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## **EUROPEAN SOCIAL CHARTER**

42nd National Report on the implementation  
of the European Social Charter

submitted by

**THE GOVERNMENT OF DENMARK**

Articles 8, 16, and 17

for the period 01/01/2018 – 31/12/2021

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**CYCLE 2023**

# 42nd Danish Report to the Council of Europe on the Application of the European Social Charter

**Concerning articles 8, 16 and 17**

**Reference period: 1 January 2018 – 31 December 2021**

Submitted by the Government of Denmark  
December 2022

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

The Confederation of Danish Employers (DA)

Danish Trade Union Confederation (FH)

Confederation of Danish Industry (DI)

The Danish Confederation of Professional Associations (AC)

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## **Article 8 – The right of employed women to protection of maternity**

**With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:**

### *Article 8§1*

- *To provide either by paid leave, by adequate social security benefits or by benefits from public funds for women to take leave before and after childbirth up to a total of at least 12 weeks.*

#### **Right to maternity leave**

Please provide information on whether the Covid-19 crisis had an impact of on the right to paid maternity leave (in particular whether all employed women concerned – in the private as in the public sector - continue to receive at least 70% of their salary during the whole length of the compulsory maternity leave during the Covid-19 crisis).

In relation to the right of employed women to pay during maternity leave, as set out by the social partners in collective agreements or in individual contracts, this right was not affected by the Covid-19 crisis.

The public sector is fully covered by collective agreements and employed women in the public sector thus have the right to their ordinary pay during maternity leave.

The collective agreement coverage in the private sector is approximately 73 pct. and women covered by these agreements have the right to pay during maternity leave. In addition, many women employed on individual contracts in the private sector are also entitled to pay during maternity leave.

Equally, the right to maternity leave benefits of employed women not covered by a collective agreement or an individual contract granting the right to pay during maternity leave, was unchanged by the Covid-19 crisis. The amount of maternity leave benefits is therefore at the same level as before the crisis.

**(Pending issues from Conclusions XXI-4 2019) Article 8: conclusions of non-conformity; conclusions of conformity pending receipt of specific information; deferrals due to lack of information**

**Conclusion**

Pending receipt of the information requested, the Committee concludes that the situation in Denmark is in conformity with Article 8§1 of the 1961 Charter.

**Right to maternity benefits**

The Committee requires that the next report should provide information regarding the right to any type of allowance paid to a working woman during her maternity leave if she is not entitled to maternity allowance or to a salary paid by her employer.

If an employee does not meet the conditions for maternity leave benefits, for example because they have not worked enough prior to the leave, they can get social assistance (*kontanthjælp*), if they have no other way of supporting themselves, e.g. savings, spouse or other.

**Right to maternity benefits**

The Committee asks again what categories of employees (and their percentage in each category) are not entitled to compensation during maternity leave (from their employer and/or in the form of maternity benefits) amounting to at least 70% of their basic salary.

As mentioned in the report of 2018, there is no statistical data to answer this question fully. There is no statistical data available in regards to the amount of pay that employees are entitled to during maternity leave according to the collective agreements or individual employment contracts in the private sector. In some cases, the employees receive the full salary during the leave, while in other cases they receive partial salary.

During maternity leave, if an employee does not receive a salary, they may be entitled to maternity leave benefits if they fulfil the conditions. If an employee has worked in Denmark for the last four whole months, they will receive maternity leave benefits if they meet the following criteria:

- The employee is in employment the day before the leave starts or on the first day of the leave.

- The employee has worked at least 160 hours within the last four whole months before the leave.
- The employee has worked at least 40 hours per month for at least three of those four months.

Maternity leave benefits will be calculated according to the employee's hourly wage and how many hours of leave the employee take per week. There is no minimum amount of maternity benefits, but there is set a maximum amount of maternity benefits, which amounts to 600.32 euro weekly in 2022 for a person who works 37 hours a week.

If an employee does not meet the conditions for maternity leave benefits, for example because they have not worked enough prior to the leave, they can get social assistance (*kontanthjælp*), if they have no other way of supporting themselves, e.g. savings, spouse or other.

## Article 16 – The right of the family to social, legal and economic protection

With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.

### Domestic violence

- i. Please provide updated information on measures taken to reduce all forms of domestic violence against women including information on incidence and conviction rates.
- ii. The Committee asks the next report to provide updated information on domestic violence against women and related convictions, as well as on the use of restraining orders, the implementation of the measures described in the report and their impact on reducing domestic violence against women, also in the light of the abovementioned GREVIO recommendations (follow-up from previous reporting on the same subject).

The Ministry of Justice has conducted a hearing of the Director of Public Prosecutions. The Director of Public Prosecutions has stated the following:

### *Domestic violence*

The Director of Public Prosecutions has extracted data from the police case management system POLSAS from 2019 to September 3<sup>rd</sup> 2022. The datasheets in table 1 show the number of reports to the police, provisional charges, formal charges and convictions for domestic violence against women.

	2019	2020	2021
Reports to the police	485	471	505
Provisionally charges	526	533	549
Formal charges	201	227	202
Convictions	164	157	166

POLSAS is a journalizing system and not a statistics program. Please note that for all the above statistics there is a backlog in updating data. Therefore, the data is not necessarily final and can change over time and due to corrections or delayed updates of the data in POLSAS, new convictions etc.

The definition of “domestic violence” in table 1 only includes cases where the victim is a woman, and where the victim and the perpetrator had the same address at the time of the reported violence.

*Restraining orders etc.*

The Director of Public Prosecutions has extracted data from the police case management system POLSAS from 2019 to September 3<sup>rd</sup> 2022. The data in table 2 show the number of requested exclusion orders, restraining orders and removal orders. The data in table 3 show the number of issued exclusion orders, restraining orders, and removal orders. The information related to table 2 and 3 does not distinguish between genders.

	2019	2020	2021
Number of requested exclusion orders, restraining orders and removal orders	1.200	1.293	1.350
	2019	2020	2021
Number of issued exclusion orders, restraining orders and removal orders	568	602	508

As a part of the political plan “Better help for victims of stalking”<sup>1</sup> from August 2021, the process for restraining orders has been strengthened. The processing of restraining order cases by the police has been strengthened through better education of the police and through the establishment of specialized teams in the police that focus specifically on cases of stalking etc. that might generate need for restraining orders.

Furthermore, the program has initiated a digitization of the process on restraining orders, which is yet to be completely implemented. The aim is that decisions of restraining orders should be given faster than today. Moreover, an access within four weeks to complain of a decision of a restraining order has been implemented into the law. Before the program, there was no time limit for complaints. This initiative secures a victim of stalking a better position, since the person with the restraining order cannot – when the four weeks have expired - complain and have the decision overturned and by this create insecurity with the victim.

<sup>1</sup> [Bedre hjælp til ofre for stalking \(justitsministeriet.dk\)](https://www.justitsministeriet.dk/~/media/Justitsministeriet/2021/08/Bedre_hjelp_til_ofre_for_stalking.pdf)



Regarding the implementation of the initiatives mentioned in Denmark's report from 2018, the following should be noted:

On October 4<sup>th</sup> 2018, a panel of experts within the area of sexual assault and abuse was appointed in order to gain knowledge and make recommendations within the area. The work of the panel was suspended in June 2019 due to the general election, but it was subsequently reinstated by the Government.

