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**2024 Rule of Law Report
Country Chapter on the rule of law situation in Denmark**

Accompanying the document

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL
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2024 Rule of Law Report

The rule of law situation in the European Union

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ABSTRACT

The level of perceived judicial independence in Denmark continues to be very high. The Government submitted a proposal to Parliament to strengthen the public's perception of the Director of Public Prosecutions' independence by establishing a mandate period of ten years without the possibility of extension or reappointment. The courts continue the phased rollout of the multi-annual judicial digitalisation project. An agreement on a multi-annual financial framework has provided for notable increases in financial and human resources for the justice system. As an additional flanking measure for the judiciary's resources, the Government has proposed a number of amendments to procedural rules, aimed at improving the efficiency of court proceedings. The review of the legal aid system, commenced in 2020, is yet to be completed. However, the trend of increasing average case handling times has so far continued.

Denmark is perceived as one of the least corrupt countries in the world. A first sectoral anti-corruption programme was adopted specifically in the framework of the implementation of the Recovery and Resilience Plan. Significant steps were taken to collect data on investigations and prosecutions of corruption offences at national and local level. No steps have been neither taken in view of introducing rules on revolving doors for ministers, on lobbying and on asset declarations submitted by persons entrusted with top executive functions. Shortcomings were raised with regard to the integrity rules in the Parliament. The law on public financing of political parties has entered into force, while the reform on private financing of political parties has not yet been concluded. Foreign bribery is considered as a high risk area for corruption.

While discussions regarding the future role of the Press Council and of media liability are ongoing, the ethical rules for the press have been revised. Even though the independence of the national regulatory authority and public service media continue to be assured, an agreement has been reached on how to reduce the potential for political interference in public service media. A committee has been established tasked with proposing amendments to the law on access to documents. The Government has put a focus on financial support for local and regional media, but the situation regarding the safety of journalists lacks transparency.

The follow-up on a political agreement to strengthen scrutiny of the Government is ongoing. The data on use of fast-track legislative procedures confirms the decreasing trend after the pandemic. The Danish Institute for Human Rights has amended its internal rules to strengthen the independence of its Board of Directors. The civic space in Denmark remains open, even though certain segments of civil society experience difficulties in securing stable financing.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2023 Rule of Law Report, Denmark has (made):

- Fully implemented the recommendation to ensure adequate human and financial resources for the justice system in the next multiannual framework, taking into account European standards on resources for the justice system.
- No progress on introducing rules on ‘revolving doors’ for ministers and on lobbying and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions.
- Significant progress on ensuring the collection of data on investigations and prosecutions of corruption-related offences at national and local level.
- Some progress on the process to reform the Access to Public Administrative Documents Act in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents.

On this basis, and considering other developments that took place in the period of reference, it is recommended to Denmark to:

- Complete the review of the legal aid system, taking into account European standards on legal aid.
- Introduce rules on ‘revolving doors’ for ministers and on lobbying and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions.
- Advance with the process to reform the Access to Public Administrative Documents Act in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents.

I. JUSTICE SYSTEM

The Danish justice system consists of 24 district courts, two high courts (courts of appeal) and a Supreme Court, as well as two specialised courts¹. The independent National Courts Administration is in charge of the administration and development of the courts, which includes allocation of courts' budgets and management of buildings and systems related to information and communications technology². The independent Judicial Appointments Council³ makes non-binding proposals for the appointment of judges to the Ministry of Justice, who then proposes them for formal appointment by the executive (the King)⁴. Only one judge is proposed per vacancy by the Appointments Council. There have been no cases where the executive did not follow the proposal of the Appointments Council⁵. Disciplinary measures for judges can be issued by Court Presidents or the Special Court of Indictment and Revision⁶. The prosecution service is an autonomous institution acting under the supervision of the Ministry of Justice and led by a Director of Public Prosecutions⁷. The Bar and Law Society is the independent body governing the legal profession and ensuring its independence⁸.

Independence

The level of perceived judicial independence in Denmark continues to be very high among both the general public and companies. Overall, 83% of the general population and 88% of companies perceived the level of independence of courts and judges to be 'fairly or very good' in 2024⁹. The level of perceived judicial independence among the general public

¹ The Maritime and Commercial Court and the Land Registration Court. CEPEJ (2021), Study on the functioning of the judicial systems in the EU Member States. Denmark does not have a constitutional court.

² The Board of the National Courts Administration is composed of twelve members: a Supreme Court judge nominated by the Supreme Court, two high court judges nominated by the Eastern High Court and Western High Court respectively, a court president nominated by the presidents of the district courts, two district court judges nominated by the Danish Association of Judges, a representative of the other judicial staff nominated by the Danish Association of Deputy Judges, two representatives for the administrative staff nominated by trade unions, a lawyer nominated by the Bar and Law Society, two members with managerial and societal insight nominated by the Employment Council and the Rectors' College, respectively.

³ Members are appointed by the Minister for Justice and consist of one Supreme Court and one High Court judge proposed by the respective courts, one District Court judge proposed by the Danish Association of Judges, one lawyer proposed by the Bar and Law Society and two representatives of the general public proposed by Local Government Denmark and the Danish Adult Education Association.

⁴ With the exception of the President of the Supreme Court, who is selected and appointed directly by the Supreme Court according to an internal procedure. In addition, as regards members of the Supreme Court, the law sets out a special procedure under which the candidate chosen by the appointments board is vetted by judges of the Supreme Court before the appointment is confirmed. According to the 2024 EU Justice Scoreboard, the percentage of women in the top judicial positions is below 30%. Figure 38, 2024 EU Justice Scoreboard.

⁵ For transparency, the Judicial Appointments Council issues a press release when making their proposal.

⁶ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 2.

⁷ The Director of Public Prosecutions is appointed by the executive (formally the King) on recommendation of the Minister for Justice following approval of the Governments' Recruitment Board and can be dismissed on a motivated recommendation of the Minister for Justice (in the latter case the recommendation is submitted directly to the King). The Minister for Justice can issue instructions to prosecutors in individual cases, with a number of safeguards applicable. 2020 Rule of Law Report, Country Chapter on the rule of law of situation in Denmark, p. 3.

⁸ Administration of Justice Act, Chapter 15.

⁹ Figures 51 and 53, 2024 EU Justice Scoreboard and Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents

has decreased in comparison with 2023 (86%), as well as with 2020 (86%). The level of perceived judicial independence among companies has increased in comparison with 2023 (85%), as well as with 2020 (80%)¹⁰.

The Government submitted a proposal to Parliament to strengthen the public's perception of the Director of Public Prosecutions' independence by limiting the mandate period to ten years, without the possibility of extension or reappointment. The Director of Public Prosecutions is appointed by the executive (formally the King). Before the appointment, the candidate must be approved by Government's Hiring Committee, based on a recommendation from the Minister for Justice¹¹ and is currently in office on a fixed-term basis, with the possibility of extension and reappointment¹². In March 2024, the Government submitted a proposal to Parliament to amend the Civil Servants Act¹³, so that the Director of Public Prosecutions would be appointed for a fixed-term period of ten years without the possibility of extension or reappointment¹⁴. In the considerations for the proposal, which also took into account European standards¹⁵, the Government noted that a single long-term mandate ensures the continuous development and renewal necessary for a high-ranking management position. This would as well limit questions about whether the conduct of the Director of Public Prosecutions was driven by a desire for extension or reappointment, thereby strengthening the public perception of his/her independence¹⁶. On 11 June 2024, the law was adopted and entered into force on 1 July 2024.

Quality

The Danish courts continue the phased rollout of the multi-annual judicial digitalisation project. Procedural rules allowing digital technology in courts in civil and commercial cases

perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

¹⁰ 81% of the companies in Denmark are either fairly or very confident that their investments are protected by the law and courts in the Member State. Only 5% of the surveyed companies see the quality, efficiency or independence of justice as one of the main reasons for concern about investment protection in the country. Figures 55 and 56, 2024 EU Justice Scoreboard.

¹¹ The Government's Hiring Committee consisting of the Prime Minister, the Minister of Defense, the Minister for Foreign Affairs, the Minister for Finance and the Minister for Economic Affairs. Written contribution from the Prosecution Service in the framework of the country visit to Denmark and figure 62, 2023 EU Justice Scoreboard.

¹² Legislative proposal 2023/1 LSF 135 on the Act amending the Act on Civil Servants.

¹³ Ibidem.

