the two groups.

In the adjudication of the case, it was also found to be of importance whether the individual employees have different work functions and that the employees may freely choose among these tasks.”

The law prohibits employers from dismissing employees who defend their right to equal pay, including equal conditions of pay (Section 3 paragraph 1). Dismissals in violation of this principle are declared null and void unless – in particular cases and after weighing up the interests of the parties – it is considered unreasonable to prolong the working relationship. In this case the employee may claim compensation of up to 78 weeks’ wages, calculated on the basis of his or her average earnings (Section 3 paragraph 3).

The Committee asks what protection there is against retaliatory measures other than dismissal.

Reply:

“The Equal Pay Act contains no rules on this matter. “

The Committee considers that the principle that there should be no discrimination between the sexes implies that the rule of equal pay for full-time and part-time workers should be observed, since most of the latter are women and this can give rise to indirect discrimination. Accordingly,

The Committee wishes to receive answers to the following questions:

- Is the hourly wage of part-time workers employed in the same type of job or in a similar job identical, as a rule, to the hourly wage of full-time workers ?**
- Are there any exceptions to this principle and, if so, on what grounds?**
- If pay increases with length of service, how is the latter calculated in the case of part-time workers?**
- Are certain components of pay, such as premiums, bonuses, entitlements and benefits associated with complementary insurance schemes, paid as a result of employment, reserved for full-time workers?**

Reply:

“According to the Act on Part-time Work (2002-09-26 nr. 815) no discrimination may take place between full-time and part-time workers.

A part-time worker must not be treated less favourably than a comparable full-time worker solely due to the fact that the person concerned is working part-time unless the unequal treatment is due to objective grounds. So there is nothing to prevent a proportionate reduction in wages according to the number of working hours. The same applies to the right to pay increases during the employment relationship.

This also to all other forms of payments, premiums, bonuses, etc. that must be characterised as pay.”

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

Article 9

The right to vocational guidance

Article 9
Question A.

An overview of the legislation on educational guidance

The previous report from the Danish Ministry of Education regarding vocational guidance was based on a legislation, which was changed August 2004. From August 2004 we have a new legislation on the whole area of educational guidance from compulsory school to further education. In the following there is a description of this new national reform of guidance. 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 reform from 2004

On 10 April 2003 the Danish Parliament adopted the Act on guidance in relation to the choice of education, training and career (Act no 298 of 30 April 2003). The act, which came into force on 1 August 2004, implies a number of fundamental changes in several areas of the guidance system. The purpose of the guidance reform has been to create a simpler and more transparent guidance system which facilitates access to high-quality professional guidance. The main target group for the reform is children and young people up to the age of 25, but also adults seeking enrolment in a programme of higher education are included.

In brief, the following changes have been introduced:

National objectives on guidance concerning the choice of education, training and career have been laid down.

The responsibility for providing guidance about the choice of youth education and career has been vested in 46 newly established municipal units called Youth Guidance Centres (*Ungdommens Uddannelsesvejledning - UU*).

The responsibility for providing guidance on the choice of a programme of higher education and relevant careers has been vested in the Ministry of Education. The actual guidance is provided by seven regional guidance centres under the common name of *Studievalg* (Choice of study programme).

At school level (vocational colleges, upper secondary schools and further education) there is guidance staff providing the students with the kind of guidance concerning the ability to fulfill the actual education. There is a cooperation between the two new type guidance centres and the school based guidance.

A national guidance portal called *Uddannelsesguiden.dk* (Education Guide) has been set up, presenting a wide range of options and information for young people, adults and guidance counsellors.

The Ministry of Education acts as a centre of expertise for guidance (Virtual Resource Centre).

- A common training programme for guidance counsellors has been developed to replace previous guidance training programmes.
- A National Dialogue Forum for guidance has been established. The participants in this forum are specially appointed resource people and representatives of relevant public authorities, organisations and associations.

About the reform

National guidance objectives

In connection with the reform, a number of national objectives have been laid down for guidance concerning the choice of education and career provided in relation to the transition from lower secondary education to youth education programmes and programmes of higher education.

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)"

After the reform, local authority councils must ensure that guidance is provided on the choice of youth education and career.

As of 1 August 2004, forty-six municipal youth guidance centres provide guidance services for young people up to the age of 25. The forty-six centres represent the 271 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 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 new 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.

As of 1 August 2004, 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, continue to 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 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 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.

On August 1 2004 the Ministry of Education launched a new national guidance portal on the Internet: Uddannelsesguiden.dk

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

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.

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>

- Act no. 298 of 30 April 2003 on guidance in relation to choice of education, training and career
- Act no. 299 of 30 April on the amendment of various acts within the scope of the Ministry of Education
- 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. 1319 of 14 December 2004 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.

An English version of Act No. 298 of 30 April 2003 on guidance in relation to the choice of education, training and career is available at: <http://eng.uvm.dk/guidance/guidance.doc>

Reply to questions a-c

- 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) 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 guidanceservices.
- 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 reform, 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 (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 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 and therefore The Ministry of Education can not point out the amount.

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.

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In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

The Danish report indicates that the Act on educational and vocational guidance revised in 1996 provides an overall framework for services to be offered by educational institutions, public employment services and other relevant authorities and agencies. All guidance services are provided for free in the public sector.

Educational and vocational guidance is decentralised and sector-based in twenty seven different types of guidance services. Co-ordination is ensured through the National Council for Educational and Vocational Guidance (RUE).

A reform aiming at ensuring a more coherent and cross-sectoral approach to the guidance system is being studied. The Committee asks to be informed on the evolution. As Denmark has accepted Article 15 of the Charter, the measures concerning vocational guidance of disabled people are dealt with under that provision.

Vocational guidance within the education system

a. Functions, organisation and operation

The Committee notes from another source⁷ that educational and vocational guidance and labour market orientation is an obligatory topic throughout the entire period of compulsory schooling. In upper secondary schooling, every institution has a number of counsellors appointed locally among teachers, who have been specially trained. A third of their working time is devoted to student counselling and career guidance.

The Committee asks if students are obliged to follow the advice received through guidance. If the advice is compulsory, the Committee asks what are the consequences in case of non-compliance by the student.

Reply:

“As a part of primary and lower secondary school there is an obligation to deliver guidance for all schoolchildren. At the end of school every child must have an educational plan, which will be delivered to the following youth educational institution.

If a student decides to do otherwise than described in the plan, for instance to follow another youth programme, it is possible to do so. In other words there is a free choice to change plans and to follow new routes. As part of this guidance staff will be involved.

As part of upper secondary school students have guidance, which is now delivered partly of the regional guidance centres and partly of guidance staff at school. The regional guidance centres have the responsibility for the coming choice of further education and the school guidance staff have the responsibility for the tutoring and guidance concerning fulfilling the youth education. The advice from the guidance is not compulsory, but there is at the moment different initiatives in this field to have the guidance following up on young people leaving

⁷. Danish Ministry of Education site (www.uvm.dk).

school and not starting at further education or jobs with perspective, initiatives which means, that this target group will be contacted – if possible – by the guidance system and offered guidance session.”

b. Expenditure, number of staff and persons assisted

The report does not provide figures on expenditure and the number of beneficiaries of vocational guidance in the school system. However, with respect to the latter, guidance being part of education, the Committee assumes that it is offered to all pupils and students during their schooling.

The Committee asks for confirmation of this interpretation.

Reply:

“Please see the details about the guidance reform under art. 9 in Form for the reports. The Ministry of Education can affirm, that guidance is offered all pupils and students, and that they have a right to guidance. At the same time there has been a change of priorities as part of the guidance reform saying that there must be a certain focus on young people with special need for guidance. The guidance centres decide how to do this.”

The report indicates that of the 22 500 people employed in guidance roles across the twenty seven officially recognised guidance services, around half work in the primary and lower secondary schools as guidance counsellors or class teachers. Moreover, the majority of the 22 500 staff members are employed primarily as teachers and perform their guidance roles on a part-time basis.

Vocational guidance in the labour market

a. Functions, organisation and operation

The report indicates that vocational guidance in the labour market is offered countrywide by the public employment services to employed and unemployed people.

b. Expenditure, number of staff and persons assisted

The report provides figures on expenditure and staff outside the reference period.

The Committee asks the next report to provide information for the pertinent period of reference.

Reply:

The Danish Ministry of Education

The Ministry of Education does not have the exact numbers of guidance practitioners. As a consequence of the guidance reform a larger number of practitioners are full time today and that will lower the number compared to the previous report.

The Danish Ministry of Employment

The efforts made by the Ministry of Employment to provide vocational guidance – which are managed by the Public Employment Service – are focused on the possibilities of employment on the labour market. The main purpose of the vocational guidance provided to citizens is to strengthen the flexibility and mobility on the labour market by ensuring that the citizen’s career choice is based on knowledge about lines of business and areas of qualifications with growth potential and good possibilities for employment. As regards the enterprises, the main purpose is to assist with knowledge on the recruitment and education possibilities in short and long terms thereby contributing to ensuring that the enterprises can obtain the manpower required.

As a consequence of the structural reform, coming into force on January 1, 2007, a number of common *job centres* will be established. Henceforth, the two authorities will act as one in focusing the measures of employment towards the citizens and the enterprises.

The guidance assignments will still consist in guiding and counselling unemployed, enterprises, students following a course of education and employed persons about job and education possibilities.

In the long run the guidance has one common goal: employment. But in the short run, the focus can be different, for instance education directed towards employment.

b. Vocational guidance in the labour market under the Ministry of Employment is integrated with the general tasks undertaken by the Public Employment Services and the Municipalities. Therefore it is not possible to provide information concerning b.”

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Dissemination of information

The report indicates that RUE is responsible for producing and disseminating for free all the relevant material to educational institutions and to students. It produces a range of handbooks, guides and other resources, including ICT-based resources. In addition, national trade committees, social partners, and private entrepreneurs also provide information.

Nationals of the other Parties to the Charter

The report indicates that access to vocational guidance is ensured to all citizens and other persons who are in Denmark on a lawful basis.

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:

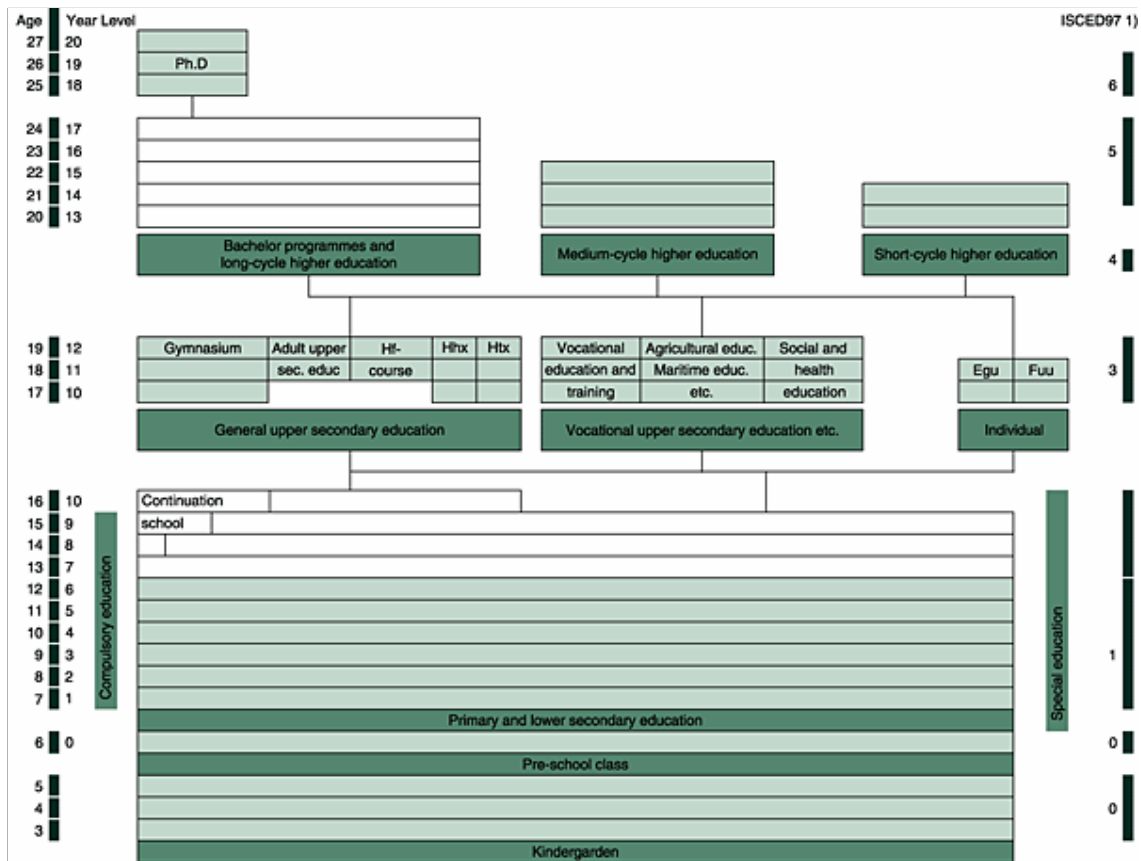
The Danish education system is normally divided into a number of main areas according to level and branch of education.

- **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 88 percent of a year group attends public schools, which are free of charge. 11 percent attend private schools, which receive a substantial state subsidy. 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* ('Arbejdsmarkedsuddannelser', '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.

a. 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).

The contents and structure of vocational education are designed and developed in close co-operation 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 2005 there were 58 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.: (2003) 5,224,194,000 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 in such educational institutions in 2002: 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.

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 (2003) :DKK 907 million.

Total amount of public expenditure to medium-cycle higher education (2003) :DKK 2527 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 specialized in short cycle higher education are merging to Business Colleges (in Danish: Erhvervsakademier) and institutions that have specialized in medium cycle educations have formed a number of Centres for Higher Education (Danish acronym: CVU). 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, 44.5 % 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 lifelong 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. 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. Most 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:* (2003) DKK 964.7 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 140 providers of Adult vocational training (AMU), including 6 Adult Vocational Centres (17 percent of the participants), and VET Colleges: Business and Technical Colleges (20 percent), Business Colleges (24 percent), Technical Colleges (34 percent of participants).

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.