The expert panel made six recommendations:

- *Firstly*, it recommended that a guide on the typical reactions and after-effects for a rape victim should be prepared. The guide was published on the Ministry of Justice's [website](#) in 2020.
- *Secondly*, it recommended that the police and the prosecution service prepare a proposal for a list of mandatory minimum case handling steps in a rape case. The list of mandatory minimum case handling steps was included in the police's guidelines on handling rape cases and rape-like circumstances in July 2019.
- *Thirdly*, the panel pointed out that the first questioning of the victim and adequate documentation thereof has a significant importance for the subsequent handling and assessment of the case. Furthermore, it follows from the recommendation that psychologists and several victims of rape had publicly pointed out that repeated interrogations, including in particular regarding the sexual acts in the rape, have had a traumatizing effect. The recommendation was implemented in February 2022 by an amendment to section 745 e of the Administration of Justice Act. With the amendment, the possibility to conduct video questioning in rape cases was expanded, so that the aggrieved party is given the opportunity to give his or her statement in the form of a video questioning interrogation. If the aggrieved party chooses to give his or her statement in the form of a video questioning, the video will be presented in court during the processing of the case as part of the evidence, after which the aggrieved party must acknowledge the explanation. In this connection, it will also be possible to ask additional questions to the aggrieved party. *Fourth*, it recommended that the Ministry of Justice should examine the experiences from other countries on trauma informed practice. In continuation of the recommendation the agreement on the police's and the prosecution service's finances 2021-2023 included an initiative aiming at strengthening the police's and prosecution service's handling of cases about violence in close relationships, stalking, rape and so-called honour-related crimes through strengthened continuing education. A new continuing education and further training offer has been created, which targets the handling of these case types. The continuing education and further training offer is planned to have five groups of up to 30 participants per group in the period of the agreement (2021-2023). The first group began in November 2021. At the same time, a handbook on trauma-informed practice has been compiled, which has been handed out to the police districts.
- *Fifth*, it recommended that the Ministry of Justice encourage the Ministry of Children and Education to update the current sex education material. The material was updated in August 2021.

- *Finally*, it recommended that the Ministry of Justice, in the wake of the new consent-based rape provision, encourages the Ministry of Equality to launch an information campaign on language use, culture and consent. The information campaign was launched in December 2021 and ended in the spring of 2022.

### **Affordable housing for families**

- For States Parties not having accepted Article 31, please provide updated information on the availability of adequate affordable housing for families.

In order to answer the question from the Committee, this report updates The 38th National Report on the implementation of the European Social Charter submitted by The Government of Denmark regarding the general rules and new information on the availability of affordable housing for families.

#### *Affordable housing*

As stated in the 38<sup>th</sup> report, social housing in Denmark is open to the entire population irrespective of income or access to economic resources, but has a special task in providing decent housing for vulnerable people and low-income households.

The social housing sector is regulated and supported in such a way that rents in general are kept relatively low. The social housing properties are owned by non-profit housing organizations, which are under inspection by the local authorities.

As a main rule, social housing is lent to tenants through waiting lists and every individual legally residing in Denmark is entitled to put his or her name on the waiting list. Generally, the waiting list is administered by seniority by the housing associations.

In order to ensure social housing for vulnerable groups, the local authorities have an unconditional right to administer 25 pct. of all vacant dwellings in the social housing properties. This means that the local authority can allocate a vacant social housing dwelling in the municipality to a person or family, who needs a place to live and is unable to find a home by themselves.

In relation to this, the local authority is obliged to provide special housing for elderly people and persons with disabilities and to shelter homeless people.

In addition – and in order to ensure low-income citizens' access to a decent place to live – low-income tenants are entitled to individual housing benefit. At the beginning of 2022, 60 pct. of the households in the social housing sector received a housing benefit, including 50,000 households

with children. The housing benefit is estimated to cover in average between 40 and 60 pct. of the rent depending on the composition of the household.

It is the local authorities who assess the local need for public housing and on that basis decide to give commitments - and provide financial support - for the establishment of new housing.

The total number of social housing units in Denmark is around 627,000, which amounts to approximately 21 pct. of the total number of dwellings. Around 500,000 of them are family dwellings.

The majority of the social housing units provide popular dwellings of high quality with a strong community and a well-developed neighborhood democracy, which gives residents an influence on their neighborhood.

Since 2008, the acquisition price for social housing has been financed as follows:

- Tenants' lease premiums
- Municipal basic capital
- Mortgage loans (subsidized by the State)

The basic capital loans covering the acquisition costs are interest-free as well as amortization-free in up to 50 years.

The rent in the social housing dwellings must always reflect the acquisition costs. Therefore, in order to keep rents at a reasonable low level there is a ceiling of the total acquisition costs of new social housing properties.

#### *Reducing and differentiating the basic capital*

In order to support the construction of small and affordable social housing units for low-income citizens, the Government decided in 2019 to differentiate the municipal basic capital for family homes.

In order to encourage the municipalities to commit to the construction of small affordable dwellings the basic capital only amounts to 8 pct. in projects with an average home size of less than 90 m<sup>2</sup>. In projects with large dwellings, the municipality must pay 12 per cent of the acquisition cost.

In 2019-2021, the local authorities have decided to support approximately 5,300 family homes with a base capital of 8 pct., corresponding to around 2/3 of all family homes. Of this, approximately 1,650 1- and 2-room homes (mostly 2-room homes).

In 2016 and 2017, municipalities could apply for special state subsidies for small family housing (refugee housing). Commitments have been made to approx. 3,100 refugee homes, of which more than 3,000 are now in use. There was a requirement that at least half of the homes in a project had a living area of no more than 55 m<sup>2</sup>.

### *Agreement of establishing the fund of affordable housing*

In November 2021, the Danish Government received support in the Danish Parliament for a political agreement to establish a new fund supporting mixed cities and more affordable housing with the aim of financing the establishment of affordable social housing family dwellings for, among other things, low-income families.

A significant part of the new housing must be built in the larger cities, where there is currently a shortage of housing, and where it is expensive to build new public housing properties. Hereby, there will be more housing options for socially vulnerable citizens and low-income families.

#### **Family and child benefits**

Are family or child benefits provided subject to a means-test? If so, what is the percentage of families covered?

#### *The Danish child and youth allowance*

The Danish child and youth allowance (børne- og ungeydelse) is a tax-free benefit which is granted to children below the age of 18.

The Danish child and youth allowance is paid in advance and is as of 1 January 2022 ordinarily split evenly between the custody holders. If the custodial parents do not live together and can one of the custody holders document that the child must live 9 out of 14 days with this custody holder, then this custodial parent will be entitled to the full allowance. The documentation must be in the form of a visitation schedule or a settlement.

The person who has custody of the child, or has taken the child into care with a view to adoption, must be subject to full tax liability in Denmark. The child must reside in Denmark and must not have entered into matrimony. Furthermore, the child must not be maintained by public funds. The benefit amount is reduced with 2 pct. of income above a fixed income ceiling which in 2022 amounted to DKK 828,100.

The right to child benefits and child subsidies are, among others, conditioned by at least one of the persons that has custody of the child must have had residence or employment in Denmark for at least 6 years in the last 10 years prior to the period that the payment regards. The benefit is gradually earned every six months so that the right to the full benefit is obtained after six years of residence or employment in Denmark. Refugees (foreigners) that have been granted a residence permit in Denmark according to paragraph 7 or 8 of the Aliens Act and foreigners that have been granted a humanitarian residence permit according to paragraph 9 b of the Aliens Act are also included in the accrued principle on equal terms with other persons that have had residence in a foreign country, including Danish citizens.

For persons that are included as part of the European Parliament and Councils Regulation (EC) No 883/2004 of the 29th of April 2004 on the coordination of social security system, the periods spent in other Member States, as part of the existing rules, should be included in the calculation of the accrued period as if it were periods spent in Denmark (principle of aggregation of periods).

The length of the qualifying period of employment or residence is fixed to secure a certain attachment to Denmark. The qualifying period is equal for Danish residents as well as foreigners.

*The percentage of families covered by the Child and Youth allowance*

There are about 1.13 million children, of which:

- 94.4 per cent (approximately 1.080 million) receive full child and youth allowance,
- 3.7 per cent (approximately 24.500) receive partial means-tested allowance, and
- 0.9 per cent (approximately 10.000) receive full means-tested allowance.