¹⁴ In determining the length of the period of employment, it has been taken into account that the period will give the individual Director of Public Prosecutions sufficient time to familiarise him/herself with the position and make his/her mark on it and ensure the necessary continuity and consolidation. Legislative proposal 2023/1 LSF 135 on the Act amending the Act on Civil Servants.

¹⁵ According to European standards, the Prosecutor General should not be eligible for reappointment, at least not by either the legislature or the executive. There is a potential risk that a prosecutor seeking reappointment by a political body will act in such a manner as to obtain the favour of that body or, at the very least, be perceived as such. A Prosecutor General should be appointed either permanently or for a relatively long period without the option of renewal upon its expiration. The period of office should not coincide with Parliament's term in office. This would ensure the greater stability of the prosecutor and make him or her independent of current political change. Venice Commission, Independence of the Judicial System, Part II: The Prosecution Service, CDL-AD(2010)040, paragraph 37. See also Opinion No.9 (2014) of the Consultative Council of European Prosecutors to the Committee of Ministers of the Council of Europe on European norms and principles concerning prosecutors, paragraph 56.

¹⁶ Ibidem.

are fully in place, but some gaps remain for administrative and criminal proceedings¹⁷. While there was some progress on arrangements for producing machine-readable judicial decisions¹⁸, the digital solutions to conduct and follow court proceedings in criminal cases remain very limited¹⁹. As noted in the 2023 Rule of Law Report, the National Courts Administration is successively developing and deploying a new digital platform for processing criminal and probate cases²⁰. Two of the six releases – a public platform for probate cases and a system to review fines – have already been deployed and the third release for compulsory dissolution has been rolled out in June 2024²¹. The last of the six releases is planned for 2026.

Following an agreement on a multi-annual financial framework, the recommendation to ensure adequate human and financial resources for the justice system has been fully implemented. The 2023 Rule of Law Reports recommended Denmark to ‘ensure adequate human and financial resources for the justice system in the next multiannual framework, taking into account European standards on resources for the justice system’²². In November 2023, the Danish Government and the political parties represented in Parliament concluded a multiannual agreement on the financing of the judiciary for the period 2024-2027²³. The agreement provides for approximately EUR 306.8 million (about DKK 2.3 billion) for the justice system over the period 2024-2027, aimed at supporting the multi-annual efforts to address the case-handling challenges faced by courts²⁴. The agreement will finance the continuation of existing grants amounting to approximately EUR 133.4 million (around DKK 1.0 billion) and new initiatives of approximately EUR 173.4 million (about DKK 1.3 billion)²⁵. These new initiatives concern primarily bringing down the case-handling times in courts through the appointment of more judges and other staff²⁶, increasing courtroom capacity²⁷, and strengthening IT support²⁸. Towards the end of the 2024-2027 multi-annual

¹⁷ Figure 43, 2024 EU Justice Scoreboard.

¹⁸ Figure 50, 2024 EU Justice Scoreboard and figure 48, 2023 EU Justice Scoreboard.

¹⁹ Figure 48, 2024 EU Justice Scoreboard.

²⁰ As part of that project, the probate portal supporting the registration of claims concerning the administration of the estate of the deceased was rolled out in November 2022 and the second phase concerning the handling of uncontested fines was released in June 2023. 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 4, and input from Denmark for the 2024 Rule of Law Report, p. 11.

²¹ The future releases will, among other, include case management systems for the rest of the estate probate cases and criminal cases. Input from Denmark for the 2024 Rule of Law Report, p. 11 and National Courts Administration (2024) Updated release plan for the fines and probate programme.

²² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 2. In 2023 the Commission concluded that ‘some progress’ had been made on the recommendation addressed in the 2022 Rule of Law Report.

²³ The parties to the agreement highlighted that the finances of the courts have so far been determined in administrative multi-year agreements. However, they noted further that the challenges in the courts called for the Parliament to take joint responsibility for the development in a broad political multi-year agreement that continues to safeguard the independence and special role of the courts in society. Ministry of Justice (2023) Agreement on the courts' finances 2024-2027, p. 1 and input from Denmark for the 2024 Rule of Law Report, p. 6.

²⁴ Input from Denmark for the 2024 Rule of Law Report, p. 6.

²⁵ Ibidem.

²⁶ The parties to the agreement expressed the clear goal of putting an end to the long waiting times in courts, which affects legal certainty, and access to justice for individuals and businesses. Ministry of Justice (2023) Agreement on the courts' finances 2024-2027, p. 1.

²⁷ The agreement notes that across the court districts, there are increasing challenges in finding available courtroom capacity for the organisation of hearings in major cases within the courts' current premises. This

agreement and ahead of the next multi-annual agreement, there will be a follow-up on the overall implementation and developments in case processing²⁹. The significant increase in financial allocations for the period 2024-2027 was welcomed by stakeholders³⁰, although some have indicated potential challenges in recruiting judges required for implementing the agreement³¹. Against the above background, the recommendation made in the 2023 Rule of Law Report has been fully implemented.

The Government has proposed a number of amendments to procedural rules, aimed at improving the efficiency of court proceedings. In parallel to the multi-annual agreement on the financing of the judiciary, the Government and all political parties in Parliament have agreed to simplify several procedural rules to improve the efficiency of court proceedings, based on recommendations from two expert committees³², namely the *ad hoc* Rørdam Committee³³ and the Standing Committee on Procedural Law³⁴. On the basis on the work of these two committees, the parties to the multiannual agreement decided to endorse targeted measures aimed at streamlining certain elements of the administration of justice, notably concerning criminal and civil cases, which are estimated to lead to savings of approximately EUR 6.7 million (DKK 50 million) once fully phased in³⁵. The proposals touched upon a number of aspects, including raising appeal thresholds in civil procedure cases³⁶, increasing

is partly due to an increasing number of complex and lengthy criminal cases with many defendants, which has contributed to trials with long scheduling and case processing times. Ibidem, p. 2.

²⁸ The initiatives envisaged relate to strengthened cyber and information security, stable IT operations and modernisation of the system portfolio, and efficient audiovisual support for court hearings. Ibidem, p. 4. In addition, it is envisaged to allow courts to hire as many qualified judges as possible under the agreement's budget to reduce the backlog in criminal and civil cases. Similarly, funds will be allocated for the recruitment of additional deputy judges and clerks, that will also contribute to reduce the courts' case processing times. The agreement also envisages that, while new judges are recruited and trained, the age limit for retired judges who can be still called upon to work would be raised from 72 to 74 years. Ministry of Justice (2023) Agreement on the courts' finances 2024-2027, p. 2.

²⁹ Ministry of Justice (2023) Agreement on the courts' finances 2024-2027, p. 6.

³⁰ Information received from the Danish Judges Association, the Bar and Law Society, the National Courts Administration and Justitia in the context of the country visit to Denmark.

³¹ Information received from the Danish Judges Association and the National Courts Administration in the framework of the country visit to Denmark. The first part of the implementation started already began in autumn 2023, when the National Courts Administration launched the work to recruit 12 additional judges for 2024. National Courts Administration (2024), 2023 Annual Report, p. 5. Over the next four years of the multiannual agreement, in total 25-30 new judges would be needed, with more recruited to replace those retiring during that period. Written contribution received from the National Courts Administration in the framework of the country visit to Denmark.

³² Ministry of Justice (2023) New agreement: All parliamentary parties want to change the developments in the courts.

³³ Ministry of Justice (2023) Report from the committee for the preparation of a new multi-year agreement for the courts. As part of its work, a committee chaired by a former president of the Supreme Court Thomas Rørdam has also dealt with more structural issues such as the structure and specialisation of the courts, which the committee has recommended that an in-depth analysis be carried out. The parties to the agreement therefore agree to initiate committee work on this in the coming multi-annual agreement period. Ministry of Justice (2023) Agreement on the courts' finances 2024-2027, p. 2.

³⁴ Ministry of Justice (2023) Catalogue of recommendations to reduce processing time in civil cases in the courts.

³⁵ Ministry of Justice (2023) Simplifications to the administration of justice.

³⁶ An increase in the threshold for appeals to the High Court in civil cases from (from DKK 20 000 to DKK 50 000). Appeals will continue to be possible in all cases with the permission from the Appeals Permission Board. Ibidem.

the limits for small claims cases³⁷, sentencing when a defendant fails to appear in court³⁸, distinguishing between cases with lay judges and a jury³⁹, and reconsidering appeal limits in criminal cases⁴⁰. While stakeholders have generally welcomed the aim to streamline court procedures to bring down case-handling times, some of them expressed concerns with regard to certain proposals, as they touch upon access to justice; in particular, they voiced concerns about raising thresholds for appeal (referring to the value of the object of dispute) in civil procedure cases and for small claims cases, sentencing in defendant's absence or distinguishing between cases with lay judges and a jury⁴¹. On 11 June 2024, the law was adopted and entered into force on 15 June 2024⁴².