- *Recent measures for the recognition of prior learning in education and training:* In November 2004, the government presented a policy paper to Parliament on the recognition of prior learning in education and training as a contribution to the offensive competence strategy that prepares Denmark for global competition and the knowledge society. See <http://pub.uvm.dk/2005/priorlearning/>. The government 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 is the necessity to go further than that in the light of Denmark’s aims of increasing the level of knowledge and competences. Recognition of prior learning should be considered at all levels of the educational system, and initiatives to improve access to education, opportunities for reduced education and training time and documentation for assessment and recognition of prior learning should be taken. The policy paper was approved by all political parties in Parliament, and the Ministry of Education is following up on in a number of education programmes, as well as transversal initiatives. Action is being taken to develop 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 1994-2003

	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
	Number									
Total	979,243	992,904	1,013,127	1,036,693	1,054,243	1,074,664	1,092,154	1,111,616	1,122,612	1,134,028
Basic school, total	598,968	601,351	610,260	620,833	634,197	645,726	662,117	678,740	692,672	704,238
Pre-school class to 7 th form ^{a)}	437,446	447,343	461,601	476,658	490,990	504,195	515,800	530,262	539,471	547,285
8 th - 10 th forms, basic school	161,522	154,008	148,659	144,175	143,207	141,531	146,317	148,478	153,201	156,953
Vocational intro. Courses ^{a)} ²⁾	13,074	12,766	13,953	17,635	19,012	17,203	10,199	10,253	8,573	5,677
Upper sec. Education, total	207,861	212,931	218,090	221,911	218,098	221,721	222,852	220,413	217,332	221,764
General upper sec. Education	75,535	74,260	73,784	71,634	67,581	65,353	64,481	64,417	65,650	68,618
Vocational upper sec. Programmes ³⁾	33,417	32,629	33,243	33,564	32,465	33,010	32,896	33,620	33,813	34,162
Vocational programmes, basic course ⁴⁾	20,378	22,920	24,332	29,827	32,695	35,528	41,005	40,847	40,499	42,034
Vocational programmes, main course	78,531	83,122	86,731	86,886	85,357	87,830	84,470	81,529	77,370	76,950
Higher	159,34	165,85	170,824	176,314	182,936	190,014	196,986	202,210	204,035	202,349

education, total	0	6								
Short-cycle higher education	15,618	15,071	15,046	15,669	16,191	17,505	19,662	20,172	19,052	17,515
Professional bachelor programmes	45,164	51,338	53,954	56,941	59,645	61,802	63,333	64,579	65,950	65,656
Bachelor programmes	30,959	33,393	36,522	40,216	43,397	46,159	47,645	49,907	50,076	51,649
Other medium-cycle higher education	4,065	3,882	3,855	3,492	3,323	3,234	3,668	4,365	4,811	5,403
Candidatus programmes ⁵⁾	59,369	57,772	56,881	55,291	55,606	56,491	57,741	58,211	59,311	57,236
PhD programmes, etc.	4,165	4,400	4,566	4,705	4,774	4,823	4,937	4,976	4,835	4,890

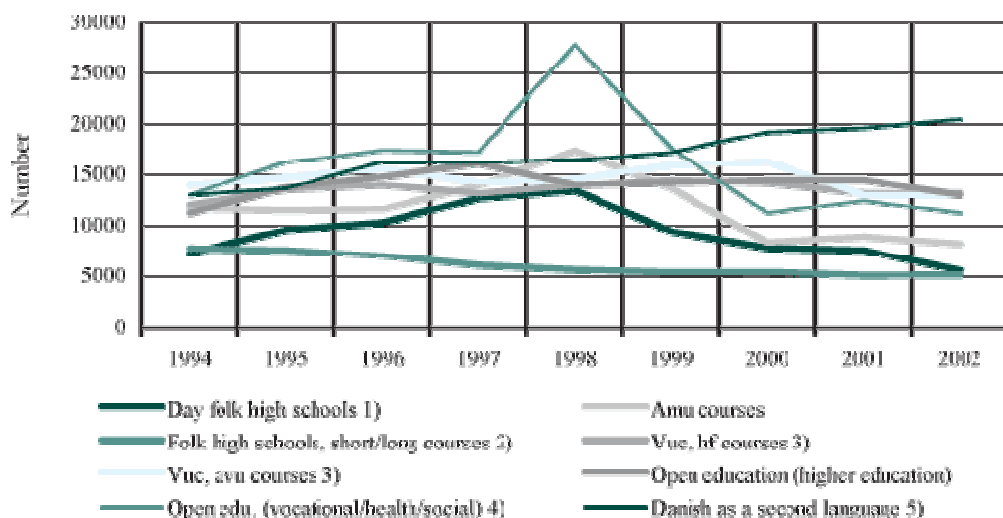
a) The figure for 2000 is estimated. 1) Figures for 2003 are provisional

Number of participants in Adult Vocational Training, 2004 (question f)

Total participants*)	Men	Women	Participants, full-time equivalents
592,847	359,974	232,873	10,395

Note:*) It is estimated that this number corresponds to approx. 250,000 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 (2003)

Building and construction	5,238
Crafts and engineering trades	2,190
Mechanical engineering, transport and logistics	3,692
Service industries	3,272
Technology and communication	6,572
Food production and catering	5,585
Commerce, clerical education and finance	15,170

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 female 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, 2004):

All	592,847
Industry vocational training courses	62,443
Metal industry continuing training committee	36,910
Trade, administration, communication and management continuing training committee	167,343
Service sector continuing training committee	28,392
Building, construction and industry continuing training committee	31,016
Technical installations and energy continuing training committee	10,935
Wood industry	3,992
Dairy and farming continuing training committee	20,089
Kitchen, hotel, restaurant continuing training committee	14,085
Transport sector continuing training council	109,940
Educational, social and health continuing training committee	5,164
Joint catalogue	48,812
Welding and heating technique	26,271
Transitional	1,627
Individual competence assessment	25,828

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 7 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 1st 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 9th 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 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.

Arrangements for retraining redundant, *unemployed* workers, is within the field of responsibility of the Ministry of Employment.

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 to 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, which is within the field of responsibility of the Ministry of Employment, may purchase adult vocational training courses for the unemployed.

Question D*Adult Vocational Training*

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

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.

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 voksendannelsestøtte', 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	Paid to employees (or to employer if employer pays full wages during training leave). Level for both schemes is maximum unem-	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

<p>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.</p>	<p>ployment 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</p>	<p>transactions, not identical with beneficiaries as these may participate in several courses with allowance in one year)</p>
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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 22nd 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 Danish report provides information about the Vocational Education and Training system (VET), which is a dual system and will therefore be analysed under Article 10§2.

The Committee observes from other sources⁸ that the Danish education and training system consist of compulsory education, secondary general and vocational education, vocational education and training, higher education and adult education.

The Committee recalls that Article 10§1 covers all forms of higher education. In view of the current evolution of national systems, which consists in the blurring of the boundaries between education and training at all levels within the dimension of lifelong learning, the Committee considers that, today, the notion of vocational training of Article 10§1 covers initial training, i.e. general and vocational secondary education, university and non-university higher education, and continuing training. University and non-university higher education is considered to be vocational training as far as it provides students with the knowledge and skills necessary to exercise an occupation.

Under Article 10§1 national reports should, accordingly:

- describe the most recent measures adopted to promote vocational training, including general and vocational secondary education, university and non-university higher education, apprenticeship, and continuing training (the description of the whole system may be recovered from existing database on the topic: Eurydice, Cedefop);
- highlight the bridges between secondary vocational education and university and non-university higher education;
- outline the mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general or technical education;
- underline the measures to make general secondary education and general higher education qualifications relevant from the perspective of occupational integration in the job market;
- outline the mechanisms for the recognition of qualifications awarded by continuing vocational education and training;
- provide figures on the completion rate of students enrolled in higher education;
- provide figures on the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.

⁸ Danish Ministry of Education, Facts and Figures, Education Indicators, Denmark, 2002, on the Danish Ministry of Education site (www.uvm.dk).

It is clear that access to higher technical or university education based solely on individual aptitude cannot be achieved only by setting up educational structures which facilitate the recognition of knowledge and experience as well as the transfer from one type or level of education to another; this also implies that registration fees or other educational costs do not create financial obstacles for some candidates.

The Committee requires that the next report provide detailed information on the entire education and training system on the basis of the above guidelines and the Form for Reports.

Reply:

“Please see in Form for the reports under Article 10, Paragraph 1 and 2”

-0-

As Denmark has accepted Article 15, the measures concerning training of people with disabilities are dealt with under that provision.

Secondary education

The Committee observes from another source⁹ that, on the completion of nine years compulsory education (primary education and lower secondary education), nearly all school-leavers continue in upper secondary education: about 53 % in schools providing general upper secondary education and 41 % in vocational colleges (technical or commercial). About 6 % leave or drop out of the education system after compulsory school.

There are two forms of general upper secondary education in Denmark: the Gymnasium, which lasts three years, and the higher preparatory examination courses, the HF, which lasts two years. They both qualify for admission to university and other higher education studies. The HF is above all directed at young people and adults who have left the education system and wish to return. It is also possible for pupils to attend an HF-course directly after compulsory school.

Vocationally oriented secondary education distinguishes in vocationally oriented general upper secondary education and vocational upper secondary programmes.

There are two vocationally oriented general upper secondary education programmes: one leading to the higher commercial examination (the "HHX") and one leading to the higher technical examination (the "HTX"). A few colleges offer both programmes, but normally they are offered at business colleges and technical colleges, respectively. Both are of three years' duration. Both examinations qualify for admission to higher education, and they also to some extent form the basis for employment.

The Committee observes that there used to be restricted admission to the HHX programme, but today all qualified applicants are admitted.

The vocational upper secondary programmes comprise the vocational education and training programmes (VET), which will be dealt with under Article 10§2, the social and health education programmes (SOSU), as well as other programmes within the areas of agriculture, forestry, home economics, etc. These programmes prepare directly for employment.

Young people who have not completed upper secondary education can attend “production schools”, whose aim is to provide them with qualifications that can lead to completion of a vocational education.

⁹. Danish Ministry of Education site (www.uvm.dk).

The Committee notes from another source¹⁰ that, during the reference period, students in upper secondary education increased slightly from about 228 000 to 234 000. They represented about the 20 % of all participants to the education system. In general upper secondary education, participation declined in gymnasium and grew in vocationally oriented courses (HHX, HTX).

Higher education

Universities, university centres and other higher education institutions provide higher education, including the recently developed non-academic higher education system in the field of further commercial and technical education.

As a rule, a university course consists of a three-year programme leading to a Bachelor's degree, followed by a two-year programme leading to a Master's degree. University courses cover the fields of social sciences, humanities, natural sciences, etc.

The non-academic institutions offer short (two years) and medium-cycle (three or four years) courses, especially within the areas of technology, education, social work and health. These higher education programmes provide occupational competencies. They are theoretical, but some of them also include practical training.

The Committee notes that medium-cycle courses are undergoing reform in order to become professional bachelor programmes. It asks to be informed about the developments.

The Committee observes from another source¹¹ that, in 1997-2000, students in higher education increased from about 184 000 to 202 000. They represented about the 18 % of all participants to the education system. The increase concerned both university and non-university higher education.

The Committee notes that the entrance qualifications for higher education are: the Upper Secondary School-Leaving Examination, the Higher Preparatory Examination (HF), the Higher Commercial Examination (HHX) and the Higher Technical Examination (HTX). Certain non-academic institutions may however admit students who do not have any of these qualifications. Alternative requirements may be 9-10 years of school attendance, followed by work experience, an entrance examination or a supplementary examination.

In reply to the Committee's question, the report indicates that students having completed a Vocational Education and Training (VET) programme can switch both to vocational upper secondary education and to higher education (if special add-on facultative subjects have supplemented the VET programme).

The Committee observes from another source¹² that, in 1997-2000, the total public expenditure for education increased from about 90 billion Danish crowns (DKK, about 12 billion €) to 103 billion DKK (about 13,8 billion €). This represented, in 1998, 7,2 % of the GDP.

As far as equality of treatment is concerned, there is no information in the report about whether nationals of the other Contracting Parties to the 1961 European Social Charter and of the Parties to the Revised European Social Charter lawfully resident or regularly working in Denmark are granted equal access to education and training. The Committee, however, notes from the report under Article 10§2 that, at least, for VET programmes there is free admission for students with a lawful residence in Denmark.

It asks whether this rules applies in general for all education and training. With respect to higher education in particular, having observed from another source¹³ that, with the exception of EU/EEA nationals and refugees, foreigners with non-Danish qualifica-

¹⁰ Danish Ministry of Education, Facts and Figures, Education Indicators, Denmark, 2002.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

tions may be subject to a quota system for admission irrespective of whether they are resident or not, it asks for clarification on this point.

Reply:

“Ordinary short and medium cycle higher education have attracted a large number of students from countries outside the EU/EEA. The quota scheme for enrolment of foreign students in short and medium cycle higher education, which was introduced in 2003, will from 2006 be replaced by new funding arrangements. All foreign students with education as reasons for residence from countries outside the EU/EEA have to pay for education in Denmark. At the same time, a study grant scheme is introduced for highly qualified foreign students from specific countries for time-limited study periods.”

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

Paragraph 2 – Promotion of apprenticeship

The Danish report updates the information about the Vocational Education and Training system (VET). It indicates that, in Denmark, there is no distinction between “vocational education” and “apprenticeship”. The Committee refers to its previous conclusion (Conclusions XIV-2, p. 198-199) for the description of the system.

A vocational education and training programme is a sandwich-type programme in which theoretical and practical education at a vocational college alternates with practical training in a business enterprise. Currently, there are 90 vocational colleges in Denmark (45 technical colleges and 45 commercial colleges).

The new legislative framework (Act no.724/2000) has simplified the structure of VET programmes. The programmes consist of a basic course, which is school-based and lasts 20-60 weeks, and a main course of 3½ year with alternating on-the-job training and short college-based courses. In general, one third of the duration of the programme is spent in college-based courses and two thirds on practical training. The main course begins with a practical training period, after which there is alternance between school-based and practical training periods.

The Committee notes from another source¹⁴ that, with the reform, the basic courses are merged into seven access routes - six for the technical vocational education and training programmes and one for the commercial programmes. They are:

- technology and communication;
- building and construction;
- crafts and engineering trades;
- agriculture, food production and catering;
- mechanical engineering, transports and logistics;
- service trades;
- commercial area: trade, office and finance.

In reply to the Committee’s question, the report provides figures about the VET programmes in 1998. Expenditure amounted to 2,5 billion Danish crowns (DKK, about 340 million €); teachers, including short-cycle higher education programmes, were 10 000; and students enrolled were 125 000. The Committee observes that, in 2000, this figure increased to about 135 000¹⁵.

¹⁴ Danish Ministry of Education site (www.uvm.dk).

¹⁵ Danish Ministry of Education, Facts and Figures, Education Indicators, Denmark, 2002, in the Danish Ministry of Education site (www.uvm.dk).

In reply to the Committee's question as to whether there are enough training places for all applicants, the report indicates that it is the employers' responsibility to provide the necessary apprenticeship possibilities for the students in the various trades. In case of temporary shortage of placements, the Ministry and the social partners take measures, under approval of the Council for Vocational Education,

- to appeal to the employers to employ more students;
- to increase the amount of places by partial approval of employers;
- or to make it possible for employers to share an apprentice.

The Committee notes from another source¹⁶ that the provision of a sufficient number of practical training places is still a fundamental issue. Following the reform, it is the students' own responsibility to find a practical training place, while the task of the college is to lend them active support in their search for training places. Students who are not able to find a practical training place, today have the possibility of completing the programme at college in a school-based practical training scheme. Only a few students avail themselves of this possibility.

The Committee asks for clarification as to where the responsibility lies with respect to the provision of sufficient training places. It also repeats its question for information about the alternative school-based practical training scheme in order to assess its performance.

Reply:

"Please see in Form for the reports under Article 10, Paragraph 1"

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The report indicates that nationals of the other Contracting Parties to the 1961 European Social Charter and of the Parties to the Revised European Social Charter lawfully resident in Denmark are granted equal access to VET programmes.

The Committee concludes that the situation in Denmark is in conformity with Article 10§2 of the Charter.

Paragraph 3 – Vocational training and retraining of adult workers

Under Article 10§3 of the Charter, the Committee considers continuing vocational training for employed and unemployed persons, including the long-term unemployed. Accordingly, the Committee will examine only those of the activation measures for unemployed people that strictly concern training. It is under Article 1§1 of the Charter that the Committee considers activation measures for the unemployed in general terms.

The Danish report provides no information under Article 10§3. Since during the last supervision cycles information has been quite scanty,

The Committee asks the next report to answer all questions of the Form for Reports and of this conclusion in order to allow it to assess the situation.

Reply:

"The Danish Ministry of Education

Please see in Form for the reports under Article 10

The Danish Ministry of Employment

Reference is made to the answer to question I below covering the description of the activation measures under the responsibility of the Ministry of Employment."

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¹⁶. *Ibid.*

The Committee observes from another source¹⁷ that the vocational education and continuing training system has been reformed in 2000 in order to bring about a single coherent adult education system. The reform aims at providing relevant adult education and continuing training offers to all adults at all levels, from the low-skilled to university graduates. Though it is mainly organised for people in employment, adult education is open to everyone.

The new adult education system can roughly be split into the following levels of education:

- preparatory adult education (PAE) will be available for all persons over 18 who wish to improve their general skills;
- basic adult education (BAE) in the form of education programmes which give the same competence as ordinary youth education programmes up to and including the level of vocational education;
- advanced education levels which are comparable with ordinary education levels, but different from these as regards organisation and content; short, medium-term and long higher education programmes.

Employed and unemployed people also receive labour market training in the context of the Adult Vocational Training system (AMU), managed by the National Labour Market Authority (AMS).

The Committee observes from another source¹⁸ that labour market training is regulated by the Act on adult vocational training, which aims at maintaining, developing and improving the vocational skills of the labour force in accordance with the demand of the labour market. Adult vocational training is carried out at 24 AMU-centres and at 105 technical schools and business schools and in 49 other approved training institutions.

The Committee asks the next report to provide information on the functioning of the above-mentioned continuing vocational training systems. In view of the growing relevance of continuing vocational training, the Committee asks that the next report provides information on the existence of preventive measures against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic progress.

Reply:

“Please see in Form for the reports under Article 10, Paragraph 1, Question A, and paragraph 3, question A”

The Committee also notes that there is an Act on leave of absence, which intends to create a financial basis allowing persons with connection to the labour market to obtain leave for training¹⁹.