Attention should be drawn to the fact that in 2023 the youth allowance will be increased with 660 DKK per child.

Please provide information about the amounts paid in child/family benefit as well as the median equivalised income for the reference period.

The median equivalised net income in 2021 was 239.189 DKK according to Eurostat.

In Denmark, there are several child/family benefits. These include the aforementioned child and youth allowance (børne- og ungeydelsen), child allowance (børnetilskud) and the temporary child allowance (midlertidigt børnetilskud).

The amounts paid in child allowance are the following (the benefit is paid on a quarterly basis and stated in 2022 numbers. Child allowance is tax-free):

- Ordinary child allowance: 1.517 DKK per quarter
- Extra child allowance: 1.546 DKK per quarter
- Special child allowance: 1.546 DKK per quarter

The amounts paid in temporary child allowance are the following (the benefit is paid on a monthly basis and stated in 2022 numbers. Temporary child allowance is also tax-free):

- Temporary child allowance for single providers: 616 DKK per month
- Temporary child allowance for those who receive self-sufficiency and return benefit or transition benefit: 718 DKK per month
- Temporary child allowance for married people or couples living together: 564 DKK per month
- Supplement for single providers: 666 DKK per month

Is there a length of residence requirement imposed on nationals of other States Parties lawfully resident in your country for eligibility to child/family benefits?

Regarding the child allowance, only residents with Danish nationality or foreigners with 1 or 3 years of residence in Denmark are eligible for child allowance. However, certain groups of refugees are exempt from the criteria of Danish nationality as well as persons from EU/EEA and persons of Swiss nationality who can derive the right based on EU-law. The group of refugees exempted from the criteria of Danish nationality includes refugees who have been granted a residence permit in Denmark according to paragraph 7 and 8 in the Danish Immigration law (Based on the 1951 Refugee Convention).

Furthermore, it is a requirement for entitlement to the full benefit that the applicant has had at least 6 years of residence or employment in a 10-year reference period prior to each benefit instalment. If the applicant has been a resident in Denmark for less than 6 years, the amount of the benefit depends on the period of residence or employment (from 8.3% of the full benefit after six months to 91.7% after 66 months).

It is not a requirement that the applicant has had residence for a certain period in order to be eligible for the temporary child benefit. However, you must be eligible for one of the social assistance benefits in order to receive temporary child benefit.

What measures have been taken to ensure that vulnerable families can meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services)?

Denmark generally addresses the matter through social policy, which is not specifically targeted towards energy. The social policy guarantees all citizens fundamental rights in case they encounter social problems such as unemployment, sickness or dependency. For the time period 2018-2021, Denmark did not have specific subsidies targeted at energy needs, however some of the general social policy measures provide financial support to energy related purposes. Some of the social policy measures are listed below.

#### *Additional cash support*

Based on a concrete assessment, the municipality can provide support to reasonable expenses if a person has experienced changes in conditions (e.g. unemployment or sickness), and if the expense to a significant degree will make it difficult for the person to take care of himself in the future. The support can usually only be granted if the expense is a result of a need that has not been possible to foresee. Based on a concrete assessment the municipality can, however, make an exception even

though it has been possible to foresee the expense, if the expense has a crucial importance to the person's way of life. The support can for instance be given to the payment of a particularly high heating bill. Based on a concrete assessment, the municipality can also help the most economically vulnerable pensioners to meet reasonable and necessary expenses.

### *Heating supplement*

Old age pensioners and disability pension (based on rules from before 2003) can apply for heating supplement. The supplement is given to the economically weakest group of the pensioners. The pensioners have to pay a part of the heating bill themselves. The heat supplement is calculated on an average of three years documented heating costs, if these exists. The calculation of the heating supplement includes costs to the actual heating of the housing and hot water.

### *Special supplementary housing benefit*

Persons who meet the requirements to receive social assistance (but who does not necessarily receive the support) and who has particular high housing costs or high costs to support large families can receive a special supplementary housing benefit. The conditions for receiving the special supplementary housing benefit are that the applicant has experienced a social incident, for instance sickness, unemployment or discontinuance of cohabitation. The incident has to entail that the citizen does not have the means to fulfil the basic needs for its own support or for the support of the family. Moreover, a condition is that the need for support cannot be covered by other social benefits. Before the municipality provides special supplementary housing benefit, it has to be assessed whether a fair and cheaper housing can be found. Special supplementary housing benefit is based on the difference between what the applicant is assumed to be able to pay in housing costs and net housing costs including water, heat, gas and electricity.

In November 2021 the Government initiated a "heating package". It was aimed at individual citizens, municipalities and district heating companies. A fond of 100 million DKK was earmarked to cover municipalities' extra expenses with additional cash support for increasing heating and electricity bills. Furthermore, a unified access and strengthened information for citizens has been initiated. The website "[SparEnergi.dk](https://www.sparenergi.dk)" was updated with information on how citizens can save money on energy prices and how they can apply for help.

If specific temporary measures were taken to financially support vulnerable families during the Covid-19 pandemic, will they or are they expected to they been maintained or withdrawn? If they have been withdrawn, what effect is this expected to have on vulnerable families?

Child allowance and the temporary child allowance have not been changed due to the Covid-19 pandemic.

**(Pending issues from Conclusions XXI-4 2019) Article 16: conclusions of non-conformity; conclusions of conformity pending receipt of specific information; deferrals due to lack of information**

**Conclusion**

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

**Housing for families and unlawful eviction**

Despite its previous request for information on some of the aspects considered above (Conclusions XX-4 (2015)), the Committee finds no information in the report on issues such as the obligation to fix a reasonable notice period before eviction, accessibility to legal remedies and legal aid, and compensation in case of unlawful eviction. It therefore asks the next report to provide more detailed information on all the aspects concerning the legal framework ensuring the protection against unlawful eviction, in the light of the general principles referred to above.

Due to an increase in the number of evictions of tenants caused by default payment of the rent during the 2000s, Denmark has implemented a number of efforts to prevent such evictions over the past 10 years.

Studies show that 2/3 of the evictions took place in the social housing sector, and that the main reason for tenants being evicted was the inability to manage their own finances.

If a tenant does not pay rent, the proprietor can terminate the rent agreement for cause. The proprietor carries out a termination of the rent agreement on the third business day after the last due payment day, by sending a written demand (reminder) to the tenant. The tenant then has 14 days to pay the rent arrear. The proprietor can only terminate the rent agreement if the arrears are not paid before the deadline of 14 days expires.

If the rent agreement is terminated, the tenant must immediately vacate the lease, however, in practice, tenants are given a few days to vacate the tenancy. The social housing property owners will often in practice give more reminders and provide extensions to the payment deadline in order to help the tenants.

The proprietor cannot evict the tenant by him or herself. If the tenant does not move voluntarily in the event of termination, the proprietor can request the enforcement court to evict the tenant. According to practice, many enforcement courts send a notification to the municipality in connection with processing cases regarding evictions due to rent arrears.



This notification takes place quite late in the process, which is why the social rent act stipulates a duty for the proprietor to notify the municipality, when a case of rent arrears is sent to the enforcement court.

An important element in the effort to prevent evictions has thus been to ensure that the municipality is notified, so that tenants at risk of eviction can be provided with help.

The municipality must immediately handle questions regarding help, when the municipality receives notification from the proprietor or the enforcement court, that a tenant is being evicted from a residential lease and there are children or that there are young people under the age of 18 in the household. The same applies if the municipality is in possession of information about the tenant, which indicates that the tenant will need help.

If the municipal council finds that there is no basis for providing help in regards to the eviction, the municipal council must make a decision no later than 14 days after the municipality has received notification from the proprietor or the enforcement court.

