

Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States

Denmark 2017

Contractor: Danish Institute for
Human Rights

Author: Kholoud Ibrahim

Reviewed: Jonas Christoffersen and Lise
Garkier Hendriksen

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1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
<p>1. In February 2016, some parliament members of the Danish People's Party put forward a proposal for a parliament decision to oblige the government to motion for a law to criminalise the receipt of economic resources from foreign countries, persons or organisations with a connection to terror organisations to fund religious and cultural buildings.</p> <p><i>(B 68 Forslag til folketingsbeslutning om at ulovliggøre modtagelse af økonomiske midler fra fremmede statsmagter eller fra personer og organisationer med tilknytning til terrorbevægelser til religiøse og kulturelle bygninger, available at: http://www.ft.dk/samling/20151/beslutningsforslag/b68/index.htm)</i></p>	D.	The parliament decision has not been adopted.
2. It follows from the General Education Act in Denmark that the municipalities are	D.	The alteration of the law has, inter alia, resulted in a restriction of the requirements that

<p>required to support associations with a subsidy and also to provide the premises.¹</p> <p>The municipalities are obliged to provide premises to all associations that meet the requirements in the act. Section 4 paragraph 3 in the General Education Act states that an association that offers general information to the people through the association's voluntary work has to meet the following requirements: 1) formulate a purpose with the association, that needs to appear from the articles of the association, 2) offer activities that are informative, 3) have a board, 4) be democratically structured, 5) be based on active membership and have at least five paying members, 6) be open to anyone who joins the association's purpose as a point of departure, 7) be a resident in the municipality that grants the subsidy,</p>		<p>associations are required to meet before they are entitled to a subsidy.</p> <p>The alteration of the law also obliges municipalities to supervise the associations and to publish a list containing information on the associations who receive a subsidy and which associations have been denied subsidies.</p> <p>Furthermore, municipalities are obliged to publish the associations' financial reports.</p>
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¹ Denmark, the Danish Parliament (*Folketinget*), The Municipal Committee (*Kommunaludvalget*), 2014-15, question 76 (*KOU Alm.del endeligt svar på spørgsmål 76*), available in Danish at: <http://www.ft.dk/samling/20141/alm-del/kou/spm/76/svar/1228902/1499028.pdf>.

and finally 8) be non-profitable and continuous. Further it follows from section 5 paragraph 3, that an association is only covered by the act, if it is not established or managed for commercial purposes.

Thus, it follows from section 21 in the General Education Act, that the municipalities are obliged to provide premises in terms of finding suitable locations that are owned by the municipalities, regions or the state. The municipalities can also grant associations a subsidy for associations to pay for private locations (maximum 75 % of the total amount of the cost).

However, section 23 in the act states that the municipalities are obliged to provide a premises if the municipality is able to offer the association suitable locations that are owned by the municipality etc. The municipality can also deny subsidies to associations if they are deemed to be disproportionate to the number of participants

<p>or to the use of the location in general.</p> <p>The premises can either be a regular meeting venue for the association or only at their disposal for special occasions/events/meetings etc.</p> <p>The term 'association' in the act includes all type of non-governmental organisations (NGOs) who are deemed to contribute to the general information of the people through the association's voluntary work.</p> <p>The General Education Act dates from 2000, but has been altered a few times.</p> <p>In 2016, the General Education Act was altered. The political intention behind the alteration, was to make sure that no economic support by the municipalities was granted to associations that seek to oppose or undermine democracy or fundamental freedoms and human rights.</p> <p>The alteration of the act in 2016 covers all associations, including NGOs working within the human rights area.</p>		
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<p>(Lov nr. 1553 om ændring af folkeoplysningsloven og ligningsloven (Indsats mod foreninger, som modarbejder eller underminerer demokrati eller grundlæggende friheds- og menneskerettigheder af 13 December 2016: https://www.retsinformation.dk/Forms/R0710.aspx?id=185384)</p>		
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2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016

2.1 Overall amount of government funding

2.1.1 Municipalities

It follows from the General Education Act (),² that municipalities are required to ensure that children, youth and adults can establish and take part in the general education work that is found in the municipality. Furthermore, municipalities are required to support associations with a subsidy and also by providing premises.³ See above for a description of a recent amendment of this act.

² Denmark, General Education Act No. 584 of 11 July 2011, (*Bekendtgørelse af lov om støtte til folkeoplysende voksenundervisning, frivilligt folkeoplysende foreningsarbejde og daghøjskoler samt om Folkeuniversitetet*) (*folkeoplysningsloven*), available in Danish at: <https://www.retsinformation.dk/forms/r0710.aspx?id=138157>.

³ Denmark, the Danish Parliament (*Folketinget*), The Municipal Committee (*Kommunaludvalget*), 2014-15, question 76 (*KOU Alm.del endeligt svar på spørgsmål 76*), available in Danish at: <http://www.ft.dk/samling/20141/almdel/kou/spm/76/svar/1228902/1499028.pdf>.