The Committee asks for information on this legislation and, in particular, which conditions individual leave is subject to, on whose initiative it can be taken, of what length and in which cases it is paid or not.

Reply:

“The former Act on leave of absence as well as other former legislation on grants for adults have been superseded by present legislation on allowance/grand to employes adults under education/training, which is described in the answer to Article 10, paragraph 4, question B and C.”

¹⁷. Ministry of Employment website (www.am.dk).

¹⁸. National Labour Market Authority website (www.ams.dk).

¹⁹. *Ibid.*

The Committee notes from another source²⁰ that the total number of persons participating to adult education, including AMU courses, during the reference period were, yearly, about 120 000.

From Eurostat, the Committee observes that, in 1999, 53 % of employees participated in some form of continuing vocational training.

The Committee asks the next report to provide figures about participation of employees in all kinds of adult education, including in-company training.

Reply:

“Please see in Form for the reports under Article 10, Paragraph 1”

From Eurostat, the Committee observes that in the period 1997-2000 unemployed people decreased from 147 500 to 125 700, that is from 5,2 % to 4,4 % of the labour force. The share of long-term unemployed (i.e. those persons who are without work for 12 months or more) in total unemployment was 27,2 % in 1997 and 20 % in 2000.

From another source²¹, the Committee observes that, in Denmark, the activation rate of unemployed people with respect to training measures was 30 % (54 700 participants) in 1998, 27,5 % (36 783 participants) in 1999, and 21 % in 2000.

The Committee asks that the next report give more information on all the training measures available for the unemployed, especially for long-term unemployed people, and figures about their participation in the different kinds of training.

Reply:

“The Danish Government finds it important that synergy is created between the considerations of social inclusion and social security, on one hand, and the considerations of economic efficiency, on the other hand.

Employment is the best instrument to ensure social inclusion and social security. Within the policy of an inclusive labour market the Government targets promotion of dialogue concerning this matter, subsidised employment for persons with reduced working capacity, social chapters in collective agreements and promotion of corporate social responsibility.

The Government’s overall objective for measures in relation to disabled persons is that persons with a disability should have the possibility of participating in education and employment on an equal footing with persons without a disability.

Employment measures are thus all inclusive and targets all groups who are capable of working. Reference is made to earlier contributions.

The Government’s objective for the employment policy is to ensure that the enterprises will have access to the labour in demand and that jobseekers will obtain a good job.

The reform “More people into employment” from 2003 has contributed to a radical reform of the employment policy, including the active labour market policy. The reform has thus led to a stronger focus on an individual approach in employment measures with a clear job orientation, focus on the shortest way into employment and the involvement of other actors to a considerable extent with a view to improving the result of the measures.

²⁰. Danish Ministry of Education, Facts and Figures, Education Indicators, Denmark, 2002, in the Danish Ministry of Education site (www.uvm.dk).

²¹. European Commission, Joint Employment Reports 1999, 2000 and 2001, (www.europa.eu.int). In 1998-99, the activation rate was defined as the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons. In 2000, the activation rate is defined as the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants in active measures.

This strategy means that the legislation for persons receiving unemployment benefits and social assistance (respectively, insured and non-insured unemployed persons) are harmonised and simplified. This includes better selection procedures, intensified contacts/placement activities, active offers, simplification of the rules on availability and sanctions, less activation in the form of training during the first 12 months of unemployment and a reduction in the number of instruments from 32 to three – vocational training and guidance, enterprise practice and employment with a wage subsidy.

The use of these three instruments depends of the duration of unemployment of the unemployed, the age of the person, social, physical and mental background together with earlier competences and skills. They are general measures which can be used alone or in combination taking into consideration professional and personal issues such as for example handicaps. As mentioned support facilities are also available for particular and targeted groups such as for example persons with a handicap.

The use of the instrument can be illustrated by the youth initiative means that young people under the age of 30 who do not have a qualifying education are both entitled and under an obligation to engage in activation measures totalling 18 months. The 3 instruments can be used alone or in combination depending on the person in question and statutory limitations.

The Government's strategy is implemented in the form of a strengthening of selection procedures and intensified contact procedures, a stronger focus on the direct way into employment, concrete job/training offers actively targeted towards the labour market and intensified measures in relation to weak groups of unemployed persons.

The strengthening of the selection procedures and contacts means that all unemployed persons – both insured and non-insured persons – are assessed according to the same principles. The focus is on bringing the unemployed persons into employment or closer to the labour market. Unemployed persons whose only problem is unemployment will have to intensify their job search activities and will be helped to find the fastest and most direct way into employment, while unemployed persons who are at risk of becoming long-term unemployed will be offered the necessary activities to bring them closer to the labour market. In this connection, a number of tools have been developed, in order to strengthen the selection process and the contacts. These tools, which have become compulsory with effect from December 1, 2004 are:

- A dialogue guide, which will underpin a systematic dialogue about factors which may have an impact on the evaluation of the citizens' employability potential.
- A support history, which is based on data from the benefit register showing a graphical illustration of citizens' reception of public support.
- A job barometer, which – on the basis of a statistical model – shows the probability of the unemployed person being unemployed for a short or longer period of time.
- An introduction booklet, which is handed out to the citizen and which focuses on the citizen's own roles in relation to returning to the labour market.

Combat against long-term unemployment

Amongst other initiatives the intensified contact programme has been introduced with the implementation of the reform "More people into employment. The aim of this programme is to prevent that unemployed persons end up in long-term unemployment and to shift the focus from activation to active job search. This is implemented by imposing a duty on the PES and the municipalities to have a much more frequent contact with the unemployed – as a minimum, every third month. This supports the unemployed in finding ordinary employment and the employment potential of the unemployed is assessed on a current basis. This initiative may be supplemented by a number of job search oriented measures, which may help the unemployed to find a job on his/her own initiative.

Instruments for evaluation of the effects of different labour market programmes

The Government also wishes to ensure visibility/transparency in relation to initiatives and effects of the labour market reforms. For this purpose an IT-based measuring system has been set up. The measuring system has been established as a web-based measuring system portal, which over the internet is made available to employment policy actors at all levels. These actors may thus obtain detailed data on the conditions on the labour market which they may act on, including information about the composition and size of the target groups and on the results and effects of the employment policy initiatives.

Within the reference period this reflects in general the different instruments to combat unemployment.

Figures that illustrate participation in different kinds of training

Number of persons assisted by the Public Employment Service in Denmark

	2001	2002	2003	2004
Number of persons assisted by the Public Employment Service in Denmark	1,653,191	1,413,399	1,981,969	2,427,324

Number of unemployed persons in Denmark in total and in % of the labour force

	2001	2002	2003	2004
Unemployed persons	145.077	144.732	170.608	176.388
Unemployed persons in % of the labour force	5.2%	5.2%	6.2%	6.4%

Number of unemployed persons in Denmark in training measures, broken down by type of training measure

	2001		2002		2003		2004	
	Unemployment Insurance	Cash beneficiaries	Unemployment insurance	Cash beneficiaries	Unemployment insurance	Cash beneficiaries	Unemployment insurance	Cash beneficiaries
Employment with wage subsidy	14,366	18,890	13,994	18,808	12,720	15,913	16,413	11,544
Vocational training and guidance	27,860	16,301	27,469	17,888	18,577	18,780	15,478	19,375
Enterprise practice	169	0	215	0	384	0	951	0
Adult apprenticeship	2,782	342	2,690	327	2,076	230	1,997	275

Source: Statistics Denmark, www.statistikbanken.dk, Labour market policy measures (AMFORA) 2001 - 2004 except for the measure "Voksenlærling" where the source is The Labour Market Authority, [the labour market policy register](#) 2001 - 2004

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The Committee observes from another source²² that Denmark's expenditure on training amounted to 7,1 billion Danish crowns (DKK) in 1999 (about 956 million €). The expenditure on AMU-courses constitutes the biggest single item in the public expenditure. In 1999, it

²². Danish Ministry of Education, Facts and Figures, Education Indicators, Denmark, 2002, in the Danish Ministry of Education site (www.uvm.dk).

amounted to 1,9 billion DKK (about 256 million €), or approximately 27 % of the total expenditure.

The Committee asks for information on the sharing of the burden of the cost of vocational training among public bodies (state or other collective bodies), unemployment insurance systems, enterprises, and households as regards both continuing and occupational training.

Reply:

“Please see in Form for the reports under Article 10, Paragraph 1, question A and paragraph 2, question D”

Since no answer is provided, the Committee repeats its question about equal treatment for nationals of the other Contracting Parties to the 1961 European Social Charter and of the Parties to the Revised European Social Charter lawfully resident or regularly working in Denmark with respect to continuing vocational training.

Reply:

“Please see in Form for the reports under Article 10, Paragraph 3, question F”.

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Pending receipt of information about the functioning of the continuing vocational training system, figures about participation of both employed and unemployed people, and on equality of treatment for nationals of the other Contracting Parties to the 1961 European Social Charter and of the Parties to the Revised European Social Charter lawfully resident or regularly working in Denmark, the Committee defers its conclusion.

Paragraph 4 – Encouragement for the full utilisation of available facilities

The Committee takes note of the scant information provided by the Danish report, which only concerns Vocational Education and Training programmes (VET).

It asks that the next report provide more information on the basis of the Form for Reports and of this conclusion.

Reply:

“Please see in Form for the reports under Article 10, Paragraph 4”

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

The Danish report indicates that VET is free of charge for all students. The Committee notes from another source²³ that, in Denmark, there are no tuition fees for higher education and training. However, participants to certain forms of adult education pay a fee.

As far as financial assistance is concerned, the report indicates that, generally, students over 18 years of age may apply for educational grants by the Danish State Education Grant and Loan Scheme (SU). Grants are paid partly as scholarships and partly as student loans.

The Committee observes from other sources²⁴ that grants 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 whether these grants are adequate and from which students' or parents' income level they are given. In order to obtain a grant and/or loan, the applicant must be a Danish citizen. Under certain circumstances, however, students from other countries may receive assistance according to the rules applying to Danish citizens.

²³. Danish Ministry of Education site (www.uvm.dk).

²⁴. *Ibid.*

The Committee notes from another source²⁵ that non-nationals are entitled to financial assistance on an equal footing with Danish nationals if:

- they have been living in Denmark for a minimum of two years and during this period they have had at least part-time employment or traineeship, or they have been married to a Danish citizen, or to a foreign national who has had permanent residence in Denmark for minimum 7 years;
- they have been recognised as refugees or given asylum seeker status;
- they have special ties with Denmark.

EU/EEA citizens are also subject to the condition of having been living in Denmark for two years, though more flexible rules apply with respect to the employment requirement. Children of EU/EEA migrant workers enjoy equal treatment to the extent that they still live in Denmark and are financially dependent on their parents, who have been employees or self-employed in Denmark,

The Committee recalls that, according to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. This implies that no length of residence is required from students and trainees admitted to reside in any capacity other than being a student or a trainee, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training. This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training.

To this purpose, the Committee recalls that it has held that length of residence or employment requirements for vocational training financial assistance are contrary to the provisions of the Charter (Conclusions XIII-2, Austria, p.221; XIII-3, Finland, p.324; XIV-2, Belgium, p.146, Finland, p.238). It therefore considers that the situation in Denmark is not in conformity with the Charter.

As regards VET programmes, entitlement to public educational grants stop when students enter into paid practical training. The employer pays a salary to the student from the conclusion of the training agreement - also during school periods. The employer receives reimbursement from the Employers' Reimbursement Scheme (AER) for the salary paid to students during the school period.

The Committee also notes that participants in continuing vocational training programmes receive public financial support to cover their costs of living. Unemployed people receive a training allowance, which for persons over 25 correspond to the amount of the employment benefit, and for those under 25 to half²⁶. No training allowance is paid if the person is covered by the SU system.

The Committee asks whether nationals of the other Contracting Parties to the 1961 European Social Charter and of the Parties to the Revised European Social Charter lawfully resident or regularly working in Denmark are equally treated with respect to the above forms of financial assistance.

Reply:

“From a technical standpoint, the rights in question may be awarded either by reviewing the basis for the individual’s sojourn or by the laying down of administrative regulations. In Denmark, regulations dealing with financial assistance in education do not distinguish between differences in such bases, including whether the sojourn is temporary or permanent. The educational aid authorities have decided instead to put in place various administrative provisions to govern these circumstances. This means that the great majority of foreign students who receive Danish educational grants do so as a result of factors that do not require prior residence of a specific duration. It applies to students who have arrived in Denmark with their

²⁵. Website of the Copenhagen Business School (www.cbs.dk).

²⁶. Danish Ministry of Labour, Offers to the unemployed, 2001.

parents before reaching the age of 20, students covered by the Integration Act, students who conform to the EU regulations, German citizens who are part of the Danish minority in South Slesvig, and finally students who are regarded as having acquired a special affiliation to Denmark.

The length of the sojourn is taken into account only for a relatively small group. To simplify administration, a prior sojourn of two years working at least half-time or marriage with a Danish citizen are used as objective criteria, though this will always depend on a specific decision as to whether consideration may instead be afforded to one of the above options, including the acquisition of an affiliation.

In illustration of the trend it may be stated that 7100 foreign citizens from European Council countries received Danish educational grants for study in Denmark in 2005, which is an increase compared to 2003 of just under 2500 students (54%).

The view is therefore held that Denmark has been extremely successful in its efforts to comply with the intentions of the Social Charter.”

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Training during working hours (Article 10§4 c)

Since there is no information in the report,

The Committee asks whether time spent on supplementary training at the request of the employer is included in the normal working-hours.

Reply:

“The Answer to this question is affirmative. Under the Act on the working time, time spent on supplementary training at the request of the employer will be included in the calculation of the working hours.”

Efficiency of training (Article 10§4 d)

According to the report, efficiency and quality of training are ensured through the regional trade committees, which are entitled to control and approve an employer who wants to take in apprentices. The trade committees also appoint employer and employee representatives to participate as examiners in the final exams.

Conclusion

The Committee concludes that the situation in Denmark is not conformity with Article 10§4 of the Charter because equal treatment for nationals of the other Contracting Parties to the 1961 European Social Charter and of the Parties to the Revised European Social Charter lawfully resident or regularly working in Denmark with respect to financial assistance for education and training is not guaranteed.”

Article 15

**The right of physically or mentally disabled persons
to vocational training, rehabilitation and social
resettlement.**

Article 15

The questions under paragraph 1 and 2 are replied as a whole and as an update of the 22nd report.

As an introductory note it should be mentioned that the Danish Ministry of Labour in 2002 changed its name to the Danish Ministry of Employment. At the same time the responsibility for persons under rehabilitation, for the granting of working tools and smaller changes to the place of work, subsidized employment to persons on anticipatory pension schemes and "flex-jobs" was transmitted from the Ministry of Social Affairs to the Danish Ministry of Employment.

Disabled persons

Only changes made following the 22nd report are mentioned.

It should be noted that in 2005 a change was made to the statutory order related to the Act on Compensation to Disabled People in Employment in order to make it possible to have personal assistance for more than 37 hours a week under special circumstances.

It should also be noted that the Government, in connection with the publication of the employment strategy for disabled people, has initiated a project with personal assistance to persons with a mental disability. The pilot project takes place in four Public Employment service regions. The pilot project has been evaluated in the fall of 2005. The evaluation has shown good results in integrating and maintaining people with a mental disability on the labour market through the use of personal assistance. At the same time the evaluation showed that the type of assistance required for persons with a mental disability is significantly different from the type of assistance required for persons with a physical disability.

Below is an overview of the number of users of personal assistants in the period 2001-2004.

Personal assistance to disabled persons in employment

Year	2001	2002	2003	2004
Number of recipients	2022	2388	2786	3235

Personal assistance to disabled persons in vocational training

Year	2001	2002	2003	2004
Number of recipients	40	40	NA	54

Rehabilitation

From August 1, 2004 there has been an improvement of the general subsidy systems for students following a course of higher education.

Persons with permanent function disabilities who follow a course of higher education have in this way been granted the opportunity to receive a financial supplement to the study grants given to students from the State Education Fund.

Previously, disabled students had to apply for financial aid to complete a continuing education through municipal rehabilitation. This opportunity to receive a supplement to the ordinary study grant has certainly affected the use of rehabilitation.

From August 1, 2004, providers have been entitled to receive a higher study grant. As a consequence of the improved possibilities of receiving study grants, a decline in the use of rehabilitation is expected. This is due to the fact that rehabilitation is only a possibility when the general study grant systems are not sufficient. The improved opportunities for providers to

receive study grants mean that more people will be able to complete an education without rehabilitation.