With consent from the tenant, the municipality can inform the enforcement court or the social housing organization about the municipal council's decision.

According to the social legislation, the municipality has various options regarding help in the event of eviction, including advice on the possibility of housing support; help with payment of the arrear, help with managing the tenant's finances; help with setting up payment service agreements and help with moving and the opportunity to get a new loan for lease deposits.

Furthermore, a special obligation has been introduced for property owners in the social housing sector to notify the municipality when a tenant assigned to social housing receives a reminder to pay rent within the first year of the tenancy. The municipalities are able to dispose over every fourth vacant social housing dwelling available, and can assign these to tenants in connection with social housing tasks. If the municipality receives a notification from the proprietor, it must summon the tenant to a follow-up conversation about rent payment etc.

Finally, funds have been set aside for application pools several times, which the Ministry of Housing has been responsible for distributing. The social housing organizations have been able to apply for funds to hire advisers, typically for a 4-year period, whose task were to seek out tenants at risk of eviction and provide advice on managing finances, applying for various social benefits, etc. These projects have now expired, but due to the success of the projects several social housing organizations now finance such advisers on their own.

There are no specific rules regarding compensation for unlawful eviction. Cases regarding unlawful eviction will thus follow the general principles of compensation law.

In order to ensure more affordable housing, the private rent regulation was changed in 2020, after which short-term speculation in older rental properties was prevented and the rate at which the rent can increase was limited.

Furthermore, the private rent regulation was changed, so that the rent no longer can be regulated with more than 4 pct. of the Danish net price index for a 2-year period. This change was made to prevent tenants from being unable to pay their rents due to the high inflation.

### **Housing for refugee families**

Finally, the Committee refers to its Statement of Interpretation on the rights of refugees under the Charter (Conclusions 2015). In this connection, the Committee notes from the Concluding observations of 18 October 2019 (outside the reference period) of the United Nations Committee on Economic, Social and Cultural Rights on the sixth periodic report of Denmark that a new legislation in 2018 (Act. No. 174 of 2018) no longer requires municipalities to provide refugees with permanent housing (§25). The committee therefore asks for information in the next report on the situation in practice as regards access to housing for refugee families.

### *Temporary housing for refugees*

In Denmark, local municipal authorities are responsible for housing of refugees, along with certain other groups of immigrants.

When granted a residence permit, refugees are assigned to a specific municipality by the Danish Immigration Service. The assigned municipality must then, amongst other things, provide *temporary* housing for the assigned refugee.

Newly arrived refugees most often lack housing and knowledge on how to obtain it. As such, one of the functions of the Danish Integration Act is to ensure, that all newly arrived refugees are offered temporary housing by their assigned municipality. This serves to ease the transition of a refugee into Danish society, while also avoiding further residential and societal divisions and deepening of established parallel societies.

Danish municipalities must offer a temporary housing solution. The municipalities can also choose to offer permanent housing, but are not obliged to do so. In order to strengthen the integration of each individual while combating the development of parallel societies in certain local areas, housing cannot be assigned in vulnerable residential areas. Displaced persons from Ukraine are exempted from this due to high numbers of arrivals and as such, they may be assigned to said residential areas if it is not possible to find accommodations in other areas in the municipality.

When a refugee is granted a residence permit, the immigration authorities decide in which municipality the refugee is to take up his or her residence based on criteria that aims to ensure an even distribution of refugees across the country. This is to ensure that local municipalities are able to

properly provide integration efforts such as Danish language training and employment efforts and for the sake of the individual and their integration. Every year, the Danish Immigration Service sets a quota for the number of refugees that are to be assigned to each municipality. The assignment of refugees is distributed within this quota.

If a refugee comes to Denmark with family, upon being granted their residence permit, the refugee and their family will be assigned to the same municipality and must be offered temporary housing, which allows them to live together as a family.

If a refugee has been given a job offer, or for other specific reasons (such as health) needs to reside in a different part of the country, the refugee in question must be allocated to the municipality where the workplace is located or in a neighbouring municipality. A refugee may, based on personal circumstances, such as close family ties, be referred to a particular municipality that does not have an open quota allowing for the temporary housing of additional refugees. If a refugee requests housing only in municipalities without an open quota and if no special personal circumstances apply, the refugee will be allocated to a municipality with an open quota.

Once placed in their assigned municipality, municipal authorities are obligated to provide a refugee, who is older than 18 years at the time of assignment, with an integration programme. This programme includes amongst other things employment oriented integration efforts as well as Danish language training. The self-support and return programme or introduction programme has a length of one year and up to a maximum length of five years. A refugee can always settle in any municipality without consequences for their social benefits upon completion of the programme.

## **Article 17 – The right of mothers and children to social and economic protection**

**With a view to ensuring the effective exercise of the right of mothers and children to social and economic protection, the Contracting Parties will take all appropriate and necessary measures to that end, including the establishment or maintenance of appropriate institutions or services.**

### **Statelessness and birth registration**

Please provide information on measures taken by the State to:

- i) Reduce statelessness (e.g., ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth) and
- ii) Facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular situation. (General question posed in Conclusions 2019).

### *Reduce statelessness*

Generally, a child acquires Danish citizenship by birth if the child has a Danish parent. Additionally, a child may acquire Danish citizenship by the marriage of the child's parents, if one of the parents is Danish, or by adoption under certain circumstances.

Section 44 (1) of the Danish Constitution establishes that acquisition of Danish nationality by a foreign national or a stateless person requires an act of Parliament. This means that naturalisation of foreign nationals is an exclusive prerogative of the Danish Parliament, i.e. the Danish Parliament alone has the competence to naturalise foreigners and it cannot delegate the competence of granting citizenship to the public authorities. It should, however, be noted that the Danish Parliament has enacted provisions in the Danish Nationality Act that provide acquisition of Danish citizenship by declaration for Nordic citizens and former Danish citizens.

The Danish Parliament establishes the criteria that applicants must fulfil in order to be able to acquire Danish nationality. There are criteria regarding, among other things, residence, criminal record, public debt, self-sufficiency, employment, Danish language proficiency and sufficient knowledge of Danish society. The Danish authorities examine whether the applicants fulfil the necessary criteria on behalf of the Danish Parliament.

Two schemes simplify the procedures for naturalisation of stateless children:

Firstly, in accordance with the UN Convention of 20 November 1989 on the Rights of the Child, applicants who are born stateless, reside in Denmark and submit an application before they are 18 years of age can be naturalised without fulfilling the normal criteria for naturalisation.

Secondly, in accordance with the UN Convention of 30 August 1961 on the Reduction of Statelessness, applicants who are born stateless in Denmark can acquire Danish nationality by naturalisation without fulfilling the normal criteria for naturalisation if the applicants;

- (i) reside in Denmark,
- (ii) submit the application between the age of 18 and 21,
- (iii) have resided continuously in Denmark for the past five years (when submitting the application) or eight years in total,
- (iv) have not been found guilty of a crime against the security of the State or sentenced to imprisonment for five years or more, and
- (v) have always been stateless.

#### *Facilitate birth registration*

The management of vital records including birth registration is under the general responsibility of the Ministry of Ecclesiastical Affairs. Birth certificates of all persons born in Denmark are issued in the parish church in which the child was born, and not by The Danish Immigration Service. However, The Danish Immigration Service does issue personal identification numbers to children, whom are born by asylum seekers in Denmark.

### **Child poverty**

Please provide information on measures taken by the State to reduce child poverty (including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing etc.) and rates of child poverty.

Creating equal opportunities for all children has been a key priority for successive Danish Governments. Although there is no official poverty threshold, poverty and social exclusion has been addressed in multiple ways, with the objective that all children in Denmark grow up with an opportunity to be an active part of the community.

