

# An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory

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# 1. Civic space developments in 2022

## 1.1. Data retention

Area	Safe space & protection
Topic	Surveillance
Impact	Minor

On 30 March 2022, new rules concerning retention of traffic and location data came into effect in Denmark. Retention of data can have a deterring effect on civic space as actors in civil society may refrain from utilizing their freedom of expression fully since their data is collected by telecommunications companies and stored for 12 months. According to the Court of Justice of the European Union (CJEU), the “retention of traffic and location data for policing purposes is liable to deter user of electronic communications systems from exercising their freedom of expression, guaranteed in Article 11 of the Charter”.<sup>1</sup>

The new rules were prompted by judgments from the CJEU which made it evident that the previous Danish rules did not live up to the requirements for data retention laid down in EU law in which, as a rule, general and indiscriminate retention of data is prohibited. Although the rules were changed to comply with EU-law, the aim of the rules is to conduct data retention to the greatest extent possible.<sup>2</sup>

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<sup>1</sup> See amongst other CJEU judgment of 5 April 2022, C-140/20, EU:C:2022:258, paragraph 46, available in English at: <https://curia.europa.eu/juris/document/document.jsf?text=&docid=257242&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1&cid=325817>.

<sup>2</sup> Denmark, Ministry of Justice (*Justitsministeriet*), press release on the Danish Parliament’s adoption of new rules on data retention (*Flertal i Folketinget vedtager nye regler for logning*), available in Danish at: <https://www.justitsministeriet.dk/pressemeddelelse/flertal-i-folketinget-vedtager-nye-regler-for-logning/>, 3 March 2022.

## 1.2. Arrests of demonstrators

Area	Freedom of peaceful assembly
Topic	Policing practices
Impact	Minor

On 6 and 7 May 2022, 110 persons were arrested during a non-violent demonstration. Climate activists blocked bridges to the district of Slotsholmen in Copenhagen where the Danish parliament and central administration buildings are located.<sup>3</sup>

The protestors were administratively arrested with a legal basis in The Danish Act on Police Activity (*Lov om politiets virksomhed*) to maintain law and order as the protestors did not comply with police instructions to keep off the roadway. The arrested persons were transferred to a police station, interrogated, and subsequently released.<sup>4</sup>

Mass arrests of demonstrators can have a deterring effect on civil society organisations willingness to promote their values through demonstrations impairing their possibility of exerting influence. Such arrests decrease the civic space for civil society organisations to operate in.

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<sup>3</sup> Denmark, Civicus Monitor, article, 110 activist arrested during two days of climate demonstrations, available in English at: <https://monitor.civicus.org/updates/2022/06/13/110-activists-arrested-during-two-days-climate-demonstrations/>, 13 June 2022.

<sup>4</sup> Denmark, TV2, article on the deprivation of liberty of demonstrators (*Mange frihedsberøvelser ved klimademonstrationer – kendt forfatter er iblandt*), available in Danish at: <https://nyheder.tv2.dk/samfund/2022-05-06-mange-frihedsberovet-ved-klimademonstrationer-kendt-forfatter-er-iblandt>, 6 May 2022.

## 1.3. Leisure activities for Ukrainian children

Area	Participation and cooperation with authorities
Topic	Civil dialogue
Impact	Minor

On 30 April 2022, the Danish government asked The Volunteer Council (*Frivilligrådet*) to facilitate a national partnership focusing on creating leisure activities for the many Ukrainian children that have come to Denmark following Russia's invasion of Ukraine.<sup>5</sup>

The partnership met for a virtual meeting on 12 May 2022. The partnership should, inter alia, contribute to strengthening national coordination and knowledge sharing, and to identify challenges and barriers in leisure activities in Denmark.<sup>6</sup> The cooperation between The Volunteer Council and the Danish Government is a positive example of how Denmark is contributing to enabling civic society organisations in carrying out their tasks.

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<sup>5</sup> Denmark, The Volunteer Council (*Frivilligrådet*), press release on leisure activities for Ukrainian children (*Frivilligrådet samler civilsamfundet om fritidsaktiviteter til ukrainske børn*), available in Danish at: <https://frivilligraadet.dk/nyheder/pressemeddelelse/frivilligraadet-samler-civilsamfundet-om-fritidsaktiviteter-til-ukrainske>, 9 May 2022.

<sup>6</sup> The Volunteer Council (*Frivilligrådet*), press release on leisure activities for Ukrainian children (*Frivilligrådet samler civilsamfundet om fritidsaktiviteter til ukrainske børn*), available in Danish at: <https://frivilligraadet.dk/nyheder/pressemeddelelse/frivilligraadet-samler-civilsamfundet-om-fritidsaktiviteter-til-ukrainske>, 9 May 2022.

## 2. Promising practice in 2022

### 2.1. Conference on volunteering

On 2 November 2022, the conference *Volunteering 2022 (Frivillighed 2022)* was held. The goal of the conference is to strengthen the cooperation and interaction between civil society and the Danish municipalities. The conference was jointly held by the National Board of Social Services (*Socialstyrelsen*), KL – Local Government Denmark (*Kommunernes Landsforening, KL*) and the Municipalities' Common Development Centre (*Komponent*).<sup>7</sup> The conference has a specific focus on creating good conversations and discussions about challenges and perspectives in the cooperation between civil society initiatives and the municipalities.<sup>8</sup>

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<sup>7</sup> Denmark, KL – Local Government Denmark (*KL*), press release on a conference between civil society and the Danish municipalities (*Konference om samspillet mellem civilsamfund og kommuner*), available in Danish at: <https://www.kl.dk/nyheder/socialomraadet/2022/konference-om-samspillet-mellem-civilsamfund-og-kommuner/>, 18 August 2022.