Number of full time persons who receive rehabilitation as the predominant subsidy in the period 2000-2004

	2000	2001	2002	2003	2004
Number of full time persons	28,100	26,447	25,082	24,762	23,189

Source: Statistics Denmark, Statbank Denmark

Flex jobs

As part of the anticipatory pension scheme the legislation was changed. Since July 1, 2002 it is no longer possible to receive one third of the wage in subsidy, but only half or two thirds of the wage. This underscores and emphasizes that the reduction in working capacity of the individual should not only be permanent but also significant.

At the same time, new legislation entered into force, which allow entrepreneurs to receive a subsidy if they have a permanent and significantly reduced working capacity. In essence it means that existing entrepreneurs have the option of receiving a subsidy if they meet the criteria for getting a flex job along with the additional criteria they have to fulfil, for example that it has to be an existing and main part of their employment.

The development in the public expenditure for flex jobs

The public expenditure for flex jobs has increased since 1997. In 2005 the expenses for flex jobs rose to 4,820.8 mill. DKK, which is around three times the expenses of 2001. The increase is primarily due to a rise in the number of persons in flex jobs.

Total public expenditure for wage subsidies for flex jobs, mill. DKK (PL 2006)

	2001	2002	2003	2004	2005
	----- accounts -----				
Public expenses for wage subsidies for fulltime participants with flex-jobs	1,585	2,460.7	3,144.4	4,054.1	4,820.8

Source: The municipality accounts from 2001 to 2005 and ÆFL 2006.

The development in the number of full time recipients with flex jobs

The chart below shows that the number of full time recipients with flex jobs has more than doubled from 2001 to 2004. The chart also illustrates that in the aforementioned period the number of full time recipients employed in the public or the private sector has been almost the same. In 2005, the tendency seems to continue though it appears that slightly more full time recipients are now employed in the private sector.

Number of full time recipients with flex jobs in the public and private sector.

	2001	2002	2003	2004	1 st quar- ter 2005	2 nd quar- ter 2005	3 rd quarter 2005
Public	8,374	11,816	14,385	18,626	16,591	17,197	17,742
Private	7,691	11,299	14,340	17,421	16,704	17,681	18,595
Unknown	285	259	326	101	45	194	202
Total	16,350	23,374	29,051	36,148	33,340	35,072	36,539

Source: Statistics Denmark, Statistical labour market reports and Statbank Denmark

Information: Due to missing reports from a few municipalities the statistics for the third quarter of 2005 are based on an estimate.

Wage subsidised jobs for recipients of the anticipatory pension scheme - "jobs on special terms"

Jobs on special terms are aimed at persons on social pension who are not able to maintain and obtain employment at reduced working hours in the ordinary labour market. The municipality grants the employer a wage subsidy.

From July 1, 2003 the legislation of wage subsidy have been changed. The wage subsidy consists of 20 DKK. per hour. In special cases the wage subsidy can consist of 35 DKK. per hour.

The Government refunds 50 per cent of the expenses of the municipality for wage subsidies to persons in jobs on special terms.

When hiring recipients of the anticipatory pension scheme, with wage subsidy, the working and salary conditions are arranged by agreement between the employer and the individual. This must be done in cooperation with the professional labour organisations.

The number of people employed in jobs on special terms has increased from 2000 to 2005.

Number of persons employed in jobs on special terms in the public and private sector

	<i>2000 1st quarter</i>	<i>2001 1st quarter</i>	<i>2002 1st quarter</i>	<i>2003 1st quarter</i>	<i>2004 1st quarter</i>	<i>2005 1st quarter</i>
<i>Private</i>	<i>2106</i>	<i>2293</i>	<i>2537</i>	<i>2682</i>	<i>2724</i>	<i>2843</i>
<i>Public</i>	<i>2718</i>	<i>3096</i>	<i>3126</i>	<i>3207</i>	<i>3253</i>	<i>3188</i>
<i>Total</i>	<i>4824</i>	<i>5389</i>	<i>5663</i>	<i>5889</i>	<i>5977</i>	<i>6031</i>

Source: Statistics Denmark, Statbank Denmark

The increase in the number of jobs on special terms has been larger in the public sector than in the private sector.

In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

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

Paragraph 1 – Vocational training arrangements for disabled persons

The Committee notes the information in Denmark’s report.

The Committee wishes to know what steps, if any, have been made or are planned, to move away from a medical definition of disability towards a more social definition such as that endorsed by the WHO in its International Classification of Functioning (ICF, 2001).

Reply :

“The understanding of disability in Danish social policy is based on an environmentally perception of disability. The term used is ‘handicap’, which refers to limitations to a person’s ability to participate in society on equal terms, caused by the surrounding society’s lack of ability to meet the needs and requirements of the people with disabilities.”

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Education and Vocational training facilities

The Committee recalls from previous reports that training policy for persons with disabilities stresses their integration into ordinary training arrangements. Information has previously been provided on training in the context of school education for young persons and on adult labour market training courses (AMU).

All educational establishments must be physically accessible.

Following primary education young persons 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, or a course at a production school.

The Committee wishes to know whether general teacher training incorporates special needs education as an integral component.

Reply:

“Generally speaking, courses in special needs education is not a part of teacher training for teachers in « folkeskolen ». However, there is further education and training to be tacher of the deaf or further education and traing on diplom- or masterlevel with special needs education.

The act about teacher traing will be revised and it is taking into condiseration to introduce special needs education as a part of teacher training.”

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The current report again states that all Vocational Education and Training institutions (VETs) are obliged to have facilities for persons with disabilities – these are in general for young persons but can also provide continuing education. It states that the number of persons undergoing training in these institutions was 12 238 in 1999 and 13 342 in 2000. The Committee wishes to receive further information on the success rate of measures to encourage the integration of persons with disabilities.

Higher education establishments are individually responsible for granting special assistance to students with disabilities.

Young people who are unable to complete a youth education course in the ordinary education system may instead receive training organised in accordance with the Danish Special Education for Adults Act, which is organised by the individual county authorities.

The Committee wishes to receive updated information on the measures in place to encourage the integration of adults with disabilities into mainstream training. It notes that for continuing training special measures are in place, and that personal assistance for further training is available where the person is already in employment.

Reply :

“In accordance with the Act on Compensation to Disabled People in Employment with subsequent statutory orders it is possible for employed people to receive personal assistance to further education in cases where the educational institution does not provide this option. “

The Committee wishes to receive information how persons with disabilities are protected against discrimination in access to vocational training.

Reply:

“Students with disabilities – physically or psychologically handicapped in general upper secondary education, vocational education and training and higher education are offered special educational assistance, so they in spite of their disabilities can complete the education like all other students.

Students on higher education who have very significant limitations in getting occupational employment because of permanent physically or mentally disabilities can have a supplementary financial assistance.

It is not possitble to receive special educational assistance at general adult education at lower secondary level, basic adult education, preparatory adult education, single subject courses at vocational education and training, adult vocational training, single subject courses

at the higher commercial examination programme and the higher technical examination programme and at further education and training on tertiary level.”

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The current report provides an estimate of the number of persons who attended rehabilitation either at a centre for rehabilitation (20 522 in 2000) or outside (16 498 in 2000).

The Committee wishes to receive information on the objectives, form and content of a rehabilitation course.

Reply :

“The effort towards rehabilitation is not focused on a homogeneous group but on individuals or groups with special needs. Thus it is often a question of individual or individualized courses of action where the rehabilitation consists in putting together periods of clarification, training or re-education etc. These courses of action are adjusted according to individual conditions and preferences.

Therefore, it is not possible to describe the purpose and content of a course of rehabilitation. In principle there are no limits as to the types of education which can be part of a course of rehabilitation. The decisive factor is that the education offered to the rehabilitee has a clarifying or vocational aim.”

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The Committee recalls that according to the Danish authorities there are no precise statistics on the number of persons with disabilities receiving vocational training/rehabilitation, as vocational training figures include not only persons with disabilities but also persons who are deemed socially disadvantaged. Neither are there statistics available on the number of persons with disabilities of working age. No distinction is made in Danish law between persons with disabilities and those who have reduced working capacity for other reasons.

The Committee therefore requests that the next report provide information on the total number of persons with special needs receiving training/rehabilitation in special facilities or in mainstream facilities with special assistance and the number of requests made for rehabilitation or training from this group.

Reply :

“It is not possible to give an answer as to how many people with special needs are (currently) under rehabilitation. There is no statistical information on the subject.”

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No information on the expenditure for the vocational training of persons with disabilities as a percentage of the overall training budget is provided.

The Committee asks that the next report provide figures for the expenditure on measures for persons with special needs.

Reply :

“The Danish Ministry of Education

Vocational training at Further Educational level

Disabled students and students with special needs in a broader sense at Further Educational level are entitled to special aid necessary to conclude the education. The grant is offered to

estimated number of 3000 students and an expenditure level of approximately 45 mio. DKK or approximately 6 mio. EUR.

Vocational training at Higher Educational level

Disabled students at Higher Educational level are entitled to special aid necessary to conclude the education. The grant is administered within the general framework of aid for disabled students at all higher educations. The grant is offered to an estimated number of 1000 students at vocational educations and an expenditure level of approximately 25 mio. DKK or approximately 3.4 mio. EUR.

The Danish Ministry of Employment

People in vocational training are not registered according to disabilities. Thus, it is not possible to provide figures for the expenditure on measures for people with special needs, as the Committee asks.”

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The Committee recalls that it noted in the previous conclusion that a rehabilitation allowance is paid to persons with disabilities who attend an educational, training, or vocational rehabilitation programme. This is in addition to the other types of financial assistance that are available for adults undergoing educational courses. The Committee asked for further information on the conditions for the granting of rehabilitation allowance. The report states that the allowance is granted where:

- the individual has a reduced working capacity;
- it is likely that training will lead to full or self-support;
- the vocational training is not sufficient to ensure social integration

The Committee asks for clarification of the criteria.

Reply:

“To receive rehabilitation it is a condition that the individual has a limited working capacity. Reference is made to the reply of question 25 in which it is stated that the effort towards rehabilitation is not focused on a homogeneous group but on individuals or groups with special needs.”

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The allowance is intended to cover living expenses and is equivalent to the highest level of unemployment benefit (13 000 Danish crowns (DKK ; 1 748 €) in 2002). The Committee notes that 20 522 persons received rehabilitation allowance in 2000

From other sources¹ the Committee notes that in addition to the state education grant and loan scheme young persons with disabilities who are studying may be eligible for a rehabilitation allowance, for persons under 25 years the amount is half the adult allowance.

In response to a question put by the Committee previously the report states that following an accident at work or occupational disease an employer can be ordered to pay for hospital treatment or rehabilitation/retraining which are required to ensure the best possible recovery during the period when the claim is being assessed. The employer can only be ordered to pay costs, which cannot be covered under the Act on Public Sickness Security or as part of the treatment in hospitals.

As regards the equal treatment of nationals of other Contracting Parties the Committee refers to its conclusion under Article 10.

¹. Danish disability policy-equal opportunities through dialogue; the Danish Disability Council 2002

Conclusion

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

Paragraph 2 – Placement arrangements for disabled persons

The Committee notes the information in the Danish report

Measures to promote employment

The Committee recalls that the policy for the employment of persons with disabilities is not based on a quota system of compulsory recruitment, but on hiring incentives. The measures include wage subsidies, technical assistance and aid in adapting the workplace. The Committee notes from other sources¹ that a survey from 1995 showed that 42 % of all people with disabilities were working.

The report provides updated information on the various measures to enable the integration of persons with disabilities into the labour market under the *Compensation for Disabled Persons in Employment Act*, which entered into force in 1998 and consolidated existing schemes. The Act also provides for new schemes.

In this respect the Committee notes the introduction of the ‘icebreaker scheme’ which is a wage subsidy scheme which allows people with disabilities who have completed 18 months of training, to get practical work experience in the field they have completed their training. A wage subsidy of 50 % is payable to the employer up to a ceiling of 11 000 Danish crowns (DKK ; 1 479 €) per month of the gross wage for a period of 6 months (although in certain cases this may be prolonged). In 2000 subsidies were paid in respect of 25 persons an increase on 1999.

The Committee wishes to know what success has been achieved in moving people from the scheme into full time employment.

Reply:

“In a 2004 study, The Danish National Institute of Social Research estimates that approximately 700,000 people in Denmark have a disability and that 58 % of all disabled people are employed. Of these 53 % are employed in regular jobs.

It is not possible to answer the question regarding the extent to which disabled persons have used the icebreaker-arrangement, as it is not possible to provide information on how many disabled persons have been regularly employed afterwards.

Disabled persons in the icebreaker-arrangement

Year	2001	2002	2003	2004
Number of persons	32	28	NA	NA

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“Other new wage subsidy schemes entered into force; *Flex jobs* and *Jobs on special terms*. Flex-jobs (which replaced a previous scheme 50/50) enables the employer to receive a subsidy up to two thirds of the wage depending on the degree of reduced working capacity and is aimed at those who have permanently reduced working capacity and are unable to keep

¹. Danish disability policy-equal opportunities through dialogue; the Danish Disability Council 2002

ordinary employment. Expenditure on this scheme continues to increase and was expected in 2001 to be four times that of 1998 due to the increased number of participants (12 654 persons employed on flex -jobs). The scheme operates in both in the public and private sector.

Jobs on Special Terms another wage subsidy scheme (which replaced the 1/3 scheme) is responsible for assisting 5 500 persons.

Technical assistance through the provision of tools and adaptation of the work place is primarily under the administration of the municipalities. However since 1996 the employment service has also been able to provide assistance in this respect. In the period 1999-2000 5 million DKK (about 672 000 €) was allocated for these purposes, a fivefold increase from 1998-1999.

The report provides information on the changes to the personal assistance scheme. Personal assistance is available to employees and self - employed persons with disabilities. The total expenditure for personal assistants has risen from 43,2 million DKK (5,8 million €) in 1997 to 70 million DKK (9,4 million €) in 2000, 1 853 persons took advantage of the scheme in 2000, an increase on 1997.

Persons with disabilities are entitled to priority in recruitment for certain jobs in the public sector. According to the report the scheme continues to develop. The Committee notes that it appears that only 22 persons were recruited on this basis of this system in 2000. It observes that the Ombudsman published a report on the scheme, he found, *inter alia*, that the rules in this area were misunderstood and not implemented properly. He recommended that the Ministry of Labour launch an intensive information campaign to familiarise employers in the public sector with the preferential access rules and monitor their enforcement.”

The Committee wishes to receive information on the measures taken in light of the Ombudsman’s recommendations.

Reply:

“The Ombudsman has earlier made a recommendation on further information where people with disabilities are entitled to priority in recruitment for certain jobs in the public sector.

The Labour Market Authority has informed Local Government Denmark, The State Employer’s Authority, and The Danish Regions on the entitlement of disabled people to priority in recruitment for certain jobs in the public sector. The purpose of the letters has been to inform public employers on the priority of disabled persons to promote knowledge of the arrangement and to ensure that the arrangement is used in accordance with the intention.

In 2004, an assessment of the applications of the various arrangements for compensation to disabled persons was made, including information on the entitlement to priority in recruitment for certain jobs in the public sector. The assessment is available at: http://www.ams.dk/publikationer/pub0214/handicap_ingen_hindring_guide.pdf

In 2000 a leaflet was made (Et nyt arbejdsliv: Reglerne om fortrinsadgang for personer med handicap), which also informs of the possibilities of disabled people, who are entitled to vacancies in the public sector, to stalls, and to taxi licences. The leaflet is available at: <http://www.ams.dk/publikationer/pub0013/>.

In every Public Employment service region an expert adviser is employed. The expert can advise on the possibilities of disabled people on the labour market and on the relevant regulations.”

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The Committee observes that according to the report there are no measures protecting employees with disabilities from dismissal nor are employers under an obligation to continue to employ a person who becomes disabled following an occupational injury or disease. The Committee considers that the legal situation of persons with disabilities requires anti dis-

crimination legislation. However it further notes that Council Directive 2000/78/EC of 27 November 2000 on the Establishment of a framework for equal treatment in employment and occupation requires member states to adopt measures in the field of employment and training protecting *inter alia*, persons with disabilities.

It asks to be kept informed of all development in the transposition of the Directive.