### **Financial initiatives and support for housing**

The social assistance system (*kontanthjælp*) is the lowest social safety net in Denmark and targets citizens who are unable to support themselves or their family in other ways. This creates financial security, and social assistance thereby forms one of the pillars of the Danish welfare model. In the social assistance system, there are special parent rates, which are higher than the standard benefit rate. This is to ensure that children of benefit recipients do not suffer significant deprivation compared to children of the same age.

#### *Child allowance*

It is possible to receive child allowance for the support of the child in accordance with the Child Allowance and Payment of Child Support In Advance Law. The grant, which is provided to different target groups, including families with single parents and families without two parents with support obligation, is subject to the fulfillment of a number of conditions. This includes, inter alia, citizenship, place of residence, and residence in Denmark. Single parents can also get child allowance paid in advance from the state if the parent liable to pay does not pay. However, this can be waived in accordance with international conventions. The scheme also includes, for example, children under guardianship and children of state pensioners, where the pension is not paid due to § 46 of the Social Pension Law. According to the same law, a fixed child contribution can be paid to the person who is entitled to claim the contribution when it is not paid on the due date by the person liable for the support. Allowances are paid after application.

#### *Temporary child allowance*

Temporary child allowance is a temporary tax-free supplement targeting families receiving the lowest social assistance. The temporary child allowance was implemented 1 January 2020 by the Government and the contracting parties. The allowance is given per child. In supplement, an extra allowance is given to single parents regardless of the number of children.

### *Child and youth allowance*

As previously mentioned, the child and youth allowance is a tax-free benefit paid to every family with children in Denmark. If the parents have moved away from each other, the supplement will be divided in half. To receive this supplement, families must now fulfill the condition of living or working in Denmark for a least six out of the last ten years.

### *Support for housing and help with individual expenses*

In addition, it is possible to receive special support pursuant to § 34 of the Law on Active Social Policy in case of high housing costs or many children, if the conditions for this are met.

It is also possible for tenants with children in the household to receive a housing benefit. The housing benefit can be granted to all tenants with low incomes, if they otherwise meet the required conditions, and the housing benefit is more favorable for households with children. The housing benefit is calculated as the difference between a share of the housing costs and a share of the household income above an income limit. Children's income is not included in the calculation of the housing benefit.

### *Subsidies for medicine*

It can have negative consequences for a child later in life if they are not provided with the proper medicine during childhood. Therefore, the Danish Government decided to expand the subsidies for child medicine. The subsidies will now cover 100 pct. of the cost of medicine that is eligible for subsidies.

Overall, there is considerable focus on children's well-being, upbringing and equal opportunities in the Danish benefit system. This applies to vulnerable children as well as children in general.

## **Initiatives to ensure children's access to health services**

### *Child and youth psychiatry*

In 2018, plans in the five regions of Denmark were initiated with the purpose of testing an advanced regional function in child and youth psychiatry. The purpose of advanced regional function is to strengthen early treatment for children and young people with minor mental disorders or early signs of mental disorders close to their everyday lives and outside of the child and youth psychiatry. The early and close effort ensures that children and young people and their families maintain their attachment to everyday life with school, education, and work.

## **A general description of the Danish system in regards to children's access to health**

The Danish healthcare system is universal and based on the principles of free and equal access to healthcare for all citizens, including women and children. The healthcare system offers high-quality services, the majority of which are financed by general taxes.

Access to hospital treatment is upon referral of a general practitioner or specialist, except in case of emergency. Among other services, access to the treatment in the psychiatry, hospital treatment, specialized treatment in general, and general practice is free of charge.

General practitioners also cooperate with local municipalities regarding social medicine for, among other groups, children and teenagers with special needs, and they play a central role in early detection of psychological disorders as well as the treatment of less serious psychological disorders.

In Denmark, the municipalities have a responsibility to promote the health of children and young people. Since January 1 2007, the municipalities have been responsible for creating a framework for a healthy lifestyle for all citizens of the municipality. This is stated in §119 of the Danish Health Act.

§§120—126 of the Danish Health Act sets out the provisions on preventive health care for children and young people. The paragraphs state, among other things, that the municipalities are responsible for ensuring that children and young people have a healthy growth and are required to create good conditions for a healthy adult life as well as a general preventive effort, an individual-oriented effort, and a special effort aimed at children with special needs. The municipal preventive health service is provided by doctors, child nurses, nurses, and other staff employed in the municipality who perform tasks according to the Health Act.

According to §§121-122 of the Health Act, municipalities shall, free of charge, provide all children and young people with health guidance, assistance, and functional examination by a child nurse until the end of school. Increased efforts are offered to children and young people with special needs, including counselling, as well as further preventive examinations by the child nurse or the doctor.

Child nurses provide, among other things, guidance and individual support for parents with infants and young children as well as for pregnant women with special needs. In addition, child nurses focus on support, investigation, and follow-up in relation to care and interventions for children and adolescents at risk, including interdisciplinary and cross-sectoral cooperation with general practice, the municipal employed physician, social services, pedagogical psychological counselling, and others.

All families in Denmark are by default offered home visits from the child nurse in the child's first year of life. The Danish Health Authority recommend, during this period, a minimum of five visits, as well as an early visit that ensures the child's well-being. In addition, families with special needs may be offered additional services. The focus of the visits is the child's development and well-being, as well as breastfeeding, and family formation.

From the age of 1 to 5, home visits can be offered. For families with special needs, additional services are offered, including home visits, depending on specific professional assessments, needs and issues. 98-99 pct. of all new established families have accepted the municipality's offer on health services.



At the mandatory educational age, the child nurse is also in contact with children and adolescents, e.g. in relation to health pedagogical activities at group or grade level. In addition, the child nurse undertakes the statutory examination for pupils in the first and last years of mandatory schooling (examinations may, however, also be carried out by a doctor).

In regards to access to a general practitioner, children have the same access as adults to free treatment. To ensure a healthy start, all children are also offered seven preventive health assessments during their first five years, and have the option of participating in a planned, preventive vaccination program.

In Denmark, there is a focus on early detection and prevention of mental disorders. Pedagogical Psychological Advice Unit is a municipal function with the core task of providing educational psychological advice to and regarding children and young people. It is a function, which investigates and assesses whether children need support in the school or in another institution. Pedagogical Psychological Advice Units can also refer to assessment in the child and youth psychiatry.

The psychiatric care is largely provided by the five regions in coordination with and regulated by the state. Overall, the psychiatric care is divided into child, adolescent, and adult psychiatry, and furthermore into in-patient units and outpatient clinics and psychiatric emergency wards with a distinction of general and specialized units. Furthermore, across the country, specialist practitioners and psychologists are established.

## **The Danish ECEC system and primary and lower secondary education**

### *Danish ECEC in Short*

Early Childhood Education and Care (ECEC) facilities in Denmark cooperate with parents to promote the well-being, learning, development, and self-esteem of the individual child and to contribute to the proper and safe upbringing of all children. The Danish ECEC system provides families with high quality, flexibility, and a variety of options regarding the types of facilities and subsidies that enable each family to plan and balance family and working life according to their specific needs and wishes.

The vast majority of children in Denmark (approximately nine out of ten) between one and school-start-age attend an ECEC facility.

### *Equal access to ECEC*

The Danish Act on ECEC provides a guarantee for equal access to an ECEC facility for all children below the school age in Denmark. Guaranteed ECEC availability means that the local municipality council must offer places in an age-appropriate ECEC facility to all children older than 26 weeks and until they reach school age.

It is provided in the Act on ECEC that the municipality give subsidies for a place in an ECEC facility for a minimum of 75 pct. of the budgeted gross operating expenditure, while parents pay a maximum

of 25 pct. of services for children. Families receive a sibling discount. Additionally, the municipal council must grant financially aided subsidies based on the parents' financial situations and/or to single-parent families.