The review of the legal aid system, commenced in 2020, is yet to be completed. As already stated in previous Rule of Law Reports, in response to a number of studies conducted by stakeholders and highlighting certain weaknesses in the functioning of the legal aid system, in April 2020, the Ministry of Justice set up a pre-legislative committee to review the existing legal aid system⁴³. The committee was initially expected to present its results by summer 2022, however, its work had been delayed, firstly due to the pandemic and then when it was put on hold in March 2023 during the negotiations on the multiannual agreement

³⁷ This includes increasing the amount limit for small claims cases from approximately EUR 6 700 to about 13 400 (from DKK 50 000 to DKK 100 000). *Ibidem*.

³⁸ The proposal provides for the possibility to deliver a sentence of up to one year imprisonment in cases where the defendant fails to appear in court without a legal reason and the court does not consider the defendant's presence necessary (while currently, this is possible for imprisonment sentences for up to 6 months) or to conduct a case without the presence of the defendant when the case extends over several days and the defendant fails to appear without a legal reason after the first hearing. *Ibidem*.

³⁹ The proposals include the possibility to limit the involvement of lay judges for cases with a prison sentence of more than 30 days. In addition, lay judges, in the same way as jurors, would not participate in other legal actions or decisions during the case other than the question of guilt and the determination of the penalty. Furthermore, it would include raising the limit for jury trials from four to six years of imprisonment. *Ibidem*.

⁴⁰ The proposals included raising the amount for appealing fine cases to the High Court without permission from the Appeal Permissions Board from DKK 6 000 to DKK 20 000, or that fine cases with driving disqualification require a permission from the Appeal Permissions Board to the same extent as in fine cases without driving disqualification. *Ibidem*.

⁴¹ The Bar and Law Society considered that the reforms have a significant negative impact on access to justice and a very low economic benefit. In particular, it expressed concerns with regard to: i) increased limits for the small claims process, which will make it more difficult for citizens to get assistance from a lawyer and coverage from their legal aid insurance, ii) the higher threshold for appeals in civil cases making it difficult for justified claims to be tried at more than one level, and iii) raising the limit for jury trials from four to six years of imprisonment, where in the past year there was an increase in jury cases due to political choices to increase the penalty framework for a number of offenses and changing the limit on jury trials decreases the access to justice for the defendant. The Danish Institute for Human Rights found that a number of initiatives considered by Rørdam the committee entailed setbacks in terms of legal certainty, notably expanding the use of judgments in defendant's absence and processing certain criminal cases without lay judges. The Institute is also concerned about raising the current threshold for when a civil case can be appealed to a High Court without permission from the Appeals Permission Board. Contribution from the Danish Human Rights Institute via ENNHRI for the 2024 Rule of Law Report, pp. 1-2. The Confederation of Danish Industry also considered that increasing the appeals threshold in civil cases would have a negative impact on access to justice. Similar concerns on access to justice, including on small claims cases, were expressed by Justitia. Information received from the Confederation of Danish Industry and Justitia in the context of the country visit to Denmark, and Bar and Law Society (2024) Consultation on the draft act implementing the multi-year agreement for the courts 2024-27.

⁴² In the adopted law, the limit for small claims cases was not increased for housing law cases.

⁴³ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 4-5, and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 6-7.

on the financing of the judiciary⁴⁴. As noted in the 2021 Rule of Law Report⁴⁵, criticisms of the current system raised by the Bar and Law Society and Justitia, a think tank working on judicial issues, relate in particular to the access to legal aid offices (including regional disparities), legal aid in administrative matters, as well as the need to clarify the legal insurance scheme. The Ministry of Justice informed that, following the multiannual financing agreement, it is now re-evaluating the process for the further work regarding the legal aid system. The conclusions of the re-evaluation are expected to be completed in the third quarter of 2024, while national stakeholders continue urging the Government to proceed with the work⁴⁶.

Efficiency

The trend of increasing average case handling times has continued. The number of incoming civil and commercial litigious cases at first instance increased in 2022 (0.8 cases per 100 000 inhabitants compared to 0.7 cases in 2021)⁴⁷. Furthermore, the estimated time needed to resolve litigious civil and commercial cases at first instance has continued an increasing trend from 238 days in 2021 to 268 days in 2022⁴⁸, whereas the rate of resolving litigious civil and commercial cases continued to decrease (from 98% in 2021 to 93% in 2022)⁴⁹. According to the National Courts Administration, the trend of recent years continued in 2023 with growing backlogs and consequently longer case handling times at the courts⁵⁰. In 2023, the district courts received a total of almost 278 000 incoming civil and criminal cases⁵¹, the highest number ever⁵². The National Courts Administration expects that while in 2024 the case processing times will be at a level comparable to that of 2023 or slightly increasing, the considerable financial allocations will eventually reduce the case processing times in Danish courts⁵³. In order to ensure fast case processing while new judges are being

⁴⁴ According to the Danish authorities, once an agreement on the multiannual financial framework for the judiciary had been finalised, it was expected that the framework for the pre-legislative committee will be reviewed and the work continued. *Ibidem*.

⁴⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 5.

⁴⁶ The Bar and Law Society has recently called upon the Government to resume the work on the legal aid reform, also in view of the impact that raising the limits for small claims cases will have on individuals and their access to justice. Bar and Law Society (2024) Our most vulnerable citizens are left to languish in the legal aid crisis.

⁴⁷ Figure 3, 2024 EU Justice Scoreboard.

⁴⁸ Figure 6, 2024 EU Justice Scoreboard.

⁴⁹ Figure 11, 2024 EU Justice Scoreboard.

⁵⁰ National Courts Administration (2024), 2023 Annual Report, p. 6.

⁵¹ The Bar and Law Society emphasised that the prolonged case handling times does in some cases lead to charged persons being held in pre-trial detention for very long periods of time. Contribution Bar and Law Society and Bar and Law Society (2024) Denmark holds a near European record for pre-trial detention - and no one knows why.

⁵² Compared to 2022, this is an increase of about 12 000 cases. The largest increase, at close to 16%, occurred in civil cases. At the same time, there was a marginal decrease in the average case processing time for civil cases in 2023, with an average case processing time of 7.3 months for all types of civil cases, namely civil cases with and without a main hearing. The average case processing time continued to increase in the resource-intensive criminal cases with lay judges and was at around nine months by the end of 2023. The same applied to the criminal cases without lay judges, where the average processing time was also around nine months. National Courts Administration (2024), 2023 Annual Report, pp. 6-7.

⁵³ This is due, among other things, to the fact that the courts must first deal with the older backlogs, and that the simplifications in the administration of justice that were decided upon together with the multi-year financing agreement, will only come into force and take effect during 2024. National Courts Administration (2024) High activity at the courts in 2023.

recruited and trained, the age limit for how long a retired judge may be called upon has been raised from 72 to 74 years⁵⁴.

II. ANTI-CORRUPTION FRAMEWORK

The Danish anti-corruption system is to a large extent based on general rules on ethics and integrity as well as social norms and public scrutiny. Various authorities are involved in preventing corruption, promoting good administrative practice and compliance with the legal framework. This includes, amongst others, the National Audit Office. The Employee and Competence Agency and the Prime Minister's Office have responsibilities with regard to the promotion of integrity among civil servants and ministers. The Ministry of Justice ensures cooperation between national authorities in elaborating anti-corruption measures. The National Special Crime Unit (SCU) has both investigative and prosecution competences as regards corruption offences and the State Prosecutor for Special Crime (SPSCU), among others, supervises SCU's complex criminal proceedings, and conducts legality control and appeals before the high courts also for corruption offences.

The perception among experts and businesses is that Denmark is one of the least corrupt countries in the world. In the 2023 Corruption Perceptions Index by Transparency International, Denmark scores 90/100 and ranks 1st in the European Union and globally⁵⁵. This perception has been relatively stable over the past five years⁵⁶. The 2024 Special Eurobarometer on Corruption shows that 26% of respondents consider corruption widespread in their country (EU average 68%) and 4% of respondents feel personally affected by corruption in their daily lives (EU average 27%)⁵⁷. As regards businesses, 17% of companies consider that corruption is widespread (EU average 65%) and 6% consider that corruption is a problem when doing business (EU average 36%)⁵⁸. Furthermore, 24% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁵⁹, while 53% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 31%)⁶⁰.