Reply:

“The Danish legislation is based on the fundamental principle that: 1) the employee’s qualifications are paramount and: 2) the employer has according to Directive 2000/78/EC an obligation, if necessary to adjust the workplace, to the disabled but qualified employee. In December 2004 the criteria age and disability were implemented in the Danish legislation. The implementation of 2000/78/EC Directive is now completed.

From the Ministry’s point of view the Directive does neither prescribe that a member state must adopt legislation which protects disabled people from being dismissed nor does it prescribe that special regulations must apply for employees who becomes disabled during their employment.

The Danish Government does therefore not agree with the Committee’s observation in the 2nd sentence of the question.

The Danish Government refers to Article 7 in 2000/78/EC, which states the following:

“1. With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to any of the grounds referred to in Article 1.
2. With regard to disabled persons, the principle of equal treatment shall be without prejudice to the right of Member States to maintain or adopt provisions on the protection of health and safety at work or to measures aimed at creating or maintaining provisions or facilities for safeguarding or promoting their integration into the working environment.”

Having said that, the Danish Government is happy to inform the Committee that the Danish legislation contains special provisions that enable employers to take special initiatives aimed at people with disabilities in order to improve their employment possibilities.”

Meanwhile it concludes that Denmark is not in conformity with the Charter on this point.

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As regards sheltered employment the Committee had asked for information on the number of requests for admission to sheltered workshops.

It repeats its request for this information along with updated information on the number of places available in these workshops.

Reply :

“The county authority shall provide sheltered employment for persons who on account of substantial impairment of physical or mental functions or particular social problems cannot find or maintain employment subject to normal terms on the labour market. The county authority shall provide the requested amount of available places in sheltered workshops. Therefore the number of persons employed in sheltered workshops equals the number of requested places for employment in sheltered workshops.

The total number of people employed in sheltered workshops is:

Year	Number of employed
2000	11,912
2001	12,408
2002	12,750
2003	12,089
2004	12,319
2005	12,151

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The Committee recalls that persons employed performing production orientated work in sheltered workshops were not subject to the usual terms and conditions of employment and that their pay was much lower than that in the open working environment (varying between 5 % and 30 %). The Committee notes from other sources¹ that most persons in sheltered workshops are in receipt of a pension and those who are not so in receipt receive the lowest hourly rate under the collective agreement for the area in question or the wages that are normally paid for similar work. Nevertheless the Committee notes that the right to fair remuneration and just conditions of employment apply to all workers including workers with disabilities whether they are employed in sheltered facilities or in the open labour market. States have a responsibility to ensure that wages are fair. The Committee finds that wage rates of between 5 % and 30 % of those in the open working environment cannot be considered fair and therefore finds that Denmark does not comply with the Charter on this point.

The Committee wishes to receive more information on how the rates of pay are determined. Further the Committee wishes to know to what extent trade unions are involved in sheltered employment and what percentage of the workforce in these workshops belong to trade unions.

Reply:

“Remuneration for employment will be payable according to ability. People with severe disability and as a consequence a very limited ability to work can be referred to protected employment. Protected employment is offered with the aim to give persons with severe disability a better quality of life. In protected employment remuneration is typically a supplement to a social pension, and can therefore be settled at a minimum of 5% of the lowest hourly rate under the collective agreement in the open labour market.

Remuneration for employment in sheltered employment is regulated by the collective agreement, negotiated at the central level by the large central employers' organisations and the employees' trade unions.

¹. *Ibid.*

Legislation forbids registration of people with a disability, and in connection with that trade unions have no information about their members' possible disabilities. For that reason it is not possible to report the number of people employed in sheltered workshops who belong to a trade union."

Conclusion

The Committee concludes that the situation in Denmark is not in conformity with the Charter due to the lack of adequate protection against discrimination on the grounds of disability and due to excessively low wage levels in sheltered employment facilities.

Article 1 of the additional protocol
Right to information and consultation

In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

The Danish report on Article 1 of the Additional Protocol states that the “provisions concerning unemployment insurance have not been excluded from the scope of this Article”. The Committee understands that the Danish Government wishes to enter a reservation concerning the application of the Protocol to the matter of social security with the exception of unemployment insurance”. The Committee points out that social security falls within the scope of Article 1 of the Protocol to the extent that it affects equal treatment and equal opportunities. It draws the Danish authorities' attention to the wording of the Appendix, according to which social security matters may be excluded from the scope of Article 1. It therefore considers that the Danish Government was entitled to make a declaration when ratifying the Protocol to the effect that social security matters or some of them were excluded, but that it did not exercise this right.

The Committee has examined the equal rights situation in Denmark over the reference period 1999-2000 from the standpoint of Articles 1§2 (elimination of all forms of discrimination in employment) (Conclusions XVI-1, pp. 164-166) and 4§3 (right to equal pay) (Conclusions XVI-2, p.).

In its previous conclusion on Article 1 of the Additional Protocol the Committee raised several specific questions related to the equal rights situation.

First, as regards the onus of proving, the Committee notes that Act No. 908/2000 (Equal Treatment Act) was amended in 2001 (Act No. 440/2001), outside the reference period, and now stipulates that when a person feels he or she has been the victim of a violation of the equal pay principle and manages to produce sufficient evidence to warrant the presumption of direct or indirect discrimination, the onus of proving that there was no violation of the equal treatment principle lies on the employer.

Secondly, as far as the consequences of a retaliatory dismissal are concerned, Act No. 908/2000 does not provide for the reinstatement of the employee except in the event of equal wage claims. The Act lays down maximum damages of 39 weeks' pay (Section 15). As it has already stated under Article 1§2 of the Charter, the Committee considers that while states can choose which penalties to apply to enforce the right to equal treatment, employers who breach the prohibition of discrimination must face sufficiently dissuasive penalties and have to pay compensation that is adequate and proportionate to the harm suffered by the victim. When, as is the case with Denmark, the law does not provide for a dismissed victim's re-employment, the damages must be sufficient by themselves to compensate adequately and proportionally for detriment suffered, which is clearly not always possible when the level of damages is limited as in the Danish legislation. However, the Committee reserves its position on this subject, pending information on the penalties actually imposed on employers.

The Committee repeats its question asked in the previous conclusion as regards professional activities for which the relevant Minister granted deviations from provisions concerning equal treatment on the ground that the sex was of decisive importance.

Reply:

“Section 13 of the Equal Treatment Act provides that deviations from the Act must be reported to the Minister for Gender Equality. Four ministries have used the access to exemption.

The Ministry of Justice has granted exemption to the Prison Service enabling it to take into account the gender of the employee in connection with body search tasks.

The Ministry of Ecclesiastical Affairs has issued an Order that makes it possible to deviate from the provisions of the Act in connection with recruitment of priests.

The Minister for Consumer Affairs has granted exemption to allow halal slaughtering to be performed by male butchers.

The Ministry for Social Affairs has granted exemption allowing advertising for female staff to a crisis centre and advertising for male staff to a secured prison units.”

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The Committee has also examined the role of women in the labour market as well as the measures taken to promote equal opportunities from the standpoint of Article 1§2. It takes note from another source¹ the situation of women in employment is good in comparison to other EU countries. This is particularly true in respect of : wages (women’s average earnings represented 82,9 % of men’s earnings compared to an European average of 78,6 %), the rate of employment (69,5 % in 1999 compared to an employment rate of 78,1 % for men), rate of unemployment (4,6 % in 2000 compared to an European average 9,2 %), and trade union membership (48,8 % of women in 2000 compared to an European average of 39,2 %).

It asks for information in the next report on women’s career development, such as the proportion of women with qualifications and the proportion of women occupying senior posts in the public and private sectors. It also asks the next report to include a short summary of the various types of positive measures adopted by the authorities and individual firms to assist women.

Reply:

“There is no significant difference in the educational level between men and women in Denmark. There are still differences as regards to the areas in which men and women choose to complete an education.

In rough numbers there are 2½ to 3 times as many men as women in senior positions, but many initiatives are still taken in the area in the public sector as well as in the private sector. Initiatives are taken in the above mentioned legislation as well as in public sectors internal rules where the aim is equal numbers of men and woman in senior positions. The public sector usually requires a gender alternative when appointing persons for public positions.”

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

¹ *Gender perspectives - annual update 2000*, comparative study elaborated by the European Observatory of Industrial Relations (www.eiro.eurofound.eu.int).

**Article 2 of the additional protocol
Right to information and consultation**

Article 2

Additional protocol

Questions A-C and F:

In Denmark most workers in both the public and private labour have for many years been guaranteed a right to information and consultation in connection with the concluded cooperation agreement that contain the elements laid down in the Directive on information and consultation.

The cooperation agreements concluded on the labour market guarantee workers a right to be informed and consulted. The most important agreement is the Cooperation Agreement of 9 June 1986, as amended by Agreement of 17 December 2003, concluded between the Confederation of Danish Employers (DA) and the Danish Confederation of Trade Unions (LO).

In the state sector, the rules are laid down in Agreement of 29 May 2002 concerning cooperation and cooperation committees in state enterprises and institutions. The agreement covers all employees in state institutions and enterprises.

In the county/municipal sector, all employees are covered by the Framework Agreement of 1 April 2005 concerning employee representatives, cooperation and cooperation committees. Workers in the agro/industrial field are covered by the Cooperation Agreement of 29 August 2001, as amended by Agreement of 14 March 2005 between LO and the Danish Confederation of Employers' Associations in Agriculture (SALA).

In 2005, the Act on information and consultation of workers came into operation. This Act implements the EU Directive concerning a general framework for information and consultation of workers in the European Community. The Act guarantees a right to information and consultation for workers in enterprises with a minimum of 35 employees who are not guaranteed a right to information and consultation by a collective agreement. The Act thus only applies to workers who are not by virtue of a collective or other agreement covered by a procedure which gives them a right to be informed at an appropriate time of matters of essential importance for their employment, including the situation of the enterprise and the long-term perspectives as regards employment and the financial situation.

In Denmark, a cooperation committee is a joint committee composed of an equal number of representatives of the management and representatives of the employees. The employee members are elected from amongst the employees, subject to the provision that any employee representatives elected according to a collective agreement are ex officio members of the committee, but with the possibility of supplementing the committee with representatives of groups that are not represented by the ordinary members of the cooperation committee or the employer representatives.

The existing cooperation agreements on the labour market contain provisions concerning the matters covered by the duty of information and consultation. They include such matters as the financial situation of the enterprise, perspectives for the future, working conditions, major changes or restructurings, for instance the use of new technology. The form of cooperation implies that the parties inform each other about conditions of importance for the working climate at the workplace. The agreements also include provisions as to when and how information and consultation at the individual workplace shall take place in a formalised framework in the form of a cooperation committee. Cooperation committees are composed of representatives of the employees and representatives of the management. The agreements contain

thresholds for the number of employees required for the establishment of an actual cooperation committee.

All cooperation agreements contain provision concerning settlement of any disputes that may arise in connection with the agreement. Interpretation and breaches of the agreement are dealt with in the system set up for this purpose by social partners. The sanction for violation of an agreement will typically be a penalty.

Article 2

Additional protocol

Question D

In the sectors covered by LO and DA, enterprises with a minimum of 35 employees are required to set up cooperation committees. In the public sector, institutions with a minimum of 25 employees are required to set up a cooperation committee.

Article 2

Additional protocol

Question E

The tradition for cooperation in Danish enterprises dates back more than 50 years and is so widespread that it is assessed that also the majority of small enterprises (under 35 employees) have an agreement concerning information and consultation. No surveys are available of employees who are have no right to information and consultation.

In the text below are embodied the answers and supplementary information requested by the expert committee regarding the 22th Danish Report.

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

The report confirms that the right to information and consultation is mainly implemented through a series of collective agreements based on the model of the special Co-operation Agreement concluded in 1986 between the Danish Employers' Confederation (DA) and the Confederation of Danish Trade Unions (LO).

In its previous conclusion, after having examined the rules laid down in the said model, the Committee asked whether: i) these rules apply to undertakings managed by local authorities; ii) they provide efficient legal remedies; iii) the collective agreements cover the great majority (80 %) of workers concerned, including nationals of other Contracting Parties.

The report shows that the collective agreements on information and consultation cover all undertakings managed by public authorities. At the municipal level, the regulating instrument is the Framework Agreement on co-influence and co-decision in the county/municipal sector. At the state level, the issue is dealt with within an agreement between the Ministry of Finance, as the State employer, and the organisations.

With regard to legal remedies, the report states that disputes between the parties on alleged breaches of their respective duties are settled according to the mechanisms of dispute resolution set up in the applicable agreement. Generally, breaches are sanctioned by a penalty. Disputes in State managed undertakings may be brought before the Coordination Group between central Government and local Governments in matters regarding employment.

The Committee requests a detailed description of the dispute resolution procedures before this body as well as of its composition.

Reply:

“The Cooperation Board in the State is set by the “Agreement on cooperation and cooperation committees in state enterprises and institutions” and has – in the same way as the cooperation boards in the private sector – the task of dealing with and deciding cases concerning interpretation and breaches of the cooperation agreement. The Cooperation Board in the State sector is – as cooperation boards in the private sector – a joint committee with equal representation from the two parties to the cooperation agreement, i.e. on the one side the employee representatives and on the other side representatives of the management. The chairman is appointed by the Ministry of Finance from amongst the members of the Board.”

Furthermore, it asks what are the sanctions for the employers who do not comply with their obligation of information and consultation.

Reply:

“In the case of breach of the obligation of information the employee side may forward a written request to the management of compliance with this obligation and the management then has one month to meet its obligation. If the management fails to take steps to comply with the obligation, the employee side may submit a complaint to the Cooperation Board. In the case of breach of the agreement, the Cooperation Board may impose appropriate sanctions, for instance an order for compliance or a penalty. The agreement provides that the penalty may – if the local parties are in agreement – be used for measures to promote cooperation.”

Finally, the report states that according to figures provided by LO on the basis of a 2000 survey, the total coverage of the collective agreements laying down rules on the right to information and consultation is 83 % of the total work force, including a coverage rate of 100 % in the public sector and of 71 % in the private sector. With regard to the private sector, figures provided by DA are slightly different since they show a coverage rate of 77 %.

The Committee recalls that Article 2 of the Additional Protocol does not apply to civil servants and requests confirmation that civil servants are not calculated among the 83 % of workers covered by relevant collective agreements.

Pending receipt of the information requested, the Committee concludes that the situation in Denmark is in conformity with Article 2 of the Additional Protocol.

Article 3 of the additional protocol
Right to take part in the determination and improvement of
the working conditions and working environment

Article 3
Additional protocol
Question A

Part 2 of the Working Environment Act lays down rules on the safety and health work of the enterprises, including rules on information and consultation of the employees concerning safety and health. The more detailed rules concerning the safety and health work of the enterprises are laid down in Order No. 575 of 21. June 2001 (as amended by Order No. 491 of 20 June 2002, Order No. 557 of 17 June 2004, Order No. 557 of 17 June 2004).

The earlier rules concerning the number of employees have been amended.

In enterprises with 1-9 employees the work in the enterprise concerning these matters shall take place in the form of personal contacts between the employer and the employees.

In enterprises with 10 employees or more, the work shall be organised in a safety organisation. The employer has a duty to establish a safety organisation in co-operation with the employees and the supervisors.

With a view to strengthening and streamlining the safety and health activities of enterprises, deviation may be made from the above rules if 1) an agreement has been concluded between one or more employee organisations and the employer organisation(s), and 2) if the enterprise is covered by such an agreement concluded at enterprise level between the employer and the employees.

The employees elect a safety representative among themselves. The rules on election of safety representatives, eligibility, validity of elections and protection of safety representatives are the same as the rules on employee representatives agreed upon by collective agreement within the field concerned. The rules on election of safety representatives also provide that disputes concerning election of safety representatives, eligibility and protection are to be settled by the special machinery set up for settlement of industrial disputes.

Further reference is made to the comments in Denmark's first and second report.

Article 3
Additional protocol
Question B

The description below only concerns safety and health conditions (Article 3 (1), (a), last clause and (b)).

The quality of the safety work which is to take place in the enterprise will depend upon co-operation between the individual units in the safety organisation and the inter-action with the management. In enterprises with safety organisations at different levels, it is important to clarify the distribution of the tasks among the safety groups, safety committees and joint safety committee.

A **safety group** led by a supervisor is set up in each group. This group is composed of the supervisor and a safety representative elected by the employees.