The purpose of these regulations is to ensure that all children have equal access to ECEC irrespective of their socioeconomic background.

#### *Promoting equal opportunity through high quality ECEC*

It is provided by the Act on ECEC that the purpose of ECEC in Denmark is to prevent negative social heredity and social exclusion through the general work of supporting children, including children in vulnerable positions. Further, the Act on ECEC provides that ECEC facilities promote children's well-being, learning, development, and formation through safe and pedagogical learning environments, where play is essential and where the children's perspectives are the starting point for activities.

It is provided that ECEC facilities promote children's well-being, learning, development, and formation and work towards the children's safe and secure childhood in cooperation with the parents. The children in ECEC facilities shall have a physical, psychological, and aesthetic children's environment that promotes their well-being, health, development, and learning.

Furthermore, ECEC facilities shall provide children with co-influence, co-responsibility, as well as an understanding and experience of democracy. As part of this, ECEC facilities shall help develop children's independence and their ability to take part in binding communities and help children develop cohesion with, and integration into, the society.

Moreover, it is provided that ECEC facilities ensure positive cohesive transition for the children in cooperation with their parents.

#### *Pedagogical curriculum*

All ECEC facilities have to prepare a written pedagogical curriculum for the children based on a pedagogical foundation and six curriculum themes. The objective is for the pedagogical staff to provide the connection between the pedagogical environment and the children's learning. The pedagogical curriculum must describe how the pedagogical environment supports children's broader learning, including their curiosity, drive, self-esteem, and movement both within and across the six curriculum themes:

- Comprehensive personal development
- Social development
- Communication and language
- Body, senses, and motion
- Nature, outdoor life, and natural phenomena
- Culture, aesthetics, and community

The pedagogical curriculum is supported by a lift in competences of the pedagogical staff, as well as a range of materials and campaigns, to support the ECEC facilities in their incorporation of the pedagogical curriculum.

It is provided by the Act on Day Care, as well as the pedagogical curriculum, that the learning environment shall take into account the support of children in vulnerable positions to promote their well-being, learning, development, and formation.

### Political initiatives

In recent years, there has been a number of political initiatives with the overall purpose of ensuring all children's well-being, development, learning and formation in ECEC. Below are examples of these political initiatives:

#### *Minimum requirement staff ratio (2021)*

In December 2021, the Danish Parliament passed a new legislation stating that by January 1 2024 there shall be a minimum of one adult per three children for the 0-2 year olds and a minimum of one adult per six children for the 3-5 year olds, as an average per year among all ECEC facilities in the municipality (excluding childminders). In the years 2020-2023, the municipalities receive funds to implement the minimum ratio, and from 2024, they will receive a permanent annual grant to ensure and maintain the minimum ratios.

In addition to the minimum ratio funds described above it was decided to make a permanent funding for the employment of more pedagogical staff in areas with many children in vulnerable positions (based on the socio-economic background of children).

The new legislation also included a distribution fund for education of pedagogical staff in ECEC (excluding childminders) as well as a strengthened model of the municipal inspections of ECEC.

#### *1,000 days program – a better start to life (2018)*

In 2018, it was decided to intensify efforts towards children from socially vulnerable families during their first years of life – through distribution funds for the employment of more pedagogical staff in ECEC as well as training of ECEC staff working with children in vulnerable positions. Further, it was decided to strengthen guidance in the family home and secure frequent visits by health nurses to vulnerable families.

#### *Preventing segregation of children in ECEC (2018)*

It has been an ongoing political focus to prevent the segregation of children in ECEC. Following the new legislation Preventing segregation of children in ECEC from 2018, each ECEC facility in Denmark must ensure that they hold a maximum of 30 pct. of children from vulnerable housing areas. The purpose of this initiative is to promote better opportunities for each child to develop their language, well-being and their general readiness to learn.

### *Mandatory Learning Program in ECEC (2018)*

Following the Act on Mandatory Learning Program from 2018, children from vulnerable housing areas must be enrolled in a mandatory learning program in a day-care center 25 hours a week if they are not enrolled in a day-care center or a childminding facility when they reach 1 year of age.

The purpose of this legislation is to ensure that children from vulnerable housing areas participate in ECEC facilities that support their Danish language development as well as their general readiness to learn.

Parents have the option of facilitating the learning program themselves, if their effort is commensurate with the mandatory learning program.

### **General description of the Danish primary and lower secondary education (grundskole) and recent political initiatives**

It is compulsory for all to receive 10 years of education in Denmark. All pupils have a right to admission to their local Folkeskole (“public school”), which is a comprehensive school covering both primary and lower secondary education. Schooling is free. The Folkeskoler are run by the municipalities.

The Folkeskole is based on a democratic foundation and has to prepare the children to be able to participate in a free and democratic society. This is a central part of the formal aims of the Folkeskole Act and is highlighted by the following wording: “*The Folkeskole is to prepare the students to be able to participate, demonstrate mutual responsibility and understand their rights and duties in a free and democratic society. The daily activities of the school must, therefore, be conducted in a spirit of intellectual freedom, equality, and democracy*”. The Folkeskole prepares the students to be active citizens in a democratic society.

### *Access to leisure- and club facilities*

The board of the municipality must ensure that there is a sufficient amount of available spots in leisure- and club facilities and ensure that children and youths below the age of 18 who are in need of support in a leisure- and club facility etc. in order to thrive and develop are offered such a support.

Regarding access to leisure facilities, the municipality must provide “free spaces”, meaning a partial or complete coverage of the economic costs, for families who are in need of such subsidies due to economic or social reasons. Access to complete or partial subsidies is granted if the household earns below 576,800 DKK a year (2021). The income limit is increased for single caretakers or if there are other children below 18 years of age residing at home. Furthermore, free spaces related to treatment is also given to children with considerable and lasting reduced physical and mental functional abilities and/or social-pedagogical free spaces.

### *Camps and activities outside school*

Apart from possible meals, parents are not obliged in any way to contribute economically to the participation of their children in camps or excursions that are part of their schooling. Thus, parents can be charged for meals and nothing else. However, this does not prevent the group of parents to decide that they want to contribute to the allocated municipal funds for the excursion/camp. However, those pupils whose parents are not able to pay such extra amount still preserve the rights to participate.

### *Students with special needs*

As a general rule in the Danish Folkeskole Act, all students have the right to receive education which corresponds to their needs. To promote the development and learning of the students, municipalities, and schools have the opportunity to provide support for students and plan the teaching activities in ways which can support the education of children with special needs in the general classes. Among others, smaller teams, differentiation of instruction and supplementing education can be employed. Furthermore, two-adult schemes and teaching assistants, which can help the individual student and the class as a whole, can be used. Finally, counseling by the pedagogical-psychological counseling (a municipal body with special pedagogical and psychological knowledge) and the national knowledge- and special counseling organization (VISO) directed towards students, teachers, school leaders and parents can be used. Students that require more than 9 weekly hours of support can be referred to special education either consisting of support in the general class, in special classes, at special schools, or at the so-called internal schools (combined treatment and special education institutions).

### **Recent political initiatives**

#### *Adjustment of the Folkeskole to a more open and flexible school (2019)*

In January 2019, it was decided to adjust the Folkeskole with 13 new initiatives. Amongst the new initiatives were a strengthened focus on reading to secure pupils with weak reading skills and an initiative to increase the quality of supporting teaching with a focus on challenged children.

#### *Dyslexia Package I, II, III and IV (2019-2022)*

Over the last four years, four political deals to strengthen the efforts on dyslexia have been agreed upon. For example in primary and lower secondary education, a new detection tool for second grade is to be developed, strengthened test tools and a national forum for reading counselors and dyslexia teachers is to be established. Furthermore, DKK 6 million has been reserved to educate more reading counselors and dyslexia teachers.