NGOs that are established as an association and which further meet the terms in the General Education Act, are entitled to a subsidy from the municipality.⁴

Municipalities are also able to grant subsidies to associations on the basis of unwritten principles (*kommunalfuldmagtsreglerne*). However, municipalities are not obliged to grant subsidies to associations after these principles, and the municipal councils have the power to restrict the access to subsidies.⁵

There is currently no official statistic on the total amount of subsidy granted to associations in the municipalities.

2.1.2 State funds

Each year the parliament distributes funding that has been earmarked for initiatives regarding social care, healthcare and the labour market (*'satspulje'*). The yearly funding varies in size and arises as a result of yearly adjustments to welfare benefits. The funding aims to improve conditions for weak and exposed groups and persons who receive welfare payments. The funding is allocated on grounds of a political negotiation that takes place every year in the autumn. The political agreement contains specific allocations of funds to public or private initiatives within a range of areas and topics. Some of the funds are only granted by an application.⁶

There are currently no official statistics on how much of the funding is granted to NGOs.

It follows from the political agreements from 2011–2016 that the amount of funding was the following:⁷

2011: DKK 1.8 billion (approximately € 240 million)

2012: DKK 3.6 billion (approximately € 480 million)

⁴ Denmark, Section 3 in General Education Act no. 584 of 11 July 2011, (*Bekendtgørelse af lov om støtte til folkeoplysende voksenundervisning, frivilligt folkeoplysende foreningsarbejde og daghøjskoler samt om Folkeuniversitetet*) (*folkeoplysningsloven*), available in Danish at: <https://www.retsinformation.dk/forms/r0710.aspx?id=138157>.

⁵ Denmark, the Danish Parliament (*Folketinget*), The Committee of Immigration, Integration and Housing (*Udlændinge- Integrations- og boligudvalget*), 2015-16, question 797 (*UUI. Alm.del endeligt svar på spørgsmål 797*), available in Danish at: <http://www.ft.dk/samling/20151/almDEL/uuI/spm/797/svar/1339931/1659868/index.htm>.

⁶ The Ministry of Children and Educations website, "*Ansøgning om midler fra Satspuljen*", available in Danish at: <http://www.uvm.dk/Uddannelser/Paa-tvaers-af-uddannelserne/Puljer/Satspuljemidler>.

⁷ *Satspuljen* web page available on the website of the Agency for Modernisation under the Ministry of Finance (in Danish) at: <http://www.modst.dk/OEAV/2-Bevillingslove/Satspuljen>.

2013: DKK 1.5 billion (approximately € 200 million)

2014: DKK 1.3 billion (approximately € 173 million)

2015: DKK 3.8 billion (approximately € 511 million)

2016: DKK 1.9 billion (approximately € 255 million)

2.2 Distribution of government funding

No official information has been found regarding the total amount of government funding to NGOs working with fundamental rights in Denmark.

2.3 Restrictions (or other changes) on NGO funding from other sources

No information has been found on restrictions or other relevant changes during the reference period.

The Minister of Ecclesiastical Affairs stated in April 2016, that municipalities are not allowed to deny associations subsidies, due to statements of some member of the associations. However, this is only the case as long as the association meets the terms in the General Education Act (*Folkeoplysningsloven*).⁸

3 Access to the decision-making process for non-governmental organisations working on fundamental rights

3.1 Denmark's participation in the Open Government Partnership

Denmark joined the Open Government Partnership in 2011. In accordance with its obligations, Denmark prepared and published a national action plan (2013–2014). The action plan was extended from 1 January 2015

⁸ Denmark, the Danish Parliament (*Folketinget*), The Committee of Immigration, Integration and Housing (*Udlændinge- Integrations- og boligudvalget*), 2015-16, question 489 (*UUI. Alm.del endeligt svar på spørgsmål 489*), available in Danish at: <http://www.ft.dk/samling/20151/almDEL/UUI/spm/489/index.htm>.

until 1 July 2016. It is unclear from the government's website whether the plan has been renewed.⁹

The Danish action plan contains commitments related to four policy areas, including local democracy and participation, digital communications, modernisation of the public sector and open data. The four areas include 16 commitments.¹⁰

The first obligation concerns the examination of the municipality's consultation procedure.

To fulfil this obligation, the government established a committee which was assigned to examine the municipality's consultation procedure. The committee namely had to examine whether the consultation procedure could be adjusted to secure a more appropriate involvement in the municipalities legislation work. The committee completed its work in 2014 and published a report in March 2015 with a series of recommendations.¹¹

The Independent Reporting Mechanism carried out a review of the Danish national action plan in 2016, and stated, inter alia, that the committee's examination of the consultation procedure in the municipalities could not have any transformative impact unless the recommendations made by the committee could be enforced or implemented (which was not the case). The review was also critical to the fact, that no civil society was represented in the committee.¹²

3.2 Access of NGOs to the decision-making process

Danish law-making tradition implies a public consultation procedure in which the government invites comments to draft legislation from a range of stakeholders. All documents sent into hearing/public consultation are

⁹ Agency for Digitisation, Open Government handlingsplan, available in Danish at: <https://www.digst.dk/Strategier/Open-Government/Open-Government-handlingsplan>.