Generally, it can be said that the safety group's main task is to deal with more concrete safety and health conditions and to monitor the working environment in the individual units on a day-to-day basis and in this connection monitor and offer advice concerning solutions in this field. It is the objective that the safety and health work should take place as close to the employees as possible in order to create engagement and motivation.

The safety group also has the important function of influencing and informing the employees about good safety and health practices and of acting as a contact link between the employees and the safety committee.

This means that all concrete safety and health problems should, if possible, be solved in the group for the unit/division where the problem has arisen.

The **safety committee** is in charge of the overall management and the co-ordination of co-operation concerning safety and health and performs tasks of a more long-term and planning nature.

The safety committee is also responsible for establishing the necessary foundation for the performance of the work activities of the safety groups.

After consultation of the safety committee, the employer appoints a **daily manager** of the safety and health work. In addition to the role as contact link between the safety committee and the safety group, the daily manager of the safety and health work is also to contribute with expertise and to be an initiator and co-ordinator in the daily work.

The **joint safety committee** is responsible for the planning and co-ordination of the safety and health activities of the individual safety committees.

The employer must ensure that the safety group is provided with the necessary knowledge about and training in safety and health. These requirements have been laid down in greater detail in Order No. 557 of 17 June 2004 and Order No. 1503 of 21. December, according to which the safety group shall participate in a safety and health course of 30 or 37 hours' duration. Employees occupied in the sectors with office work other administrative work require only a 30 hour course.

Reference is furthermore made to the comments in Denmark's first report.

Article 3
Additional Protocol
Question C

As regards safety and health, generally (Article 3 (1) (a), last clause and (b)) the employees have a big say as they are in the centre of the safety and health work in the enterprises.

Reference is furthermore made to the comments in Denmark's first and second report.

Article 3
Additional protocol
Question D:

No minimum limits exist for safety and health work in Danish enterprises. The Working Environment Act prescribes that the work with safety matters in enterprises with 1-9 employees shall take place in the form of personal contacts.

Reference is furthermore made to the comments in Denmark's first and second report.

Article 3
Additional protocol
Question E

As a general rule, the Danish working environment legislation, including the rules of the safety and health activities of the enterprises, applies to all work for an employer on the ground and for loading and unloading of ships and yacht work on board ships.

The Danish working environment legislation does not exclude specific categories of employees from the rules; instead specific types of work are excluded from the scope of the Act, including work at sea, in the air and offshore work.

Other exclusions are work performed in the private household of the employer, work exclusively performed by members of the employer's family who belong to his household and work performed by military staff and which can be characterised as actual military service.

Work performed by self-employed persons without any employees is also excluded. However, the rules on co-operation among several employers who have work performed at the same place of work are applicable.

The part of the labour force which is not covered by the rules on the safety and health work of the enterprises is not estimated to be very big.

As of 6 January 2000, it has been laid down by order that employees who perform work in their homes are to be covered either by a safety group at the permanent workplace of the enterprise or by a safety group set up particularly for this group of employees.

Prior to 6 January 2000, this group of workers was not covered by the rules on the safety and health work of the enterprises, except for the rules on the advisory function of the safety committee.

Reference is furthermore made to the comments in Denmark's first and second report.

Article 3
Additional protocol
Question F

At enterprises with more than 10 employees where the employees are exclusively or mainly occupied with office work, work in shops or other administrative work, only employees who are employed 10 hours or more on a weekly basis are to be included in connection with the organisation of the safety and health work.

In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

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

It recalls that its previous conclusion was deferred due to a lack of information with regard to: i) the frequency and impact of collective agreements deviating from the rules laid down in the Working Environment Act No. 681 of 23 December 1975 as amended; ii) the possibility for non-unionised workers to be eligible as safety representatives and any procedures, as specified in relevant collective agreements, applying to disputes over the rights and obligations of these representatives; iii) the rules governing the participation in the determination and improvement of working conditions of maritime and aviation personnel; iv) how workers' participation is guaranteed in fields covered by Article 3 of the Protocol other than health and safety

(which are covered by the Working Environment Act), in particular with regard to social and socio-cultural services.

With regard to the first question, the report states that, pursuant to Chapter 6 of Order No. 10 of January 2000, collective agreements may deviate from the rules set in the Working Environment Act only if the purpose is to strengthen and streamline health and safety at work.

The Committee requests some practical examples of more favourable agreements deviating from the statutory rule.

Reply:

“It follows from Chapter 6 of Order no. 575 of 21. June 2001, latest amended by Order no. 1506 of 21 December 2004, that collective agreements may deviate from the rules set in the Working environmental Act if the purpose is to strengthen and streamline health and safety at work.

The main method where deviations have occurred have been in the many cases where undertakings, have joined their safety organisation with their joint consultative committee -. It is not though a requirement that such a union have been made.

Examples of more favourable agreements include;

- Undertakings joining safety organisation with joint consultative committee. Examples from 5 state owned institutions have shown this to result in members of the joint committees to consist of anything between 5 and 14 members. It is a requirement that the safety representative is member of the joint committee.
- Agreement may have been made for only part of a company thereby making it possible to cater for the specific safety problems that are present in that laboratory, division, address etc. In cases like this it will often be the case that the agreement deals with the coordination between divisions encompassed by the agreement and those not.
- The agreement may chance the usual way of constructing the safety organisation, (normally consisting of one or more of safety groups, safety committees and the joint safety committee). As part of this it may be agreed that the role of the safety representative and the employee representative are carried out by the same person, thereby adding emphasis to the safety work in the enterprise”

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With regard to the second question, the Committee notes that a non-unionised worker is eligible as safety representative and that, where no workers’ organisation agrees to endorse his case through the dispute resolution procedures laid down by the relevant collective agreement, he may bring any dispute arising in the context of his functions before the ordinary courts.

With regard to the third question, the Committee notes from the report that safety and health conditions in the maritime industry and civil aviation are covered by specific regulations meeting the Charter’s requirements.

Finally, with regard to the fourth question, the Government states that it has no information on whether rules governing the participation of workers in the determination of social or socio-cultural services within the undertaking have been set through collective agreements. The Committee recalls that this particular field is specifically covered by Article 3§1(c) of the Protocol.

It therefore asks whether there are undertakings which have set up this type of services and activities and whether employees of such undertakings are entitled to take part in their determination and improvement.

Reply:

“It should be mentioned that the Working Environmental Act does not cover the areas mentioned, and that the Ministry of Labour has no knowledge of the extent to which undertakings are entitled to take part in their determination and improvement.”

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

Article 4 of the additional protocol
Right to take part in the determination and improvement of
the working conditions and working environment

In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 22nd Danish report.

Article 4 of the 1988 Additional Protocol – Right of elderly persons to social protection

The Committee notes the information in Denmark's report.

The Committee recalls that the policies for elderly persons are based on the premise that elderly persons should be permitted and facilitated to remain independent and able to participate in the running of their own lives.

Overall responsibility for the elderly rests with the Ministry of Social Affairs but implementation of measures takes place at the municipal level. Each municipal board must establish an Elderly Council to advise the municipal board on elderly policy and raise issues of concern.

The Committee wishes to receive information on the number of elderly persons as well as the number of "old old" i.e. those over 80 years of age.

Reply :

"Number of elderly persons in Denmark 1999-2005 (elderly defined as persons of 65 years or older) and number of persons over 80 years of age:

Number of elderly persons in Denmark (pr. 1/1)

	1999	2000	2001	2002	2003	2004	2005
65+ years	790,467	790,402	791,828	794,584	798,351	804,578	812,503
80+ years	208,754	208,837	213,567	216,582	216,989	218,365	220,871

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The report provides information on the reforms to the early retirement schemes, whereby persons are offered incentives to delay their retirement. According to the report it is too early to measure results of the reform although early indicators are that reform has postponed or reduced entry into the early retirement scheme in many sectors.

The Committee asks whether there exists non-discrimination legislation protecting elderly persons against discrimination on grounds of age.

Reply:

"The Act on prohibition against discrimination on the labour market protects elderly persons against discrimination on grounds of age."

The Committee notes that elderly persons sometimes have reduced decision making powers or no such powers or capacity, it wishes therefore to know whether in these circumstances there exist a procedure for "assisted decision making". It refers in this respect to the principles laid down in committee of Ministers Recommendation No R. (99) 4 concerning the legal protection of incapable adults.

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Adequate resources

All persons who have reached the age of 67 years (65 from 2004) are entitled to an old age pension (social pension), provided certain conditions regarding residence and nationality are met.

The Committee wishes to be informed as to how adequate resources are guaranteed to persons who do not fulfil the ten-year residence requirement for the social pension.

Reply:

“Persons who do not fulfil the 10-year residence requirement for the social pension may under special, reasoned circumstances qualify for supplementary resources in the shape of cash assistance in pursuance of the Act on Active Labour Market Policy.”

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In addition pensioners may receive a personal supplement, health allowance and heating allowance.

The health allowance is payable in respect of medicines, dental treatment and treatment from a chiropodist, physiotherapist, chiropractor, or psychologist. It amounts to 85 % of the pensioner’s own expense of medicine or treatment. It is payable to pensioners who do not have assets exceeding 50 100 Danish crowns (DKK ; 6 700 €) and whose personal supplement rate exceeds 0 (see below).

Entitlement to the personal supplement is calculated on the basis of the total income of the pensioner and spouse/cohabitee in addition to pension benefits. If the income is less than 13 800 DKK (1 850 €) for a single pensioner or less than 27 500 DKK(3 700 €) for a pensioner and spouse/cohabitee the personal supplement rate will be 100 i.e. full supplement. If the income is higher a lower rate will be payable up to a ceiling of 96 200 DKK (12 950 €) for a couple in which case the rate will be 0.

The Committee notes the information provided in the report on the income levels of pensioners compared to the average income of workers. It notes that in the case of a single pensioner the gross income before housing benefit is just over half of the income of an average wage earner.

The Committee finds that this gap is considerable and wishes to receive the Government’s comments on this.

Reply :

“The income levels of pensioners compared to the average income of workers should be seen in connection with a number of supplementary benefits and services free of charge for which pensioners may qualify as e.g. housing benefits, fuel allowance, health allowance, home help, free medical and hospital treatment, etc.

It should also be borne in mind that new pensions schemes have been established as .e.g. contributory labour market pension schemes and the Labour Market Supplementary Pension Fund.”

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The Committee refers to its conclusions regarding housing benefit below.

Services and facilities

Although paragraph 1 b of Article 4 of the Protocol explicitly refers the provision of *information* about services and facilities, the Committee interprets paragraph 1 b of Article 4 of the Protocol as presupposing the existence of services and facilities. It has decided to examine information not only relating to the provision of information about these services and facilities but about the services and facilities themselves under this provision as opposed to under Article 14 of the Charter.

The Committee recalls that the previous report provided information on home help services (personal and practical assistance) provided by the municipalities. In addition to home help the municipalities are obliged to provide or financially support other services of a “preventative and activating” kind such as meals on wheels and transportation services.

It recalls that a number of voluntary bodies provide these and other services (services of a social, cultural and educational nature), and that the municipalities may outsource and provide financial support to these bodies.

a) The Committee wishes to know whether in general the supply of such services matches the demand for them and how their quality is monitored. b) Further it wishes to know whether the extent of their provision differs from one municipality to another, and whether there is a charge for any of the services.

Reply a):

“The Danish legislation outlines the overall objectives for social policy as well as rights in relation to care for elderly. It implies that all residents in Denmark have direct access to various services if they are unable to cope on their own because of temporary or permanent impairment of physical or mental capacities. The municipalities are according to the law obligated to offer assistance with necessary tasks to citizens with physical or mental impairments. Elderly and people with disabilities are allocated help and assistance on the basis of applications.

The high degree of decentralisation in Denmark implies that, within the framework of national legislation, each local authority decides the service level in its geographical area, including criteria for the provision of services (quality standards), and allocates the funds required to achieve the service level decided. On the basis of the service level determined by the local authority personal assistance and practical help are offered following a specific, individual assessment of the functional capacities of each individual recipient and of his or her needs.

Home care may be offered either temporarily or permanently. The majority of elderly who are offered home care are granted home care services on a permanent basis. It is granted irrespective of where the elderly person in question lives in: own home, residential care homes or ordinary housing for elderly.

The quality standard of the local level in the fields of home care must describe the services available to citizens who need practical help, personal assistance, physical rehabilitation, general activating measures or preventing measures. Descriptions of the nature, scope and performance of help and assistance must be concise and must include quality objectives (operational objectives), which the local authority can subsequently use to evaluate performance and results.

The quality standards must be adopted by the local authority, which at least once a year must evaluate on the quality and management of the services provided. If used correctly, local authority's quality standards can ensure coherence between political decisions concerning service levels and the resources set aside for them, display the contents of the home care service in the local context and display the fundamental values governing the performance of services. Additionally, the quality standards ensure transparency as regards citizens' rights, and they give users and citizens a good basis for evaluating the performance of local authorities and service providers.

Citizens may bring complaints against decisions made by the local and county authorities before central government appeals bodies – the social appeals agencies – set up in each county. Complaints against decisions made by the social appeals agencies may be brought before the Board of Social Appeal, which is a central government appeal board. The Board of Social Appeal may, however, only consider a case if the complaint is on a point of law or a matter of general importance.

Managed competition was in 2003 introduced into the home care service and the elderly are now entitled to choose between different providers of personal assistance and practical help. The free choice of provider obliges local authorities to ensure, insofar as possible, that the elderly have a selection of several providers of service from which to choose. The object of the free choice is to give elderly a greater opportunity to choose between different providers of service. It is the responsibility of the local authorities to grant the necessary assistance to the elderly, but it is up to the recipient of home care services to decide which of the qualified suppliers, private or municipal, is to provide the services.

The recipient of home care services is furthermore entitled to decide which tasks are to be attended and exchange services according to the act of flexible home care. The exchange must be effected within the time framework set by the local authority for the original services granted (on the basis of an assessment of needs and requirements). Irrespective of such exchange of services, the local authority is still responsible for ensuring that each individual citizen receives the help and assistance covering his or her needs and requirements and refuse to exchange a service based on a the care takes' professional judgment.

Reply b):

According to Danish legislation, local authorities determine the content and extent of the assistance offered (the service level) on the basis of local conditions, and they provide resources for the services in compliance with political objectives concerning service levels.

The service level can differ from one municipality to another. The principle of local government applied in Denmark implies that, within the framework of national legislation, each individual local authority decides the service level in its own geographical area and allocates the funds required to achieve the service level decided. However, Danish legislation requires that local authorities prepare quality standards, including a description of the service level decided by the local authority. The municipalities are obligated to provide information about services and facilities available to the elderly every second year, information about home care services is provided annually.

Local authorities are responsible for providing the various services to elderly in compliance with legislative requirements. The local authorities provide funding for the services through local taxes and block grants from the government.

Danish legislation only allows local authorities to demand payment for permanent practical help and personal assistance in recipient's own homes to a very limited extent. Local authorities are not allowed to demand payment of expenses relating to staff providing personal assistance and practical help, but they are allowed to charge for cost related to use of products and materials. The municipalities can nevertheless charge the recipients of meal services for cost of products and furthermore for cost related to staff, producing the meals and delivery of the service. If the home care services are granted temporarily the municipalities can decide to demand payment for the services, but it may not exceed the cost of providing the service within a period of four years. The payment varies according to the income of the individuals.

Note also that residents in ordinary housing for elderly pay a monthly rent that covers the cost of operating the housing facilities. Residents in ordinary nursing homes pay a sum that by and large covers the cost of operating the nursing homes.

The private providers of service can offer the users a variety of extra services not included in the home care service granted by the municipalities. These extra services are entirely user-financed. “

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The municipalities are obliged to provide information about services and facilities available to the elderly every second year, information about home help services is provided annually. Persons over 75 years of age are entitled to two annual visits from the municipalities informing them of the services available.

The Committee wishes to know whether Government internet sites take into account the needs of elderly persons.

Reply :

“Government Internet in De mark sites takes into account the needs of elderly persons, however the guidelines are formulated broader than just elderly people.

The guidelines are formulated in accordance to the Council Resolutions on the 6. February 2003 “eAccessibility” – improving the access of people with disabilities to the knowledge-based society, which takes into account all groups in society for example the elderly and also the disabled.

The guidelines are not implemented as regulation, but as guidelines supported by tolls, that help the public authority to implement accessibility. “

The Committee wishes to receive information on any services (information or training) or facilities (such as respite care) for families caring for elderly members as well as any particular services for those suffering from dementia or Alzheimer's disease. The Committee previously sought further information on the possibility for elderly persons to complain about services, the report provides information of the different avenues of appeal.