#### *New Evaluation system (2021)*

In October 2021, the parties behind the Folkeskole Compromise have agreed on a strengthened evaluation- and review culture in the Folkeskole, which contains, among other initiatives, a number of tools for further strengthening the detection of children with language and reading difficulties. For instance, it is required that a risk test for dyslexia is carried out in the first grade at the latest for

children who show signs of reading difficulties, and a screening for reading difficulties is about to be developed.

### **Discrimination and promotion of equal opportunities**

Please provide information on measures taken by the State to combat discrimination and promote equal opportunities for children from particularly vulnerable groups such as ethnic minorities, Roma children, children with disabilities, and children in care.

Danish authorities do not register ethnicity and are consequently unable to collect and quantify data disaggregated on ethnic groups.

Groups such as ethnic minorities and Roma children have – on equal footing with everyone legally residing in the country – access to the universal welfare state’s services (childcare, education, health care, employment effort etc.) largely funded by the general taxation. This general and equal access to the services of the welfare state ensures equal opportunities for anyone legally residing in Denmark regardless of their ethnic identity.

The Danish approach is further outlined in Denmark’s national strategy applying the EU Strategic Framework for Equality, Inclusion and Participation for 2020-30.

In addition, Denmark’s emphasis on abiding by general principles of equal treatment ensures recognition of political, civil, social, and other rights of the Roma population. Any target for education level, employment rate and health in Denmark apply to Roma as well as to everyone else.

#### *Initiatives in the area*

As previously mentioned, a broad majority in the Danish Parliament agreed to allocate more than DKK 700 million a year to a reform called “Children First” (Børnene Først) in 2021. The reform aims to ensure better and earlier help for vulnerable children and young people, continuity for children in care, better quality in placements outside the home and in case processing and to strengthen legal certainty for children and families. The reform includes more than 30 initiatives in total.

One of the main initiatives in the reform is a new Children’s Act (Barnets Lov), which assembles all regulation concerning support for vulnerable children and children with disabilities. Furthermore, the possible new Children’s Act will provide vulnerable children with a number of new rights that aims to ensure that the voice of the child will be in the forefront in cases regarding special support.

The legislation implementing the agreement has not yet been adopted by the Danish Parliament.

In 2018, the Danish Parliament adopted a law prohibiting the discrimination of people with disabilities of all ages in all areas of society. The law was expanded in 2020 to include the right to individual adjustment of services for children with disabilities in school and in day-care facilities.

[In general, there is a principle of sectoral responsibility in Denmark, where every part of the public sector that provides a service is required to secure that the service is accessible for people with disabilities.]

States should also make clear the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

The National Council for Children in Denmark, which is an independent national institution for children, works to safeguard the rights of children and young people in Denmark. The National Council for Children takes children's views on board in their work, which consists of offering advice and consultancy to authorities on issues concerning children's conditions.

Approximately 2,500 children (aged approximately 13) from across the country are a part of The National Councils' Children's Panel, where they share their opinions on a voluntarily basis on a variety of subjects taken up by the Council. Furthermore, the perspectives of pre-school children are reflected in a similar panel of around 1,000 children aged 4-6 years.

The Ministry for Social Affairs involved young people with experience from the social system and organizations representing children in the preparation of the reform "Children First" (Børnene Først) and the preparatory work towards a possible future Children's Act (Barnets Lov).

As an example, young people with experience from the care system has contributed with inputs to avoid stigmatizing language in the possible new Children's Act (Barnets Lov).

### **Children in crisis situations**

Please provide information on any measures adopted to protect and assist children in crisis situations and emergencies.

If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.

During the COVID-19 pandemic, the social sector has been categorized as a critical function and has therefore not been "locked down" as other welfare sectors. Under the lockdowns, the municipalities

have still been obliged to implement the necessary measures to help and protect vulnerable children and young people. At the same time, voluntary associations as well as other civil society organizations and social foundations have also played a very active and important role during the pandemic, including in interaction with the public sector.

The former Government also launched a number of initiatives and measures to take care of the most vulnerable and socially disadvantaged groups during the COVID-19 pandemic, including initiatives directly targeting vulnerable children and young people:

- April 2020: Children's package of DKK 13.5 million to a number of organizations providing advice and practical help to vulnerable children and their families.
- April 2020: Agreement on a number of initiatives for DKK 215 million to ensure that socially vulnerable children and adults and people with disabilities could get through the time with COVID-19 as best as possible.
- June 2020: Summer activities for children and young people: DKK 220 million to municipalities and organizations that organize summer activities for young people as well as outreach work to get isolated young people to attend.
- November 2020: Additional means to combat loneliness: Loneliness pool of DKK 50 million for i.e. new communities, of which DKK 20 million was targeted interventions for vulnerable children.
- November 2020: Extra Christmas aid for vulnerable families: extraordinary grant of DKK 2.5 million to organizations distributing Christmas aid to vulnerable families.
- February 2021: Aid package with funds for DKK 11 million for vulnerable children, adults and people with disabilities under the extended restrictions.
- October 2021: The state contributed with DKK 27 million for an initiative regarding learning and well-being for schoolchildren after COVID-19, entering into in a partnership with private funds.



**(Pending issues from Conclusions XXI-4 2019) Article 17: conclusions of non-conformity; conclusions of conformity pending receipt of specific information; deferrals due to lack of information**

**Conclusion**

The Committee concludes that the situation in Denmark is not in conformity with Article 17 of the 1961 Charter on the grounds that:

- The maximum length of pre-trial detention is excessive
- Children can be placed in solitary confinement for up to four weeks.

**Children in institutional care**

The Committee asks to be kept informed of all measures taken to reduce the number of children in institutional care.

The reform “Children First” (Børnene Først) aims to ensure that vulnerable children receive the right help earlier than is the case today. According to Danish law, the social measures taken in each case must always be based on an individual professional assessment of the needs of the child. The reform entails, among other things, an initiative supporting the spread of “family houses” to all Danish municipalities in order to strengthen early and preventive measures for vulnerable children and families.

The political parties behind the reform “Children First” (Børnene Først) have also agreed to initiate a reform to strengthen the quality and conditions for foster families. A special task force with central stakeholders will prepare recommendations on how to ensure better terms and professional competences for foster families. At the same time, a campaign was initiated to recruit more foster families and other people who are willing to play a central role in the lives of children in care.

Over the last years, the number of children placed in care has been decreasing in Denmark. There has especially been a decrease in the number of children placed in institutional care, while there has been a slight increase in the number of children placed in care in foster families.

### **Children in conflict with the law**

The report provides no information on children in conflict with the law. The Committee therefore reiterates its finding of non-conformity on these grounds.

However, the Committee notes that there were amendments to the legislation (Legal Procedures Act- Retsplejeloven) outside the reference period. Please provide information on:

- i) All developments in the situation.
- ii) The maximum prison sentences that maybe imposed on a child.

In June 2018, the Danish Government presented an agreement on a reform of the efforts against juvenile delinquency, and on December 18 2018, the Danish Parliament adopted the Act on Combating Youth Crime. With the act, the Youth Crime Board and the Youth Correctional Services were founded with effect from January 1 2019.

The purpose of the Youth Crime Board is to determine targeted individual preventive measures for children and young people between the ages of 10 and 17, and the purpose of the Youth Correctional Services is to supervise that the municipality carries out the measures decided by the Board. The measures must be implemented in the best interests of the child or young person, and they must be holistic, based on the child's or young person's own resources, and organized based on a specific assessment of the child's or young person's and family's circumstances. The views of the child or young person must always be considered with appropriate weight in accordance with age and maturity.

The Act on Combating Youth Crime applies to young persons aged 15-17 who have received a prison sentence for having committed a serious crime and to children aged 10-14 who are suspected of having committed a serious crime.