A first sectoral anti-corruption programme was adopted specifically in the framework of the implementation of the Recovery and Resilience Plan. Denmark does not have an

⁵⁴ In order to ensure speedy case processing while new judges are being recruited and trained, a legislative amendment allowed raised the age limit for how long a retired judge can work as a call-on judge from 72 to 74 years. This measure was implemented by Act No. 1553 of 12 December 2023. Written contribution received from the National Courts Administration in the framework of the country visit to Denmark.

⁵⁵ Transparency International, Corruption Perceptions Index 2023 (2024). The level of perceived corruption is categorized as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁵⁶ In 2019 the score was 87, while, in 2023, the score is 90. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); has been relatively stable (changes from 1-3 points) in the last five years.

⁵⁷ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 534 (2023).

⁵⁸ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). The Eurobarometer data on businesses' attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 524 (2023).

⁵⁹ Special Eurobarometer 548 on Citizens' attitudes towards corruption in the EU (2024).

⁶⁰ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024).

overarching anti-corruption strategy or a specialised agency dealing with anti-corruption issues⁶¹. Coordination of the anti-corruption matters continues to be carried out on a case-by-case basis by the Ministry of Justice⁶². The Ministry of Finance adopted an anti-corruption programme limited to the implementation of activities under the national Recovery and Resilience Plan and a roadmap for effectively introducing internal controls. As a result, the Ministry of Finance adopted the Recovery and Resilience Facility anti-fraud and anti-corruption strategy. The implementing bodies then adopted an action plan setting out the detailed timeline of how the strategy will be effectively introduced into their internal control systems. According to the authorities, this sectoral national programme stemming from the audits on Recovery and Resilience Plan projects does not extend beyond those projects. The authorities continue to consider an absence of an overall anti-corruption strategy appropriate to the national situation⁶³. This conclusion is not shared by a civil society organisation that continues to raise the need for a strategic framework⁶⁴.

There has been significant progress on collecting data on investigations and prosecutions of corruption offences at national and local level. The 2023 Rule of Law Report recommended Denmark to ‘ensure the collection of data on investigations and prosecutions of corruption offences at national and local level’. As mentioned in the 2023 Rule of Law Report⁶⁵, the only reported data covered rare cases of a complex or cross-border nature handled by the National Special Crime Unit (SCU) and the State Prosecutor for Special Crime Unit (SPSCU) at the central level⁶⁶, and on final judgments concerning bribery handled at the central level. In 2024, the authorities provided data from all 13 police districts in Denmark on the number of reports, charges and judgments regarding corruption offences. The data was extracted from the POLSAS system, Denmark's national case processing and management system, where a case is processed from the time of reporting to the final verdict. As POLSAS is not a statistics system, the data contained therein are dynamic and cannot be

⁶¹ In accordance with the UN Convention Against Corruption ratified by Denmark in 2006, States shall ‘ensure the existence of a body or bodies, as appropriate, that prevent corruption’ (Article 6 of UNCAC) and ‘ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement’ (Article 36 of UNCAC), as well as ‘develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law’ (Article 5 of UNCAC). The United Nations Convention Against Corruption (UNCAC) adopted in October 2003 and entered into force in December 2005.

⁶² The Ministry of Justice is responsible for legislation on corruption, guidelines on good behaviour for civil servants and is responsible to answer questions from Parliament in relation to corruption. Also, the Ministry of Justice is to be a focal point in contact with foreign authorities and in general responsible for the enforcement of criminal law legislation, for example bribery and fraud, since the Minister for Justice has the general oversight of the police and prosecutors. Written input from Denmark for the 2024 Rule of Law Report.

⁶³ Information received in the context of the country visit to Denmark from the Ministry of Justice.

⁶⁴ Contribution received from Transparency International in the context of the country visit to Denmark. According to OECD Denmark fulfils 7% of standard OECD criteria on the quality of its strategic framework and 7% for implementation in practice, compared to the OECD average of 45% and 36%, respectively. OECD Anti-Corruption and Integrity Outlook 2024 – Country Notes – Denmark.

⁶⁵ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 10.

⁶⁶ In November 2023 the SCU initiated an evaluation regarding the scope and nature of the cases that are assessed as medium-sized cases of complex financial crime. The purpose of this exercise is to define and assign those cases to the appropriate service. The results are expected to be available in the second half of 2024. The evaluation consists of interviews with relevant employees and managers in SCU, as well as the chief prosecutors and commanders from all the Danish regional police districts. The interview output is combined with management information on the assessment of cases assigned to SCU. Written contribution from the Director of Public Prosecutions, SCU, SPSCU in the context of the country visit to Denmark.

considered final⁶⁷. This may explain the large differences between 2022 and 2023 in number of registered reports, charges and judgments for bribery offences⁶⁸ or abuse of office⁶⁹. There are currently three ongoing cases on foreign bribery⁷⁰. As the POLSAS system, meant primarily for handling cases, allows also data extraction on investigations, prosecutions and adjudication in relation to corruption offences both at national and local level, there has been significant progress on the implementation of the recommendation made in the 2023 Rule of Law Report.

The law on public financing of political parties has entered into force, while the reform of the rules on private financing of political parties has not yet been concluded. On 1 January 2024, the law concerning public financing of political parties entered into force⁷¹. As mentioned in the 2023 Rule of Law Report⁷², negotiations in relation to private financing of political parties are ongoing⁷³, in view of addressing the issue of multiple and anonymous donations, and to introduce sanctions for breaching the rules on the political parties' framework. No further steps have been reported since June 2023⁷⁴. The gaps in private political party financing were also subject of recommendations issued by GRECO⁷⁵, OECD⁷⁶, as well as the observation report by the Organisation for Security and Co-operation in Europe (OSCE) on the November 2022 elections⁷⁷.

There has been no progress towards introducing rules on revolving doors for ministers, on lobbying and on asset declarations submitted by persons entrusted with top executive functions. The 2023 Rule of Law Report recommended to Denmark to 'introduce

⁶⁷ Ibidem.

⁶⁸ These cover bribery offences in the public sector under sections 122 and 144 of the criminal code and bribery in the private sector under section 299 of the criminal code. There were in 2023 156 registered reports compared to 14 in 2022 and 133 charges brought compared to 14 in 2022, while there were 17 judgments in 2023 compared to 280 in 2022. To also note that the amount of recorded judgments in 2022 were very large compared to the 13 in 2021 and 9 until June 2024.

⁶⁹ These cover sections 155 to 157 of the criminal code. There were in 2023 835 reports registered compared to 612 in 2022 as well as 907 charges brought compared to 431 in 2022, while the number of judgments increased to 638 compared from 85 in 2022.

⁷⁰ Information received in the context of the country visit to Denmark from the SPSCU and SCU.

⁷¹ Political Parties Funding Act No. 7 of 8 January 2024 and the Annual Accounts of Political Parties Act no. 1188 of 27 September 2023.

⁷² 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 11-12.

⁷³ Information received in the context of the country visit to Denmark from the Ministry of Interior.

⁷⁴ Danish Parliament Website. Statement from the Minister.

⁷⁵ GRECO remains concerned by the issue of anonymous donations, lack of transparency as to the value of certain donations, lack of sufficient supervision of political financing, lack of independent and substantial monitoring in respect of the funding of political parties and electoral campaigns and raise the need to accompany the yet-to-be-established rules by flexible sanctions, for example of an administrative nature, which are effective, proportionate and dissuasive. GRECO, Third Evaluation Round, Second Addendum to the Second Compliance Report on Denmark. According to GRECO the appropriate checks of party accounts. GRECO Third Evaluation Round – Addendum to the second compliance report on Denmark.

⁷⁶ As measured against OECD standards on political finance, Denmark fulfils 40% of criteria for regulations but only 14% for practice, compared to the OECD average of 73% and 58%, respectively. There are no bans on anonymous donations below DKK 23 600 (3166 €), contributions from foreign states or enterprises, or publicly owned enterprises. Additionally, political parties are not required to report their finances during electoral campaigns. OECD Anti-Corruption and Integrity Outlook 2024 – Country Notes – Denmark.