¹⁰ Agency for Digitisation, Open Government - national handlingsplan 2013-2014, available in Danish at: <http://digitaliser.dk/resource/2534809>.

¹¹ The committee's report, *Serviceeftersyn af kommunale og regionale høringsregler*, March 2016, available in Danish at: http://www.google.dk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwj_r4HhmY3TAhVMXhoKHdZRAVUQFgqeMAE&url=http%3A%2F%2Fsim.dk%2Fmedia%2F12289%2Fserviceeftersyn-af-kommunale-og-regionale-hoeringsregler.pdf&usq=AFOjCNGxs2k_Lc_h0fmbHJYgaNI8o2Ufbw.

¹² Agency for Digitisation, *Review af Danmarks Open Government handlingsplan*, 1 June 2016, available in Danish at: <https://www.digst.dk/ServiceMenu/Nyheder/Nyhedsarkiv/Digitaliseringsstyrelsen/2016/Review-af-Danmarks-Open-Government-handlingsplan>.

published on the web portal for public consultation procedures,¹³ and sent directly to subject-relevant stakeholders. This gives the NGOs an opportunity to express their opinions. The deadline for engaging in the consultation procedure varies and can be very short in some instances, but should by default be approximately four weeks.¹⁴ This public consultation procedure is regulated in a circular from 1998¹⁵ and in a guideline from 2005 issued by the Ministry of Justice.¹⁶

However, a study from 2016 conducted by The Danish Bar and Law Society (*Advokatsamfundet*) found that more than one third of the draft bills, which were submitted to public consultation in the parliamentary year of 2015–2016 (a total number of 190 draft bills), did not comply with the recommended consultation period of approximately four weeks. The study namely showed, *inter alia*, that the average consultation deadline is 25 days, that in 9 % of the cases the consultation deadline was 7 days or less, in 8 % of the cases the consultation deadline was 8 to 14 days, and in 5 % of the cases the bills was submitted for consultation simultaneously with or after the draft was presented to the Danish parliament.¹⁷

It also follows from an Administrative Order that the representatives of the NGOs are also by application entitled to audience before the different parliament committees. The representatives will orally be able to present their point of view to the committee in question.¹⁸

Finally, some municipalities in Denmark involve associations and NGOs in their local work.

¹³ The website for public consultation procedures: www.Hoeringsportalen.dk.

¹⁴ The website, "*lovprocesguide*", available in Danish at: <http://www.lovprocesguide.dk/sw3948.asp>.

¹⁵ Denmark, Guidelines on the quality of legislation from 2005, Ministry of Justice, available in Danish at: <http://jm.schultzboghandel.dk/publikationer/publikationsdetaljer.aspx?PIId=a9e0219b-967e-467b-ac3c-c4a685a6106c>.

¹⁶ Denmark, Circular No. 159 of 16 September 1998 regarding comments on bills and other governmental proposals and the procedures for the preparation of bills, statements, regulations etc. available in Danish at: http://www.stm.dk/p_5430.html.

¹⁷ The Danish Bar and Law Society (*Advokatsamfundet*), "*Mange lovforslag overholder ikke den anbefalede høringsfrist*", 8 July 2016, available in Danish at: <http://www.advokatsamfundet.dk/Service/Nyheder/2016/Advokatsamfundets%20hoeringsundersoegelse.aspx>.

¹⁸ The Danish Parliaments website, See section 8 paragraph 5 in the Administrative Order No. 9400 of 18 June 2014 regarding the Rules of Procedure of the Parliament, available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=163958#KapIII>.

4 Further information

4.1 Sustainable Development Goals

The minister of foreign affairs stated in January 2017, that the civil society played an important role in the implementation of the Sustainable Development Goals (SDGs) in Denmark.

The minister underlined the need for civil society to be involved in the planning, the implementation and evaluations of the SDGs, when it is found relevant.

The minister further urged civil society to involve themselves in the process.¹⁹

4.2 Danish NGOs work outside of Denmark

In 2015, the Danish government's funding of work conducted by Danish NGOs outside of Denmark was reduced. The minister of Foreign Affairs stated in this regard, that NGOs, in the future, would only be able to use a total amount of 2 %, instead of 3 %, of the funding that is earmarked development activities, on informative work conducted in Denmark.²⁰

¹⁹ Denmark, the Danish Parliament (*Folketinget*), The Committee on Foreign Affairs, (*Udenrigsvalget*), 2016-17, question 158 (*URU. Alm.del endeligt svar på spørgsmål 158*), available in Danish at: <http://www.ft.dk/samling/20161/almDEL/URU/bilag/78/index.htm>.

²⁰ Denmark, Minister of Minister for Foreign (*Udenrigsministeriet*), Written answer by the minister, (*Svar på §20-spørgsmål*), 18 October 2015, available in Danish at: <http://www.ft.dk/samling/20151/spoergsmaal/s55/svar/1270758/1556911/index.htm>.