Reply:

“The Danish health system considers the importance of preventive measures and an early effort to postpone the need for health care and long term care. A home call service is therefore been introduced to detect early signs of for instance dementia. The aim of the home call service is to create a sense of security and well-being. Furthermore its aim is to give advice and guidance about activities and support services (private, voluntary and public services). Another object is to support elderly people in putting their personal resources to better use and maintaining their functional capacity for as long as possible.

On an overall basis the local authorities may initiate or support general activating or preventive measures. The aim is to enhance and maintain the users' opportunities to manage on their own. Each local authority decides the design and organisation of such services. The services may, for example, be provided by day centres or within the context of senior citizens' centres and may include club work, courses, lectures and exercise.

Respite care is a central part of the Danish efforts to support elderly with dementia and their relatives. Local authorities must offer relief and respite care to person with impaired physical or mental capacity. The legislation is open for relief or respite care for persons either with or without close relatives. Relief is provided in the recipients own home, while respite care is provided outside the home, for example accommodation at a nursing home or residence at a care facility during day or night, or both.

The municipality must inform care takers and recipients of care about the possibilities of supplementary help from the local home care service, the home nurse service or the opportunity of around the clock domiciliary care. The recipient is to be offered the opportunity of adapting the home to better accomplice the recipients impaired capabilities and improve the possibility to prolong the recipients stay in his or her own home.

If a person takes care of a close relative who wishes to die at home, the person is entitled to compensation for lost earnings (i.e. care allowance). The objective of the care allowance scheme is to give hospital patients requiring intensive care the option of staying in his or her own home and being cared for by a family member or other close relative. It is a condition to approve care allowance that a medical assessment shows that hospital treatment is futile.

Besides personal assistance and practical help, the local authorities' general care services are directed at promoting network information and self-activation. It is an overall principle to improve the organisation of dementia care in order to ensure coordination between local authority services and health service provision of treatment and care of people suffering from dementia. Furthermore, the development of partnerships between the public and voluntary sectors is emphasised, for example in areas such as respite care.”

Housing

The report provides information on the various types of housing available for elderly persons. The Committee recalls that the Danish Act on Public Housing and Subsidised Private Cooperative Housing requires municipalities to provide subsidised housing for rent to elderly persons. Municipalities, housing cooperatives and private non-profit institutions may construct housing for the elderly with a Government subsidy for loan repayment. Additional Government subsidies are available for “care housing” (see below).

The types of housing provided may range from detached individual houses to group homes, - care centre homes (with service and care facilities) and shielded units (for persons suffering from dementia or related illnesses). Subsidised private cooperative apartments are also available. A new type of housing was introduced in January 2000; unsubsidised cooperative apartments for elderly persons who have sold their dwelling with equity or who have financial resources. The municipality in this case may provide security for part of the mortgage that exceeds 65 % of the property value.

Specific housing benefit is available to pensioners under the Danish Act on Individual Housing Benefit. Housing benefit is paid to those who are in receipt of a social pension. The benefit is calculated as a percentage of the housing cost less a percentage of the household income up to a ceiling. As of 2000 the amount of benefit is calculated as 87% of the difference between the annual housing costs plus 1 000 DKK (134 €) and 10,1 % of the annual income - up to 115 000 DKK (15 500 €) and 23,6 % of income in excess of this. The Act sets maximum limits for the amount of benefit (28 116 DKK ; 3 780 €), the housing costs (53 300 DKK ;7 167 €) and the dwelling size. Although in certain circumstances these limits do not apply.

From 2000 pensioners must pay a minimum part of the housing costs (11% of the household income and at least 10 000 DKK (1 340 €) per annum) before housing benefit is payable. The Committee notes that 332 000 households were in receipt of such benefit in 2000 and that the amount of housing benefit has been reduced over the reference period although in general expenditure has increased.

It asks for more information on the reasons for this trend.

Reply:

“Over the years 2000-2003 a major reform of the housing benefit scheme was implemented. Now annual benefits are initially calculated as 75% of the calculated housing costs subtracted 22.5% of income in excess of 120.400 DKK (2006).

Pensioners must after deduction of benefits in the housing costs pay not less than 11% of the household income and at least 12.700 DKK. Finally benefits may not exceed 35.640 DKK unless provided for under other circumstances (dwellings for elderly etc.).

Over the period 2000-2005 expenditure has risen from 7.8 billion DKK to 8.0 billion DKK (fix 2005-prices). The number of households receiving benefits has decreased from 331.600 in 2000 to 324.100 in 2005.

The trend over the coming years is expected to be influenced by two factors: An increasing number (and proportion) of the receivers are living in subsidized non-profit dwellings for elderly where the maximum limit of 35.640 DKK does not apply. Finally the number of receivers that are disability pensioners (aged below 65 years) is falling, since disabled pensioners from 2003 receives other types of housing benefits (like non-pensioners).”

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Health care

No new information has been provided on health care services for the elderly. The Committee recalls the information previously submitted on “home nursing services”; municipalities

are responsible for offering home nursing services. These are free of charge for all those suffering from an acute disease or chronic illness.

The Committee wishes to find information in the next report on:

- a) health care programmes and services (in particular primary health care services) specifically aimed at the elderly;**
- b) guidelines on health care for elderly persons if any;**
- c) mental health programmes for persons with dementia and related illnesses**
- d) palliative care services for the elderly.**

Reply a):

"In Denmark the municipalities are responsible for providing dental care for persons who are partially disabled and who have difficulties in using the regular dental care services. This service is mainly aimed at elderly persons living in residential homes or in ordinary housing for elderly. The elderly can choose to have the dental care provided by a dentist working for the municipality or they can choose to have the dental care provided by a privately practicing dentist with whom the municipality has made an agreement to provide the service. The municipality can decide to claim a yearly fee of up to 390 D.kr. (app. 52 Euro, 2005 level) for the dental care service.

The public health care has no other programmes specially aimed at elderly. However elderly persons are probably predominant among the users of home nursing and rehabilitation. Home nursing on referral from a medical doctor is given free of charge. Rehabilitation must be given free of charge if it is medically justified after hospitalisation.

In the program "Healthy throughout Life" from September 2002 the Government had elderly people as a target group for promoting health and prevention. The collective challenges are:

- promoting physical activity among elderly persons,
- the nutritional status of ill and debilitated elderly persons,
- loneliness and insecurity among elderly persons,
- developing the quality of the health promotion efforts of general practitioners.

Reply b)

The Danish health care is organized in two systems: One for hospital care and general practitioners, which falls under the regional counties, and one system for social care, which falls under the local municipalities.

The Danish health care system is highly decentralized and its regulation is worked out as framework legislation that in general terms gives the counties a formal obligation to handle hospital care towards the public at large and towards all types of patients in need of treatment. Thus, Denmark does not have a specific system or regulation for elderly care, and the care is not organized according to age, but on the nature of the health care problem and the diagnosis.

The counties and hospitals can, as a natural and ordinary part of their work, formulate professional guidelines on health care in relation to specific patient groups, for instance elderly persons or other patient groups - or in connection with specific types of diagnosis that may

typically relate to certain kinds of patients. The counties are free to elaborate such guidelines, and there are no centralized regulation of their form and content.

The health care activities of the counties are monitored by The National Board of Health that supervises and advises the hospitals and their staff. The National Board of Health can publish binding or instructive guidelines in relation to the counties on selected professional fields, where it finds the hospitals achievements too heterogeneous or too weak. Some of these guidelines have been directed towards diseases of the elderly, e.g. – in recent years – dementia and diabetes.

Finally, the government has in some cases decided to implement action plans on specific health care fields, in particular cancer and circulatory diseases, or assigned economic resources for issues covering care for the elderly in more general terms. The counties implement such schemes – typically in close co-operation with The National Board of Health.

Reply c)

The legislation on social policy is not considering people with dementia as any different from other persons receiving for example home care and the legislation is therefore giving them the same rights. On these grounds there is no special health program for people suffering from dementia, but the care takes in the home care services and nursing homes etc. are educated to be aware of special need of people with dementia for example socio-pedagogical education to prevent use of force.

See the answers to the following questions for further information: Question 41 (services or facilities for families caring for elderly members) and question 43 (residential facilities for people suffering from dementia).

Reply d):

Palliative care is to be offered all seriously ill or dying people when needed, irrespectively of age. Palliative care is offered at hospitals, hospices, nursing homes or in the patients' home.

Palliative care is split up into two levels – an expert level and a basic level. Palliative care at expert level is offered at hospitals, at hospices and by the palliative teams. Palliative care at basic level is managed by the family doctor and the home nurse or the nursing home staff. The basic level is able to get assistance from the palliative teams, when treating patients.

The counties are responsible for palliative care at expert level – at hospitals, at hospices and services delivered by the palliative teams. The local municipalities are responsible for palliative care at nursing homes and in patients home, based on treatment prescribed by the family doctor and sometimes the palliative teams.

According to the decentralized Danish health care system, the counties and local municipalities are responsible and obligated to offer the palliative care that is needed. The counties are however by legislation obligated to have a hospice.

The palliative care is targeted seriously ill or dying people – frequently patients with diagnosed cancer – no matter of age.”

Institutional Care

The Committee recalls that nursing home type institutions for the elderly have not been built since 1998; instead the emphasis is on providing “service housing flats” (housing with associated services and care). **(It should be noted that the date is incorrect. The correct date is 1988) .**

The administration of existing nursing homes changed in 1994 with the aim of making living more independent – the occupant pays rent for the accommodation and services. Each resident has his own room and very often there is a user council, which is consulted when decisions are made.

a) The Committee requests further information on the residential facilities (“shielded units” etc.) for those suffering from dementia or related conditions or who are highly dependent. b) It wishes to know how the rights of such persons to privacy, dignity and right to maintain personal contact with persons close to them are guaranteed. c) It asks whether elderly persons can be compulsorily placed in housing with associated services and care and if so what the procedure is.

Reply a):

“The decentralised social system in Denmark implies that service level can differ from one municipality to another, including the scope of residential facilities. Some municipalities prioritise an extensive home care to help elderly people in their own home for as long as possible. Others prioritise to offer elderly persons more extensive residential facilities. Housing for elderly and traditional nursing home facilities are available to elderly (and people with disabilities) who need such facilities following a specific, individual assessment of the functional and mental capacities of each individual recipient and his or her needs on the basis of the determined service level.

Danish ageing policy is based on the idea that the type of housing should not decide the care and other services to which dependent elderly persons are entitled. On the contrary, the individual's needs should decide the care given. Care should thus be adapted to the depending elderly person and not depend on his or her dwelling.

No conventional nursing homes in the form of institutional accommodation have been constructed since 1988. Instead, social housing for the elderly has been built. Conventional nursing homes and sheltered flats built before 1988 may continue to be run under a temporary provision in the Consolidation Act of Social Service. The rules are based on the idea that conventional nursing homes are institutions. Consequently, the residents are not tenants with a tenant's rights and obligations. However, efforts are being made, by rules and through practice, to assimilate conditions in conventional nursing homes to conditions in ordinary housing for elderly in an effort to ensure equal treatment with persons living at home. Residents in conventional nursing homes receive accordingly their pension and pay for services provided according to the same rules as persons living at home.

Ordinary housing for older people and traditional nursing home facilities are available to elderly (and people with disabilities) who need such facilities. Generally, local authorities have

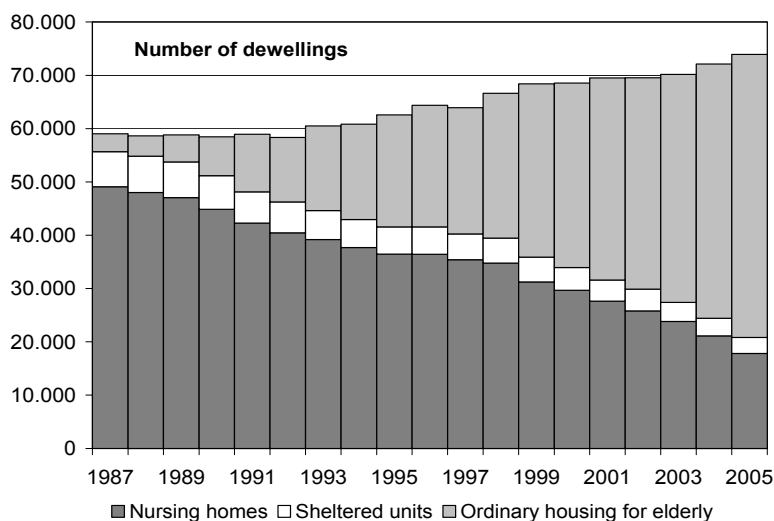
the right to allocate places in ordinary housing for older people, but may in certain cases transfer this right to others, for example independent institutions.

The free choice of housing implies that elderly and people with disabilities who need sheltered housing, a place in a residential care facility or a place in a nursing home are entitled to choose a facility outside the geographical area covered by their local authority. If they wish to cohabit with their spouse or partner, they are entitled to a housing unit that can accommodate two people.

The number of dwellings especially aimed at elderly persons is displayed below:

	1998	1999	2000	2001	2002	2003	2004	2005
Nursing homes	34.786	31.244	29.685	27.635	25.802	23.820	21.121	17.819
Sheltered units	4.670	4.640	4.274	3.973	4.105	3.566	3.309	3.016
Ordinary housing	27.184	32.501	34.600	37.99	39.631	42.774	47.665	53.081
Total	66.640	68.385	68.559	69.507	69.538	70.160	72.095	73.916

The chart below is illustrating the movements between different types of dwellings from a majority of nursing homes to a majority of ordinary housing for elderly and it is assumed that the trend will be even more rapid in the coming years.



Since 1999 the municipalities have reported the number of dwellings reserved for people suffering from dementia. The number of “shielded units” for elderly suffering from dementia or related conditions or who are highly dependent is displayed below. A shielded unit is for instance a separated area of a nursing home aimed at oblige the needs of people with mental impairments.

	1999	2000	2001	2002	2003	2004	2005
Shielded units	4.362	4.524	4.771	4.923	5.208	5.27	5.333

In 1999 there were almost 4.400 dwelling for people suffering from dementia. In 2005 it had increased to more than 5.333, which equals an 18, 2 % increase in the reference period.

Reply b):

The majority of elderly persons reside in the general housing stock. They are through home care services provided by the local authorities able to receive care and assistance as and when needed.

Nursing homes and sheltered units are government subsidised and purpose-fitted for elderly, people dementia and other disabled. The majority of such dwellings postdate the Act on Housing for the elderly of 1987. The stock of public housing for the elderly fulfils a key objective of policies concerning housing for elderly that it enables the elderly to remain in their own homes for as long as they are cable of it.

It is a requirement that ordinary housing for elderly must be adapted to the needs of elderly. The ordinary housing for elderly should be self-contained and fitted with own kitchen/kitchenette, bathroom and lavatory. The law also requires that each dwelling is covered by a 24-hour alarm system and that the fittings and fixtures and accessibility be particularly adapted to cater to the needs of elderly and disabled persons, including wheelchair users. Service housing with care facilities and in-house staff is provided for dependent elderly.

These requirements to ordinary housing for elderly should be seen as a way of maximizing privacy and integrity of the elderly persons living in these dwellings. Ordinary housing for elderly and close-care accommodations is regulated in the general legislation on housing. There is, accordingly, no limit in the rights to privacy etc. for elderly living in these kinds of dwellings.

Reply c)

The object of Danish legislation on use of power – including admission in special accommodation without consent – is to reduce the use of coercion and other restrictions of the right of self-determination to the bare minimum. Such restrictions should never be used as substitutes for care, attention and socio-pedagogical assistance.

Admission in special accommodation without consent: The municipal or the county authority may recommend that the social appeal agency (social appeals board) decide that a person is to be admitted to a specific accommodation facility, if it is absolutely mandatory in order to ensure that the person in question receives the necessary assistance, and the assistance cannot be provided in the person's own home.

It is a condition that the person in question is unable to understand the effects of his/her actions and risks suffering serious personal injury, and that it would accordingly be irresponsible not to arrange for the person to move to a more suitable dwelling.”

Lastly the Committee wishes to know whether procedures exist for complaining about the standard of care and services or about ill treatment in this type of care housing.

Reply:

“In addition to the duty to follow up on individual cases, the municipalities shall supervise that the providers are performed in accordance with the decisions made by the municipal authority under the provision and in accordance with the quality standards set up by the municipal.