⁷⁷ OSCE observers monitored the Danish general election that took place on 1 November 2022. The recommendations of the report concern, among others, regulating anonymous donations and the sanctioning mechanisms. Office for Democratic Institutions and Human Rights (2023), Denmark Early General Elections, 1 November 2022, ODIHR Election Expert Team Final Report, p. 17.

rules on “revolving doors” for ministers and on lobbying, and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions⁷⁸. The long-standing recommendations of GRECO, namely to enhance the integrity for ministers and top executive functions⁷⁹, to address the lack of regulation regarding lobbying⁸⁰ and revolving doors⁸¹, remain unaddressed and this continues to be criticised by some member of civil society and academia⁸². While the authorities consider that the current rules work well and do not see the need for any new initiatives in this area⁸³, they noted that no data on the implementation of rules on lobbying, asset disclosure and gifts policy is available⁸⁴. In parallel, as already mentioned in the 2022 Rule of Law Report⁸⁵, also in 2023 the media reported on cases⁸⁶ of politicians and officials switching positions between the public and the private sector (in the defence⁸⁷, pharmaceutical⁸⁸ and energy sectors⁸⁹), which raised concerns of public opinion on the lack of the rules on appropriate ethical standards⁹⁰. Research also shows that the cases of potential conflicts of interest are high⁹¹ and that the

⁷⁸ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 2. In 2023 the Commission concluded that ‘no progress’ had been made on the recommendation addressed in the 2022 Rule of Law Report.

⁷⁹ According to GRECO declarations on assets submitted by persons entrusted with top executive functions need to be subject to substantive control - GRECO Fifth Evaluation Round – Compliance Report, recommendation vii, pp. 9-10.

⁸⁰ According to GRECO, introduction of rules and guidance on lobbying is recommended with regard to contacts between persons entrusted with top executive functions and lobbyists. Overall, GRECO also underlined the need to increase the transparency of contacts and subject matters concerning lobbying of persons entrusted with top executive functions. GRECO Fifth Evaluation Round on Denmark – Compliance Report, pp. 7-8.

⁸¹ GRECO Fifth Evaluation Round – Evaluation Report, p. 8.

⁸² Contribution received from Transparency International in the context of the country visit to Denmark from the Ministry of Justice. As measured against OECD standards on lobbying, Denmark fulfils 0% of the criteria for regulations and 11% for practice, compared to the OECD average of 38% and 35%, respectively. As measured against OECD standards on conflict of interest, Denmark fulfils 33% of criteria for regulations and 11% for practice, compared to the OECD average of 76% and 40%, respectively. OECD Anti-Corruption and Integrity Outlook 2024 – Country Notes – Denmark.

⁸³ Information received in the context of the country visit to Denmark from the Ministry of Justice. According to the President of the Parliament there are also issues linked to constitutional constraints and the belief that informal self-regulation may be more effective than formalised rules and procedures. Letter from the President of the Danish Parliament to Transparency International Denmark. Transparency International Denmark. Altinget, ‘Professor: Never has the need for insight into the lobbying world been greater’, 29 September 2023.

⁸⁴ Input from Denmark for the 2024 Rule of Law Report, p. 14.

⁸⁵ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 10.

⁸⁶ In June 2023, the permanent secretary of the Ministry of Finance took a new position as CEO in the Danish Pension Funds. This fund works closely with the Ministry of Finance to finance public infrastructure. Politiken, Permanent Secretary moves to private business, 15 May 2023.

⁸⁷ At least 17 former top officers from the Danish Armed Forces took jobs as lobbyists, advisers or board members for the arms and defense industry directly after their retirement. Politiken, ‘The work of former top officers is worrying: ‘Right now, the Armed Forces may be exposed to the perfect storm’, 16 June 2023.

⁸⁸ The special advisor to the Minister of Health comes directly from a position in public affairs from NOVO which has a strong position in the pharmaceutical industry. Politiken, ‘12 top officials take golden revolving door between state and Novo Nordisk – ‘worrying’, says expert’, 28 August 2023.

⁸⁹ The minister for energy and climate is a former director of one of the industry organisations from the Energy Sector.

⁹⁰ Politiken, ‘Transparency President: An exit strategy for elected officials should block the path from politics to lobbying’, 21 April 2023.

⁹¹ The survey shows that 47 percent of the ministers were in a potential conflict of interest when they switched to the private sector, this applied to 71 and 67 percent for department heads and agency directors,

creation of the lobby register is crucial⁹². Although certain rules exist in this area with regard to Ministers⁹³, the authorities do not monitor those cases⁹⁴. As no specific action has been taken or is planned on revolving doors for ministers, lobbying and asset declarations for persons entrusted with top executive functions, it is considered that there is no progress on the implementation of the recommendations made in the previous years.

Shortcomings were raised with regard to the integrity rules in the Parliament. In a report published in August 2023, GRECO underlined that the implementation of recommendations with regard to Members of Parliament is still outstanding. These relate, in particular, to the non-existence of ethical standards in the form of a code of conduct, especially since in the absence of a code, no practical implementation measures have been taken and no supervision system is in place. GRECO also recalled the need to develop the public registration system of occupations and financial interests of the Members of Parliament⁹⁵.

The current rules regarding whistleblowers are being implemented while only few cases concern corruption. Based on the whistleblowing framework⁹⁶, the Director of Public Prosecutions reported that out of 147 whistleblower reports processed in 2023 by the external whistleblower channel in the Danish Data Protection Agency, only two cases were forwarded to the police and neither of these concerned corruption⁹⁷. Transparency International Denmark has taken up the task, foreseen in the future as an annual exercise, of evaluating the functioning in practice of the whistleblowing framework after the first year of its entry into force⁹⁸.

Foreign bribery is considered as a high risk area for corruption. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 13% of companies in Member States (EU average 27%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years⁹⁹. As reported in the 2023 Rule of Law Report¹⁰⁰, foreign bribery cases are

respectively. Altinget, 'Permanent secretaries and ministers in a bind? So many have made a job change with a possible conflict of interest', 14 May 2024.

⁹² Currently, it is difficult to gain insight into who is actually seeking political influence and how successful the various actors are. This is reinforced by the fact that lobbying takes place in far more arenas than before and by the fact that the alliances are more diverse. Altinget, 'Professor: Never has the need for insight into the lobbying world been greater', 29 September 2023.

⁹³ According to the rules, ministers are required to resign any occupations in private or public companies, undertakings or institutions upon taking office. In addition, all new ministers receive a ministerial handbook, which is updated regularly and contains the relevant regulation regarding governmental work, including rules on conflicts of interest, secondary employment, gifts and other benefits. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 6-7.

⁹⁴ Written information received from the Ministry of Justice in the context of the country visit in Denmark.

⁹⁵ GRECO Fourth Evaluation Round on Denmark – Third Interim Compliance Report, pp. 3-4.

⁹⁶ Law 1436 of 29 June 2021 on the protection of whistleblowers, which entered into force on 17 December 2021.

⁹⁷ Information received in the context of the country visit to Denmark from the Director of Public Prosecutions.

⁹⁸ Contribution received in the context of the country visit to Denmark from Transparency International. Transparency International Denmark. Whistleblowing in the wind. The report is foreseen as an annual exercise.

⁹⁹ Flash Eurobarometer 543 on Businesses' attitudes towards corruption in the EU (2024). This is 14 percentage points below the EU average.

¹⁰⁰ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 11.

insufficiently investigated and prosecuted in Denmark. According to the OECD Working Group on Bribery, Denmark does not give sufficient priority to preventing, detecting and sanctioning foreign bribery¹⁰¹ and many of the OECD recommendations remain to be addressed by the authorities¹⁰², as well as those of GRECO¹⁰³ relating mainly to the legal framework. While the authorities do not report any new areas with high risks of corruption, the OECD assessment of March 2023 emphasises the need for an assessment of the foreign-bribery risks faced by Danish companies, which has not yet been carried out¹⁰⁴. The necessity of addressing the foreign bribery concerns is also shared by a civil society organisation¹⁰⁵.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Danish Constitution provides the overall framework for the protection of the freedom of expression. The tasks, organisational structure, and rules of procedure of the national media regulatory authority, the Danish Radio and Television Board, are enshrined in law¹⁰⁶. Secondary legislation also provides safeguards for the independence of the public service broadcasters¹⁰⁷. There are no specific laws pertaining to media concentration, transparency of media ownership, allocation of state advertising, editorial independence or ownership of media companies. Access to documents is regulated in the Access to Public Administrative Documents Act of 2014¹⁰⁸.

While the discussions regarding the future role of the Press Council and of media liability are ongoing, the ethical rules for the press have been revised. As of 1 January 2024, the revised ‘Guidelines for good press practice’ apply. They were published jointly by the Danish Union of Journalists and the Danish Media Association and address, among others, the issue of content created by artificial intelligence or real-time dissemination of sensitive information¹⁰⁹. As noted in the 2023 Rule of Law Report, a committee has been set up to examine the future role of the Press Council and the possibilities to update the current framework for media liability towards the digital media reality¹¹⁰. The committee is expected

¹⁰¹ OECD (2023), Implementing the OECD Anti-Bribery Convention Phase 4 Report: Denmark.