<sup>8</sup> Denmark, The Municipalities' Common Development Centre (*Komponent*), program for the conference *Volunteering 2022 (program for konferencen Frivillighed 2022)*, available in Danish at: <https://www.komponent.dk/frivillighed>.

## 3. Visa for human rights defenders

### 3.1. Entry and stay for human rights defenders (HRDs) at risk

Dedicated visa scheme for HRDs at risk available in your country	No
Other type of visa or alternative legal entitlement or derogation clause applied to HRDs	Yes

In Denmark, there are no dedicated visa schemes for HRDs at risk, however please see below regarding the free city scheme.

Denmark is a member of the Schengen Agreement. Therefore, entry into Denmark requires a Schengen Visa which allows a person to travel to any of the Members of the Schengen Area for up to 90 days.<sup>9</sup> There are countries with a visa requirement and visa-free countries.<sup>10</sup> To be approved for a visa, the applicant must 1) fill in an application and hand it in at a Visa Application Centre; 2) possess a valid passport; 3) have biometric data captured at the Visa Application Centre; and 4) pay the visa fee. Moreover, the applicant must be legally in the country from which he or she applies.<sup>11</sup>

According to section 9c(4) of the Act on Aliens (*udlændingeloven*), a residence permit can be granted to a foreigner who carries out literary activities and who has been offered residence in the municipality by a municipal council as part of the municipality's

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<sup>9</sup> Denmark, Ministry of Foreign Affairs (*Udenrigsministeriet*), How to apply for a visa, available in English at: <https://um.dk/en/travel-and-residence/how-to-apply-for-a-visa>.

<sup>10</sup> Denmark, the Danish Immigration Service (*Udlændingestyrelsen*), New to Denmark, Countries with a visa requirement and visa-free countries, available in English at: [https://www.nyidanmark.dk/en-GB/Words%20and%20Concepts%20Front%20Page/US/Visum/Must\\_have\\_a\\_visa\\_countries\\_and\\_countries\\_with\\_visa\\_exemption?anchor=63F86BF9BAE84296B40028C26E06EF02&callbackItem=E7DB3F82B9C14DCFAA314EB1A72DDEC5&callbackAnchor=7AE6F57AB5784B20BEE028BB58B3CC23](https://www.nyidanmark.dk/en-GB/Words%20and%20Concepts%20Front%20Page/US/Visum/Must_have_a_visa_countries_and_countries_with_visa_exemption?anchor=63F86BF9BAE84296B40028C26E06EF02&callbackItem=E7DB3F82B9C14DCFAA314EB1A72DDEC5&callbackAnchor=7AE6F57AB5784B20BEE028BB58B3CC23).

<sup>11</sup> Denmark, Ministry of Foreign Affairs (*Udenrigsministeriet*), How to apply for a visa, available in English at: <https://um.dk/en/travel-and-residence/how-to-apply-for-a-visa>.

membership of an international organisation that has been approved by the Minister of Culture.<sup>12</sup> Three Danish cities have joined the International Cities of Refuge Network (ICORN). These cities are Copenhagen, Hillerød, and Aarhus.<sup>13</sup>

A foreigner can obtain a residence permit under the free city scheme (*friby-ordningen*) when 1) the foreigner is a writer, journalist, a person who conveys the written word or satirists whose freedom of expression is violated in their home country and who therefore cannot exercise their literary activities; 2) the foreigner has a certain production of literary work; and 3) sign a declaration of Danish values. The author must be on ICORN's list of persecuted authors.<sup>14</sup>

A foreigner who receives a residence permit under the free city scheme is exempt from the requirement for a work permit with regard to activities that are linked to literary work. If the foreigner wishes to take up employment that is not connected to his/her work as a writer, he/she must apply for another type of residence permit that allows for this.<sup>15</sup>

The author receives a temporary residence permit for two years at a time under the free city scheme. The residence permit can be extended if the conditions are still met. It is not possible to obtain a permanent residence permit under the free city scheme.<sup>16</sup>

The foreigner is allowed to bring his/her spouse/permanent cohabitant and children under 18 years of age to Denmark. The family member's residence permit is granted for the same duration as the foreign author's residence permit. If the author's spouse/cohabitant receives a residence permit, he/she has the right to work as long as the residence permit is valid.<sup>17</sup>

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<sup>12</sup> Denmark, Consolidated Act on Aliens (*Lovbekendtgørelse af udlændingeloven*), 25 August 2022, available in Danish at: <https://www.retsinformation.dk/eli/lta/2022/1205>.

<sup>13</sup> ICORN, Cities of Refuge, available in English at: <https://www.icorn.org/icorn-cities-refuge>.

<sup>14</sup> Denmark, Board of Immigration (*Udlændingestyrelsen*), New in Denmark, Free city Scheme, available in Danish at: <https://nyidanmark.dk/da/Du-vil-ans%C3%B8ge/Friby-ordningen>.

<sup>15</sup> Denmark, Board of Immigration (*Udlændingestyrelsen*), New in Denmark, Free city Scheme, available in Danish at: <https://nyidanmark.dk/da/Du-vil-ans%C3%B8ge/Friby-ordningen>.

<sup>16</sup> Denmark, Executive order on Foreigners Access to the Country (*Bekendtgørelse om udlændinges adgang her til landet*), section 16(20), 23 August 2022, available in Danish at: <https://www.retsinformation.dk/eli/lta/2022/1206>.

<sup>17</sup> Denmark, Executive order on Foreigners Access to the Country (*Bekendtgørelse om udlændinges adgang her til landet*), section 16(20), 23 August 2022, available in Danish at: <https://www.retsinformation.dk/eli/lta/2022/1206>.