As part of the duty of supervision, the local council shall perform at least one announced and one unannounced supervision visit every year in nursing homes, in sheltered housing, in ordinary housing for elderly with close care accommodation and in other similar housing in the municipality. Such supervision shall comprise the residents and tenants receiving municipal services. The supervision shall - like all other duties performed by the municipal authority - be performed by persons who exclusively perform such duties. Supervision shall not be performed by suppliers or persons who provide services in the said area.

After each supervision visit, the local council shall prepare a supervision report to be used for the follow-up to the supervision visit. The supervision reports shall be published and submitted for consultation to the council of users and relatives and to the municipal senior citizens' council. Each user or relative shall receive an offer of regularly receiving the supervision reports. The local council shall at the request of the council of users and relatives or the municipal senior citizens' council offer to make an oral presentation to and discuss the supervision reports with the council in question.

In addition the Medical Officer of Health in each county shall at least once a year perform an unannounced supervision in nursing homes, in sheltered housing and in other similar housing in the municipality.

Citizens may bring complaints about decisions made by the local and county authorities before central government appeals bodies – the social appeals agencies – set up in each county. Complaints against decisions made by the social appeals agencies may be brought before the Board of Social Appeal, which is a central government appeal board. The Board of Social Appeal will, however, only consider a case if the complaint is on a point of law or a matter of general importance.

A chief administrative officer (CAO) is affiliated to five regions in Denmark. The CAO undertake legal supervision of local and county authorities i.e. determine whether a local or county authority has violated the law. The CAO cannot revoke a decision by a local or county authority but are empowered, through sanctions or through expression of disagree, to order the councils to reconsider a case. The Ministry for the Interior and Health is instance of appeal and have the ability to revoke the CAO's decisions or order them to reconsider a case. The Ministry of Interior and Health can furthermore decide to consider cases of general importance.

The Ombudsman can also determine whether the local authorities are violating the law or, in any other way, are guilty of errors, maladministration or negligence. The Ombudsman is not authorised to revoke a decision but may voice criticism and submit information about severe errors, maladministration and acts of negligence to the Danish Parliament's Legal Affairs Committee, the Minister for Social Affairs, the local council or the county council.

As regards the inspection of these facilities

The Committee wishes to be informed of the proposed legislation, which aims to strengthen the inspection system. It considers that any inspection system should be independent of the entity that establishes or manages the residential facility and asks whether steps are envisaged to create an independent inspection mechanism.

Reply:

“There are several different inspection systems as mentioned in the answer of question 44. Some of them like the chief administrative officers and the Ombudsman are independent of the local council.

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As regards the treatment of nationals of other Contracting Parties the Committee notes that foreign nationals are entitled to a basic old age pension (social pension) when they have been resident in Denmark for at least ten years, between the ages of 15 and 65 years and five years immediately prior to the application for a pension. Nationals of the EU are not subject to this resident requirement. Bilateral agreements between Denmark and Turkey, Slovenia and Macedonia exist which reduce the resident requirement to five years. The Committee decides to examine this issue under Article 12§4 of the Charter.”

Conclusion

Pending receipt of the information requested the Committee concludes that Denmark is in conformity with Article 4 of the Additional Protocol.

Enclosures:

Lov nr. 393 af 26. maj 2005 om folkeskolen

Lov nr. 95 af 18. februar 2004 om uddannelsen til studentereksamen (stx) (gymnasieloven)

Lov nr. 97 af 18 februar 2004 om uddannelsen til højere forberedelseseksamen (hf-loven)

Lov nr. 96 af 18. februar 2004 om uddannelserne til højere handelseksamen (hhx) og højere teknisk eksamen (htx)

Lov nr. 183 af 22. marts 2004 om erhvervsuddannelser

Lov nr. 823 af 15. july 2004 om grundlæggende social- og sundhedsuddannelser

Lov nr. 532 af 25. juni 1999 om erhvervsgrunduddannelse m.v.

Lov nr. 446 af 10. juni 2003 om arbejdsmarkedsuddannelser

Lov nr. 1115 af 29. december 1997 om korte videregående uddannelser

Lov nr. 481 af 31. maj 2000 om mellemlange videregående uddannelser

Lov nr. 681 af 29. juli 1992 om depositum ved ungdomsuddannelser og videregående uddannelser og gebyr ved prøveforberedende enkeltfagsundervisning til højere forberedelseseksamen m.v.

Lov nr. 107 af 18. februar om Arbejdsgivernes Elevrefusion

Lov nr. 795 af 18. august 2005 om godtgørelse ved deltagelse i erhvervsrettet voksen- og efteruddannelse

Lov nr. 796 af 18. august 2005 om statens voksenuddannelsesstøtte

Lov nr. 628 af 23. juni 2005 om statens uddannelsesstøtte

Lov nr. 484 af 31. maj 2000 om specialpædagogisk støtte ved videregående uddannelse

Bekendtgørelse nr. 1187 af 07/12/2005 om Lov om Social Service, §§ 87, 88, 89 og 90.

Bekendtgørelse nr. 337 af 10/06/1998 om aflønning m.v. og støtte til befordringsudgifter i beskyttet beskæftigelse, særligt tilrettelagt beskæftigelsesforløb og i aktivitets- og samværstilbud.

Dansk Handicappolitik (Danish disability policy), april 2002, Det Centrale Handicapråd (The Danish disability Council)

Lov nr. 298 af 30. april 2003 om vejledning om valg af uddannelse

Lov nr. 299 af 30. april 2003 om ændring af forskellige love på Undervisningsministeriets område

Bekendtgørelse nr. 298 af 28. april 2004 om vejledning om gennemførelse af uddannelser på Undervisningsministeriets område

Bekendtgørelse nr. 1319 af 14. december 2004 om vejledning om valg af ungdomsuddannelse og erhverv

Bekendtgørelse nr. 606 af 21. juni 2004 om vejledning om valg af videregående uddannelse og erhverv

Bekendtgørelse nr. 1132 af 15. december 2003 om uddannelses og erhvervsvejlederuddannelsen.

Lov om arbejdsmiljø, jf. lovbekendtgørelse nr. 784 af 11. oktober 1999, med de ændringer, der følger af lov nr. 331 af 16. maj 2001, lov nr. 437 af 10. juni 2002, § 2 i lov nr. 191 af 24. marts 2004, lov nr. 425 af 9. juni 2004, lov nr. 442 af 9. juni 2004 og lov nr. 1415 af 22. december 2004.

Bekendtgørelse om begrænsninger i anvendelsen af lov om arbejdsmiljø på arbejde, som udføres i den ansattes hjem, jf. Beskæftigelsesministeriets bekendtgørelse nr. 247 af 2. april 2003.

Bekendtgørelse om virksomheders sikkerheds og sundhedsarbejde, jf. Arbejdsministeriets bekendtgørelse nr. 575 af 21. juni 2001.

Bekendtgørelse nr. 1497 af 20. december 2004 om offentliggørelse af virksomhedernes arbejdsmiljø, jf. mv. (Smiley-ordning)

Bekendtgørelse om arbejdsmiljøcertifikat opnået gennem inspektion samt krav til inspektionsorganernes kontrol af virksomhederne, jf. Arbejdsministeriets bekendtgørelse nr. 924 af 21. oktober 2001.

Bekendtgørelse om arbejdsmiljøcertifikat opnået gennem certificering af virksomheders arbejdsmiljøledelsessystem, jf. Arbejdsministeriets bekendtgørelse nr. 923 af 21. oktober 2001.

Bekendtgørelse om autorisation af arbejdsmiljørådgivere til at bistå virksomheder med efterkommelse af påbud om brug af rådgivning, jf. Arbejdstilsynets bekendtgørelse nr. 555 af 17. juni 2004

- Bilag til Arbejdstilsynets bekendtgørelse nr. 555 af 17. juni 2004 om autorisation af arbejdsmiljørådgivere til at bistå virksomheder med efterkommelse af påbud om brug af rådgivning. Bilag 1 - Retningslinier for autorisation af arbejdsmiljørådgivere, jf. § 11, stk. 1.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 555 af 17. juni 2004 om autorisation af arbejdsmiljørådgivere til at bistå virksomheder med efterkommelse af påbud om brug af rådgivning. Bilag 2 - Retningslinier for autorisation af arbejdsmiljørådgivere, jf. § 11, stk. 2
- Bilag til Arbejdstilsynets bekendtgørelse nr. 555 af 17. juni 2004 om autorisation af arbejdsmiljørådgivere til at bistå virksomheder med efterkommelse af påbud om brug af rådgivning. Bilag 3 - Retningslinier for autorisation af en bedriftssundstjeneste, jf. § 11, stk. 3.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 555 af 17. juni 2004 om autorisation af arbejdsmiljørådgivere til at bistå virksomheder med efterkommelse af påbud om brug af rådgivning. Bilag 4 - Retningslinier for kontrol med autoriserede arbejdsmiljørådgivere, jf. § 8.

Bekendtgørelse om brug af autoriserede arbejdsmiljørådgivere til løsning af bestemte arbejdsmiljøproblemer (Problempåbud), jf. Arbejdstilsynets bekendtgørelse nr. 554 af 17. juni 2004.

Bilag til Arbejdstilsynets bekendtgørelse nr. 554 af 17. juni 2004 om brug af autoriserede arbejdsmiljørådgivere til løsning af bestemte arbejdsmiljøproblemer (Problempåbud). Bilag 1 - Aftale mellem en autoriseret arbejdsmiljørådgiver og en virksomhed, som skal modtage rådgivning om bistand til efterkommelse af bestemte arbejdsmiljøproblemer (problempåbud) som påbudt af Arbejdstilsynet

Bekendtgørelse om brug af autoriserede arbejdsmiljørådgivere for en periode (Periodepåbud), jf. Arbejdstilsynets bekendtgørelse nr. 553 af 17. juni 2004.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 553 af 17. juni 2004 om brug af autoriserede arbejdsmiljørådgivere for en periode (Periodepåbud). Bilag 1 – Aftaler.

Bekendtgørelse om særlige pligter for fremstillere, leverandører og importører mv. af stoffer og materialer efter lov om arbejdsmiljø, jf. Arbejdstilsynets bekendtgørelse nr. 559 af 4. juli 2002 med senere ændringer - ikke autoriseret.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 559 af 4. juli 2002 med senere ændringer. Bilag 1 - Mærkning af chromat i cement.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 559 af 4. juli 2002 med senere ændringer. Bilag 2 - Oplysninger til brug for anmeldelse af stoffer og materialer, jf. § 5.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 559 af 4. juli 2002 med senere ændringer Bilag 2 a - Ikke-anmeldepligtige materialer.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 559 af 4. juli 2002 med senere ændringer. Bilag 3 - Retningslinjer for udarbejdelse af brugsanvisninger.

Bekendtgørelse om genteknologi og arbejdsmiljø, jf. Arbejdsministeriets bekendtgørelse nr. 642 af 28. juni 2001.

- Bilag 1 - Teknikker til genetisk modifikation, jf. §§ 1 og 4.

Bekendtgørelse om projekterendes og rådgiveres pligter m.v. efter lov om arbejdsmiljø, jf. Arbejdsministeriets bekendtgørelse nr. 574 af 21. juni 2001.

Bekendtgørelse om arbejdets udførelse, jf. Arbejdstilsynets bekendtgørelse nr. 559 af 17. juni 2004

- Bilag til Arbejdstilsynets bekendtgørelse nr. 559 af 17. juni 2004 om arbejdets udførelse. Bilag 1 - Generelle forebyggelsesprincipper.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 559 af 17. juni 2004 om arbejdets udførelse. Bilag 2 - Gravide og ammende, jf. § 8, stk. 3 og 4.

Bekendtgørelse om arbejde i forbindelse med eksplosiv atmosfære, jf. Arbejdstilsynets bekendtgørelse nr. 478 af 10. juni 2003.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 478 af 10. juni 2003 om arbejde i forbindelse med eksplosiv atmosfære. Bilag 1.

Bekendtgørelse om indretning af byggepladser og lignende arbejdssteder, jf. Arbejdstilsynets bekendtgørelse nr. 589 af 22. juni 2001.

Bekendtgørelse om faste arbejdssteders indretning, jf. Arbejdsministeriets bekendtgørelse nr. 96 af 13. februar 2001

Bekendtgørelse om ændring af bekendtgørelse om anvendelsen af tekniske hjælpemidler (Brug af stilladser, stiger og rapelling), jf. Arbejdstilsynets bekendtgørelse nr. 727 af 29. juni 2004

Bekendtgørelse om asbest, jf. Arbejdstilsynets bekendtgørelse nr. 1502 af 21. december 2004.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 1502 om asbest. Bilag 1 - Fremstilling og import af chrysotilholdige diafragmer.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 1502 om asbest. Bilag 2 - Meddelelse af nedrivningsarbejde efter § 26.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 1502 om asbest. Bilag 3 - Metode for måling af luftens asbestindhold efter § 28.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 1502 om asbest. Bilag 4 - Praktiske retningslinier for den i § 32 omhandlede helbredsundersøgelse af arbejdstagerne.

Bekendtgørelse om arbejde med stoffer og materialer (kemiske agenser), jf. Arbejdstilsynets bekendtgørelse nr. 292 af 26. april 2001 med senere ændringer - ikke autoriseret sammenskrivning.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 292 af 26. april 2001 om arbejde med stoffer og materialer (kemiske agenser). Bilag I - Arbejde med metallisk bly og dets ionforbindelser.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 292 af 26. april 2001 om arbejde med stoffer og materialer (kemiske agenser). Bilag II - Arbejde med vandopløseligt chromat i cement.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 292 af 26. april 2001 om arbejde med stoffer og materialer (kemiske agenser). Bilag III - Arbejde med epoxyharpikser og isocyanater.
- Bilag til Arbejdstilsynets bekendtgørelse nr. 292 af 26. april 2001 om arbejde med stoffer og materialer (kemiske agenser). Bilag IV - Arbejde med asfaltmaterialer.

Kontrol med arbejdsmiljøet ved risiko for større uheld med farlige stoffer, jf. Arbejdstilsynets bekendtgørelse nr. 20 af 12. januar 2006.

Bekendtgørelse om hvileperiode og fridøgn m.v., jf. Beskæftigelsesministeriets bekendtgørelse nr. 324 af 23. maj 2002 med senere ændringer - ikke autoriseret sammenskrivning.

- Bilag til Beskæftigelsesministeriets bekendtgørelse nr. 324 af 23. maj 2002 om hvileperiode og fridøgn m.v. Bilag 1 – Former for arbejde hvor der kan ske fravigelser fra § 3 eller § 4.

Bekendtgørelse om bindende forhåndsbesked, jf. Arbejdstilsynets bekendtgørelse nr. 1286 af 14. december 2004.

- Bilag til Arbejdstilsynets bekendtgørelse nr. 1286 om bindende forhåndsbesked. Bilag 1 - Området for bindende forhåndsbesked, jf. § 1.

Bekendtgørelse om begrænsning af Arbejdstilsynets tilsyn med overholdelsen af visse arbejdsmiljøregler, jf. Arbejdstilsynets bekendtgørelse nr. 1156 af 25. november 2004.

Bekendtgørelse om anvendelse af administrativt bødeforelæg ved overtrædelse af arbejdsmiljølovgivningen, jf. Beskæftigelsesministeriets bekendtgørelse nr. 107 af 28. februar 2002.

Lov om aktiv socialpolitik som senest bekendtgjort ved lovbekendtgørelse nr. 1009 af 24/10/2005

Lov om en aktiv beskæftigelsesindsats som senest bekendtgjort ved lovbekendtgørelse nr. 685 af 29/06/2005

Lov om kompensation til handicappede i erhverv m.v. som senest bekendtgjort ved lovbekendtgørelse nr. 55 af 29/01/2001

Bekendtgørelse af lov om lige løn til mænd og kvinder (lov nr. 756 af 21. august 2003)

Bekendtgørelse af deltidslov (lovbekendtgørelse nr. 815 af 26. september 2002)

Bekendtgørelse af lov om gennemførelse af dele af arbejdstidsdirektivet
(lovbekendtgørelse nr. 896 af 24. august 2004)

Bekendtgørelse af lov om ligebehandling af mænd og kvinder med hensyn til
beskæftigelse og barselorlov m.v. (lovbekendtgørelse nr. 711 af 20. august 2002)

Lov om information og høring af lønmodtagere (lov nr. 303 af 02. maj 2005)