¹⁰² Those recommendation concern mainly enforcing the foreign bribery offence, in particular lack of proactive assessment of foreign bribery allegations brought by other sources, not using the full range of investigative techniques available, lack of a comprehensive application of the corporate liability framework, lack of conducting financial investigations as well as lack of sufficient resources to handle foreign bribery cases. OECD Anti-Bribery Convention Phase 4 Report: Denmark.

¹⁰³ GRECO Third Evaluation Round – Addendum to the second compliance report on Denmark, p. 4.

¹⁰⁴ OECD Anti-Bribery Convention Phase 4 Report: Denmark, p. 11.

¹⁰⁵ According to Transparency International, countries ranking high on the CPI are not doing enough to combat transnational corruption in which they are deeply complicit. Pending anti-money laundering reforms have the potential to extend regulation to professionals, such as accountants, real estate agents and lawyers whose services are in high demand by foreign corrupt officials. According to Transparency International, key solutions are close supervision of rules and ensuring appropriate enforcement of the anti-bribery rules. Transparency International, CPI 2023: Trouble at the top, 30 January 2024.

¹⁰⁶ The Radio and Television Broadcasting Act, Executive Order on the Radio and Television Board and the Danish Public Administration Act.

¹⁰⁷ The Radio and Television Broadcasting Act and further regulation in connection with the Act. According to the European Parliament’s Flash Eurobarometer: News & Media Survey 2023, p. 44, Denmark is among the top 4 Member States where citizens demonstrate the highest trust in public TV and radio stations (incl. online).

¹⁰⁸ Denmark ranks 2nd in the 2024 Reporters without Borders World Press Freedom Index compared to 3rd in the previous year.

¹⁰⁹ Dansk Journalistforbund and Danske Medier (2024), Guide on the Ethical Guidelines for the Press.

¹¹⁰ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 14.

to present its recommendations in 2024. Its recommendations will provide the basis for subsequent discussions at political level¹¹¹. According to stakeholders one of the main issues concerns the possible setting up of a media Ombudsperson and whether this institution should be appointed by the media sector or by the State¹¹². The future media Ombudsperson could support the work of the Press Council, for instance by submitting complaints to the Press Council on its own initiative and by contributing to good journalistic practice through opinion-forming, media ethics debates and initiatives¹¹³. The Press Council is considered to be sufficiently funded¹¹⁴.

Even though the independence of the national regulatory authority and public service media continue to be assured, an agreement has been reached on how to reduce any possible political interference into public service media. Since the 2023 Rule of Law Report, no regulatory changes have been reported regarding the media regulator¹¹⁵ – the Radio and Television Board – or the two Danish public service broadcasters, Danmarks Radio (DR) and TV 2 Danmark, which would have an impact on their independence. The Media Pluralism Monitor (MPM) 2024 considers the risk regarding the independence of both the media authority and the public service media to be low¹¹⁶. As outlined in the renewed Media Agreement 2023-2026¹¹⁷ adopted in June 2023, the Ministry of Culture established a committee in August 2023 to explore a potential revision to the composition of the DR’s board of directors. The aim was to reduce any possible political interference and strengthen its professional competence, as well as its civic anchoring¹¹⁸. The committee, which consisted of seven members, with five of them being selected for their professional experience, including regarding work on a board of directors or regarding media¹¹⁹, issued its recommendations in April 2024. Subsequently a political agreement was reached which, among others, lay out new competence-based criteria, which must be the basis for the appointments by the Minister of Culture and by the Parliament; the new criteria are expected to enter into force by 2027¹²⁰. The board presently counts eleven members, three of which are appointed by the Ministry of Culture, six by the Parliament and two by the employees of DR¹²¹. Since the 2023 Rule of Law Report, no regulatory changes regarding transparency of media ownership or restrictions to media ownership and concentration have been reported. The concentration level among audiovisual media owners is very high, which in combination

¹¹¹ Information received from the Ministry of Culture in the context of the country visit to Denmark.

¹¹² Information received from the Danish Media Association in the context of the country visit to Denmark.

¹¹³ Written contribution from the Ministry of Culture in the context of the country visit to Denmark, p. 13; information received from the Danish Union of Journalists and the Press Council in the context of the country visit to Denmark. While the Danish Union of Journalists welcomes the idea because it could give the Press Council more visibility, the latter is more sceptical about the added value of an Ombudsperson. See also already 2022, Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 12.

¹¹⁴ Information received from the Press Council in the context of the country visit to Denmark. The Press Council is funded by contributions from public service and private media providers.

¹¹⁵ Contribution from the Radio and Television Board for the 2024 Rule of Law Report.

¹¹⁶ 2024 Media Pluralism Monitor, country report for Denmark, pp. 12, 20.

¹¹⁷ Ministry of Culture, Media Agreement 2023-2026, p. 8. The Media Agreement has been concluded by the Government and the main political parties.

¹¹⁸ Information received from the Ministry of Culture in the context of the country visit to Denmark; see already 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 14.

¹¹⁹ Ministry of Culture (2023), Terms of Reference for the committee on a new appointment model for DR’s Board of Directors, pp. 2-3.

¹²⁰ Written contribution from the Danish Government in the context of the country visit to Denmark.

¹²¹ DR (2023), DR’s Board of Directors.

with the lack of media-specific rules to prevent or limit concentration in the media sector leads the MPM 2024 to a high-risk assessment regarding the plurality of media providers¹²².

Some progress has been made regarding the reform of access to documents, with the establishment of a committee tasked with proposing amendments to the relevant law.

The 2023 Rule of Law Report recommended to Denmark to ‘[a]dvance with the process to reform the Access to Public Administrative Documents Act in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents’¹²³. Following calls from the media sector and an announcement made already in 2022¹²⁴, the Ministry of Justice, in February 2024, set up a committee on amending the Access to Public Administrative Documents Act. The committee consists of 17 members chosen from among government officials, academia, and representatives of the media¹²⁵. It will address one of the main issues of the current law, as it has been identified by stakeholders¹²⁶ and the past editions of the Rule of Law Report¹²⁷, namely granting a wider access to the political decision-making process¹²⁸. The Committee is also expected to consider whether media representatives should be given priority in the processing of their access to documents requests¹²⁹. The parliamentary groups will be invited to take stock of the committee’s progress in the second half of 2024¹³⁰. In light of the above, some progress has been made on the recommendation made in the 2023 Rule of Law Report.

The Government has put a focus on the financial support for local and regional media, but the situation concerning the safety of journalists lacks transparency.

As incidents affecting journalists tend not to be reported, it is difficult to have a clear picture of the situation regarding the safety of journalists¹³¹. This has led the Danish Union of Journalists to call for a new push of the action plan¹³² which was adopted in 2022 and was meant to facilitate journalists’ reporting of any harassment or threats¹³³. The action plan is now

¹²² 2024 Media Pluralism Monitor, country report for Denmark, p. 17.

¹²³ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 2, 14-15. In the 2023 Rule of Law Report, the Commission concluded that no further progress had been made on the recommendation.

¹²⁴ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 15.

¹²⁵ Ministry of Justice (2024), The Minister for Justice sets up a committee to look into the Access to Public Administrative Documents Act.

¹²⁶ Information received from the Danish Union of Journalists, the Press Council and Nyt Europa in the context of the country visit to Denmark.

¹²⁷ 2020, 2021, 2022 and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 10 (for 2020); p. 10 (for 2021), pp. 13-14 (for 2022), p. 15 (for 2023).

¹²⁸ Ministry of Justice (2024), Agreement on the establishment of a Preparatory Committee on the amendment of the Access to Public Administrative Documents Act.

¹²⁹ Ministry of Justice (2024), The Minister for Justice sets up a committee to look into the Access to Public Administrative Documents Act. This question is supposed to address the issue of processing times (written contribution from the Government in the context of the country visit to Denmark, p. 15), which has been complained about as well by the Danish Media Association in the context of the country visit to Denmark. By law there is a delay of seven working days in ordinary cases, with a complaint possible after 14 working days, § 39 of the Access to Public Administrative Documents Act.

¹³⁰ Ministry of Justice (2024), The Minister for Justice sets up a committee to look into the Access to Public Administrative Documents Act.

¹³¹ Information received from the Danish Union of Journalists in the context of the country visit to Denmark.

¹³² Information received from the Danish Union of Journalists in the context of the country visit to Denmark.