From January 1 2019 to October 31 2021, the Youth Crime Board had made a ruling in 2.303 cases.<sup>2</sup>

*The maximum prison sentences that maybe imposed on a child.*

The age of criminal responsibility in Denmark is 15 years, cf. section 15 of the Danish Criminal Code (hereafter "Criminal Code").

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<sup>2</sup> [Udmøntning af afgørelser, tilsyn og genindbringelse af sager \(justitsministeriet.dk\)](https://www.justitsministeriet.dk/udmøntning-af-afgørelser-tilsyn-og-genindbringelse-af-sager)

Young people under the age of 15, who commit a criminal act, will be dealt with in the social services system, including the Youth Crime Board, while young people between the ages of 15 and 18 will be dealt with according to special rules in the criminal justice system.

According to section 33(3) of the Criminal Code, an offender, who had not reached the age of 18 years, when the act was committed, cannot be sentenced to imprisonment for life.

Previously, the maximum sentence for offenders, who had not reached the age of 18 years, when the act was committed, was imprisonment for a term of 8 years. Section 33(3) was however amended in 2010, where the current rules were introduced. According to the preparatory work, it was the assessment that the courts should not be precluded in the most egregious cases from, on the basis of a concrete assessment, being able to place such weight on law enforcement considerations that a prison sentence of more than 8 years' imprisonment should be imposed.

When determining a sentence, the court shall in accordance with section 82(1) of the Criminal Code consider it a mitigating circumstance, if the offender had not reached the age of 18 years, when the act was committed. Moreover, young age is a guiding factor in the assessment of whether a sentence should be reduced or remitted, cf. section 83 of the Criminal Code.

It is stated in the guidelines from the Director of Public Prosecutions (the section on handling cases against young offenders) that cases against young people under the age of 18 – depending on the young person's personal circumstances, the nature of the crime and the young person's attitude towards the charge – to a large extent should be settled with a fine, dismissal of charges, including a warning, a conditional sentence or a youth sanction in accordance with section 74 a of the Criminal Code. Moreover, as a condition for a conditional sentence or as an additional measure to an unconditional prison sentence, the court may decide that the young person must comply with a decision from the Youth Crime Board, cf. section 57(10) and 74 b of the Criminal Code, if the young person is 1) sentenced to prison for a violent crime or 2) sentenced to prison for another serious crime in violation of the Criminal Code, the Act on Controlled Substances (lov om euforiserende stoffer), the Act on Weapons and Explosives (lov om våben og eksplosivstoffer m.v.) or the Act on Knives and Bladed and Pointed Weapons (lov om knive og blankvåben m.v.) and is also deemed to be at particular risk of committing additional crime.

The maximum period of which a young suspect can be held in pre-trial custody is regulated in section 768 a (2) of the Administration of Justice Act, which states that unless the court finds that very special circumstances are present, pre-trial detention must not, in cases in which the detainee is under 18 years old, be extended for a continuous period that exceeds 1) 4 months when the accused is charged with an offence that may not carry a sentence under the law of imprisonment for 6 years or 2) 8 months when the accused is charged with an offence that may carry a sentence under the law of imprisonment for 6 years or more.

### **Unaccompanied children**

- i. What measures have been taken to provide alternatives to detention for children in an irregular situation, to ensure that all unaccompanied children are accommodated in appropriate facilities and that unaccompanied children are never accommodated with adults and to ensure that siblings are kept together?
- ii. What measures have been taken to ensure that unaccompanied children are protected from exploitation and abuse i.e. do not go missing? It reiterates that the state is ultimately responsible for ensuring the protection of all children from violence, exploitation and abuse and that this necessarily requires preventing disappearances of children in the asylum system where this may expose them to such a risk.

The care of persons in the Danish asylum system is generally the responsibility of the Danish Immigration Service. The Immigration Service considers unaccompanied minors as a particular vulnerable group that requires special care.

Even though there is no legislation that explicitly prohibits the use of detention of children in Denmark by the immigration authorities, detention of unaccompanied minors does not take place in the reception and accommodation system.

Furthermore, it is explicitly stated in Section 37(10) of the Danish Aliens Act that unaccompanied minors may not be detained in prisons.

Unaccompanied minors are accommodated at specialised facilities. To ensure appropriate facilities the facilities shall comply with standards and terms determined by statutory building regulations. The Danish Immigration Service conducts inspections on a regular basis to ensure that the conditions of these facilities are appropriate for accommodation and in accordance with applicable regulations.

Unaccompanied minors are not accommodated together with adults. In general, unaccompanied minors are accommodated together with other minors of same age group and gender.

The specialised accommodation facilities for unaccompanied minors have a stated pedagogical objective that aims to meet their special needs. Prior to their hire and regardless of function, the Danish Immigration Service requires that all employees (incl. volunteers) working at a specialised facility for unaccompanied minors do not have a criminal record. The management at the facility is on a regular basis legally obligated to obtain a “child protection certificate” for each employee that attests whether the employee working with children has a record of sexual offences involving children.

Furthermore, if employees have suspicions or knowledge about concerning behaviour of an unaccompanied minor they are legally subjected to a tightened obligation to report their concerns to the social authorities.

If an unaccompanied minor residing in an accommodation centre disappears, the centre is obliged to notify the police. If the minor is under 15 years of age, a police report must be made within 12 hours. If the minor is 15-17 years old, a police report must be made within 24 hours.

### **Bone testing**

What are the potential consequences of bone testing? (e.g., can a child be excluded from the child protection system on the sole basis of the outcome of such a test?).

When a child applies for asylum in Denmark, the Danish Immigration Service, as part of the asylum process, can ask them to consent to an age assessment. This is the case if the child cannot document their age and appears older than the age stated. In this regard, the child is explained in a child-friendly language by a trained case worker what an age assessment is and what consequences can follow, if the child does not wish to consent (this is fully explained further below). It is important to mention that a child is always represented by an adult in an asylum interview, whether it be a parent, assessor, personal representative or legal guardian.

Danish legislation does not specify which specific methods can be used for an age assessment. However, it follows from the preparatory work to the Danish Aliens Act that the examination is performed on the basis of a somatic examination/medical examination, an X-ray examination of teeth (primarily the development and progression of third molar/wisdom teeth), X-ray of the left wrist and a physical medical examination. Medical doctors who are each specialists in their respective part of the assessment conduct the examination. Each doctor makes a conclusion based on their findings, after which the Department of Forensic Medicine makes a joint conclusion of the age assessment. On that basis and after an overall assessment of the information available, the Danish Immigration Service makes a decision on the age of the applicant.

According to the Danish Aliens Act, an asylum seeker is obliged to provide the necessary information to the Danish Immigration Service to make a decision of whether or not the asylum seeker is entitled to asylum, which includes participating in an age assessment if asked to do so. This also pertains to children.

In a decision on the age of an asylum seeker, the Danish Immigration Service puts strong emphasis on the result of the age assessment. However, it is very important to emphasize that a decision on the age of an asylum seeker will always be an overall assessment of the information available on the individual case. Information from the applicant itself, documents presented, information from other Member States (in case the applicant has been in other Member States prior to entering Denmark), information from open sources (e.g. social media), information from the cases of family members (if a consent to use this information in the process of the asylum case is provided) and country of origin information, e.g. regarding birth registration, will also be included in the decision.

In cases where there is less than one year's difference between the stated age and the most likely/probable age according to the conclusion of the age assessment, the benefit of the doubt applies and the child will remain registered with the stated age. However, if there is more than one year's difference between the stated age and the most likely/probable age according to the age result, a decision to change the age to the most likely/probable age will be made, unless other specific information is able to document or indicate the stated age.

Decisions about an applicant's age can be appealed to the Danish Refugee Appeals Board, which is a quasi-judicial body. There are no time limits on the appeal.

End of report