¹³³ See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 14.

considered to lack a binding element and the necessary commitment from the media sector¹³⁴. An incident was reported on the Council of Europe Platform to promote the protection of journalism and safety of journalists, and it consists of a call for attacks against the President of the Union of Journalists including revealing her private address on the X platform in September 2023; the police has opened an investigation¹³⁵. The Media Freedom Rapid Response project cites three further incidents involving threats and vandalism¹³⁶. On the other hand, no strategic lawsuits against public participation (SLAPPs) have been identified¹³⁷. Answering calls from media stakeholders¹³⁸, the renewed Media Agreement 2023-2026 put a focus on greater financial support of local and regional (print and online) media as well as of magazines with journalistic content¹³⁹. Furthermore, the Media Agreement provides for the establishment of a committee to discuss media support mechanisms that are neutral regarding the distribution technology. The committee is expected to issue recommendations in the first half of 2025¹⁴⁰.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Denmark has a unicameral, parliamentary system of government, in which both the Government and members of Parliament can propose legislation, although draft bills are in general presented by the Government. In the absence of a constitutional court, ex-post constitutionality review can be carried out by all courts in concrete cases¹⁴¹. The Parliamentary Ombudsman provides oversight on decisions by public authorities and the Danish Institute for Human Rights monitors the respect of fundamental rights and is also the national equality body.

The follow-up on a political agreement to strengthen scrutiny of the Government is ongoing. In the 2023-2024 parliamentary year, there have been no fast track legislative procedures, which confirms the decreasing trend in the use of such procedures after the pandemic¹⁴². As regards the previously announced initiatives on parliamentary oversight of

¹³⁴ Information received from the Danish Union of Journalists in the context of the country visit to Denmark.

¹³⁵ See Council of Europe, Platform to promote the protection of journalism and safety of journalists, Alert no. 221/2023. The only other alert published since the last Rule of Law Report concerns campaigns telling lies about several journalists in articles and ads on the Meta platforms.

¹³⁶ See European Centre for Press and Media Freedom, Mapping Media Freedom, Denmark country profile.

¹³⁷ Information received from the Danish Union of Journalists, the Press Council and the Danish Media Association in the context of the country visit to Denmark. According to the Press Council, one effect contributing to this could be the request by the Bar Association not to represent plaintiffs in SLAPPs.

¹³⁸ See 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 15. Stakeholders reiterated that the financial situation of local and regional media would be particularly dire: information received from the Danish Union of Journalists and the Press Council in the context of the country visit to Denmark.

¹³⁹ Ministry of Culture (2023), Media Agreement 2023-2026; information received from the Danish Union of Journalists and the Ministry of Culture in the context of the country visit to Denmark.

¹⁴⁰ Information received from the Ministry of Culture in the context of the country visit to Denmark.

¹⁴¹ This happens rarely and there has only been one case in which the Supreme Court decided to disapply a law for being incompatible with the Constitution: that is the 1999, Tvind case, U 1999.841 H.

¹⁴² Situation up until 15 March 2024. The parliamentary year starts on the first Tuesday in October and concludes on the day preceding the first Tuesday of October in the following year. Fast-track procedures are defined as legislative proposals whose processing time from the day after submission to the third reading in Parliament is less than 30 days. Information received from the Ministry of Justice in the context of the country visit to Denmark and input from Denmark for the 2024 Rule of Law Report, p. 22. In Denmark, only 6% of the surveyed companies perceive the frequent changes in legislation or concerns about quality of law-

the executive, there has not yet been any follow-up on the measures committed to by the Government. As noted in the 2023 Rule of Law Report¹⁴³, the Government coalition committed to follow-up on the agreement to strengthen Parliament's scrutiny of the Government¹⁴⁴. This agreement foresaw the setting up of a Democracy committee¹⁴⁵, an obligation for the Government to consult the Parliament on decisions of an extraordinary nature in crisis situations, and a new dialogue with citizens to strengthen confidence in the political system. According to the Ministry of Justice, political discussions on how to follow-up on these initiatives were initiated in the summer of 2023¹⁴⁶. A further Government coalition's commitment on greater scrutiny¹⁴⁷ was to set up a commission of inquiry to investigate the decision to "send home" leading employees in the Danish Defence Intelligence Service in August 2020. The Ministry of Justice established the commission of inquiry on 1 October 2023¹⁴⁸ regarding the decision to "send home" leading employees in the Danish Defence Intelligence Service and its mandate was expanded on 13 June 2024¹⁴⁹; in parallel, on 7 December 2023, a proposal to establish a commission of scrutiny within

making process as a reason for the lack of confidence in investment protection. Figure 56, 2024 EU Justice Scoreboard.

¹⁴³ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 16 -17.

¹⁴⁴ In October 2022, the previous Government announced an Agreement to strengthen Parliament's scrutiny of the Government and focus on trust in the political system. The new Government took that commitment over in its programme. The background were public debates relating to a ruling by the Court of Impeachment relating to the accountability of a former minister in December 2021, the second report of the so-called Tibet Commission in March 2022 and the findings of the commission of scrutiny on the culling of mink in June 2022. Danish Government (2022), Responsibility for Denmark, p. 49, Ministry of Justice (2022), Agreement on reviewing the political system and strengthening Parliament's scrutiny of the government, and 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, pp. 16 -17.

¹⁴⁵ The Democracy Committee was one of the measures announced already on 1 July 2022 in a press conference following the findings of the commission of scrutiny on the culling of mink. The Democracy Committee should examine the division of responsibilities between ministers, the relationship between ministers and civil servants, the role of special advisers and the framework for the work of the Government and the civil service. Prime Minister's Office (2022), Press meeting on Friday, 1 July 2022 and Ministry of Justice (2022), Mandate for the Committee on the organisation and framework for the work of Government and central administration.

¹⁴⁶ Written contribution from the Ministry of Justice in the context of the country visit to Denmark.

¹⁴⁷ Danish Government (2022), Responsibility for Denmark, p. 49.

¹⁴⁸ The law establishing the commission of inquiry was adopted by Parliament on 30 May 2023 and in October 2023, the Minister for Justice established the commission composed of three High Court judges. Subsequent developments related to the expansion of the commission of inquiry's mandate, notably on 1 November 2023, the Minister for Justice accepted the recommendations of the Director of Public Prosecutions not to pursue criminal cases against two individuals concerned. This followed after the Danish Defence Intelligence Service had informed the prosecution that, in view of the Supreme Court's rulings on 12 October 2023, it was not justifiable from a security perspective to present the classified information in court cases. Danish Parliament (2023) Proposal for an act to amend the act on the investigation of the decision to repatriate senior employees of the Danish Defence Intelligence Service.

¹⁴⁹ The Government's coalition parties (Social Democrats, Liberals and Moderates) and the Socialist People's Party entered into an agreement on 6 December 2023 to expand the mandate of that commission of inquiry to investigate whether improper considerations were taken into account in connection with the intelligence services' and the Prosecution Service's initiation and organisation of the investigation and prosecution in two criminal cases against former Head of the Danish Defence Intelligence Service, Lars Findsen, and former Minister of Defence, Claus Hjort Frederiksen. The agreement states that, in the light of the considerable public debate and speculation about the handling of the cases against two individuals and those cases not being pursued, the handling of the cases will be investigated by expanding the mandate of the commission of inquiry. Ibidem and Danish Parliament (2024) Adopted proposal for an act to amend the act on the investigation of the decision to repatriate senior employees of the Danish Defence Intelligence Service.

Parliament on the same matter did not find sufficient support¹⁵⁰. With regard to improving the quality of legislation, the Government, following a public consultation, has updated and expanded its Guidance on Quality of Legislation¹⁵¹, also to reflect some of the commitments from its coalition programme, which has been overall welcomed by stakeholders¹⁵².

On 1 January 2024, Denmark had three leading judgments of the European Court of Human Rights pending implementation, the same number as the previous year¹⁵³. At that time, Denmark's rate of leading judgments from the past 10 years that remained pending decreased to 50% (compared to 60% in 2023) and the average time that the judgments had been pending implementation was 2 years (compared to 1 year and 6 months in 2023)¹⁵⁴. As regards the respect of payment deadlines, on 31 December 2023 there were no cases awaiting confirmation of payments (the same as in 2022)¹⁵⁵. On 1 July 2024, the number of leading judgments pending implementation had increased to four¹⁵⁶.

The Danish Institute for Human Rights has amended its internal rules to strengthen the independence of its Board of Directors. The Danish Institute for Human Rights, accredited with A-Status¹⁵⁷, reported that the state authorities continue to sufficiently ensure its independence¹⁵⁸. On 6 October 2023, the Institute's by-laws were amended, at the

¹⁵⁰ The motion on a commission of scrutiny received 66 votes in favour and 102 votes against. A commission of scrutiny can carry out focused investigations on specific matters of general importance. In comparison with the commissions of inquiry, their scope is more narrowly defined, and their results are expected to be delivered within a year of their establishment. Furthermore, the commissions are set up under the control of Parliament, instead of under a Ministry as in the case of commissions of inquiry. 2021 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 13. Danish Parliament (2023) Proposal for a parliamentary resolution on the launch of a commission of scrutiny on the FE matter.

¹⁵¹ The guidance covers the entire work on a legislative proposal. This encompasses the stages from assessing the necessity of passing legislation to following up on the adopted law. The guidance thus covers the preparation of contributions to the legislative programme, the drafting of the proposal, the assessment of the proposal in relation to the legislative powers and general principles of law, the submission to other ministries, public consultation, the proceeding of the proposal in the Government and in the Danish Parliament, the confirmation of the adopted proposal and the promulgation of the law as well as the preparation of executive orders. Ministry of Justice (2023) Guidance on Quality of Legislation.

¹⁵² Information at meeting with Nyt Europa and Globalt Fokus. See also public consultation replies by the Danish Institute for Human Rights, Justitia, and the Bar and Law Society: Danish Institute for Human Rights (2023), Response to consultation on draft new Guidance on Quality of Legislation, Justitia (2023), Response to consultation on draft new Guidance on Quality of Legislation, Bar and Law Society (2023), Response to consultation on draft new Guidance on Quality of Legislation.

¹⁵³ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

¹⁵⁴ All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2024. See the Contribution from the European Implementation Network for the 2024 Rule of Law Report, p. 3.

¹⁵⁵ Council of Europe (2024), Supervision of the execution of judgments decisions of the European Court of Human Rights – 17th Annual Report of the Committee of Ministers – 2023, p. 137.

¹⁵⁶ Data according to the online database of the Council of Europe (HUDOC).

¹⁵⁷ The Danish Institute for Human Rights is the independent National Human Rights Institution accredited with A-Status by the Global Alliance of National Human Rights Institutions (GANHRI). The last re-accreditation took place in October 2018. Contribution from the Danish Human Rights Institute via ENNHRI for the 2024 Rule of Law Report, p. 4.

¹⁵⁸ Contribution from the Danish Human Rights Institute via ENNHRI for the 2024 Rule of Law Report, p. 5.

initiative of the its Board of Directors, to strengthen the independence of the Institute's governance structure by providing that a Board member has to resign if elected to the Danish or Greenlandic Parliament¹⁵⁹. The Parliamentary Ombudsman¹⁶⁰ and the Institute for Human Rights continue to be considered as having adequate resources¹⁶¹.

The civic space in Denmark remains open, even though certain segments of civil society experience difficulties in securing stable financing. The civic space in Denmark continues to be considered as open¹⁶² and civil society organisations can exercise their activities within a safe and stable framework for their operation¹⁶³. As a general rule, the operating space for civil society organisations is considered safe¹⁶⁴, though organisations dealing with LGBTIQ topics are more likely to experience physical, verbal or online harassment, and organisations representing ethnic or religious minorities may face negative narratives and smear campaigns¹⁶⁵. In terms of financial support for civil society organisations, in March 2024, eleven organisations called attention to their uncertain operation after learning that their funding may be subject to retroactive cuts of approximately EUR 3.5 million (DKK 26 million)¹⁶⁶. While the overall framework for stakeholder consultation is generally considered as strong, certain stakeholders¹⁶⁷ raised concerns about the perception of an accelerated pace of legislative activity and occasional short consultation periods¹⁶⁸. The 2023 Rule of Law

¹⁵⁹ Contribution from the Danish Human Rights Institute via ENNHRI for the 2024 Rule of Law Report, p. 5.

¹⁶⁰ According to the Ombudsman's data for 2023, the institution handled a total of 6 064 cases of which about 13.6% led to an investigation (824 cases, of which 199 full investigations and 625 shortened investigations). Out of the 199 full investigations, 92 have led to criticism or recommendations. In 2023, the Parliamentary Ombudsman received 6 167 cases, the highest number of cases ever received; this did not have an impact on the processing times. Parliamentary Ombudsman (2024), Annual report 2023, pp. 5 and 72.

¹⁶¹ In view of the growing number of complaints, the budget of the Parliamentary Ombudsman had been increased. Information received from the Parliamentary Ombudsman and the Danish Human Rights Institute in the context of the country visit.

¹⁶² Rating given by CIVICUS, ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

¹⁶³ Information received from the Danish Human Rights Institute, Nyt Europa and Globalt Fokus, written contribution received from Dansk Ungdoms Fællesråd and European Civic Forum (2024), Civic Space Report 2024 – Denmark (Nyt Europa), pp. 142-143.

¹⁶⁴ Information received from the Danish Human Rights Institute, Nyt Europa, Globalt Fokus and Dansk Ungdoms Fællesråd in the context of the country visit.

¹⁶⁵ Public consultation contribution by Nyt Europa and Globalt Fokus.

¹⁶⁶ The organisations concerned pointed out that if effected, the cuts would have major consequences, such as the closure of efforts that help immigrants, refugees in employment, minority ethnic children and young people, as well as LGBT+ people with a minority background. It could also affect efforts helping fathers with a minority background, women, men and children exposed to violence and negative social control, as well as efforts supporting people who have left sectarian and radicalised environments. Via Ritzau (2024) Press release by 11 civil society organisations 'Civil society organisations risk losing millions of kroner for integration efforts'. Nyt Europa and Globalt Fokus also referred to examples of cuts in public funding for civil society organisations working for fundamental rights and freedom from discrimination and the cutting of funding for an LGBTIQ organisation in the 2023 Financial Bill. Public consultation contributions by Nyt Europa and Globalt Fokus.

¹⁶⁷ The frequency of shorter consultation periods experienced by stakeholders may also vary depending on the specific area in which they are active. Information received from the Nyt Europa, Globalt Fokus and Dansk Industri in the context of the country visit.

¹⁶⁸ Between 3 October 2023 (beginning of the current parliamentary year) and up until 5 March 2024, 122 out of 127 proposals submitted to Parliament have been in public consultations. The public consultations on 14 of the 122 legislative proposals were shorter than four weeks; in its programme, the Government has committed, in general, to observe a four-week consultation period. The average public consultation time for those 14 proposals was 16.5 days. Written contribution received from the Ministry of Justice in the context of the country visit to Denmark.

Report noted that some civil society organisations had observed administrative obstacles in accessing financial services, notably in opening bank accounts¹⁶⁹. To address this issue, legislation was proposed to ensure easier access to opening a bank account for associations and providing that financial service providers can deny opening their accounts only in very specific cases, such as suspected money laundering¹⁷⁰.

¹⁶⁹ 2023 Rule of Law Report, Country Chapter on the rule of law situation in Denmark, p. 18.

¹⁷⁰ Public consultation contribution by Nyt Europa and Globalt Fokus. European Civic Forum (2024), Civic Space Report 2024 – Denmark (Nyt Europa), p. 138.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2024 Rule of Law report can be found at https://commission.europa.eu/publications/2024-rule-law-report-targeted-stakeholder-consultation_en.

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Annex II: Country visit to Denmark

The Commission services held virtual meetings in March 2024 with:

- Danish Bar and Law Society
- Danish Media Association
- Danish Union of Journalists
- Danish Press Council
- Danish Institute for Human Rights
- Globalt Fokus
- Danish Judges Association
- Justitia
- Ministry of Business
- Ministry of Culture
- Ministry of Justice
- National Audit Office
- National Courts Administration
- Nyt Europa
- Parliamentary Ombudsman
- Prosecution Service, including the National Special Crime Unit and the State Prosecutor for Special Crime Unit
- Secretariat of the Standing Orders Committee of the Parliament
- Supreme Court
- Transparency International Denmark
- The Confederation of Danish Industry

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International EU
- Centre for Democracy and Technology Europe
- Centre for European Volunteering
- Civil Liberties Union for Europe
- Civil Rights Defenders
- Civil Society Europe
- Culture Action Europe
- Democracy Reporting International
- European Centre for Non-Profit Law
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- International Federation for Human Rights
- International Planned Parenthood Federation
- International Press Institute
- Irish Council for Civil Liberties

- JEF Europe
- Open Society Foundations
- Philanthropy Europe Association
- PICUM
- Reporters Without Borders
- SOLIDAR
- Transparency International EU