Denmark

Danish Institute for Human Rights

Independence and effectiveness of the NHRI

International accreditation status and SCA recommendations

The Danish NHRI was re-accredited with A status in October 2018. The SCA noted that the NHRI had taken steps to amend its bylaws to ensure a broad, transparent and uniform selection process. It encouraged the NHRI to continue to interpret its protection mandate in a broad manner and to conduct a range of actions, including monitoring, enquiring, investigating, and reporting. The SCA also encouraged the NHRI to provide greater precision in its bylaws or in another binding administrative guideline on the scope of the grounds of dismissal of members of the board of directors, to ensure security of tenure.

Checks and balances

Expedited legislative processes:

In Denmark, expedited legislative processes take place app. 1-2 times a year. An act on administratively stripping persons identified as “foreign fighters” in Syria from their Danish citizenship (if they have dual citizenship) was hastened through in October 2019 and included a shortened 7-day public consultation. The bill was presented, heard three times and adopted by Parliament in three days, thereby deviating from ordinary parliamentary procedure requiring 30 days of consideration from presentation to final vote. The Danish Institute for Human Rights criticised the expedited procedure and found that the bill caused grave misgivings in terms of human rights and rule of law principles, including that an administrative decision on revoking citizenship is not automatically being tried in court. The bill was, nevertheless, adopted.

In 2020, expedited legislative processes have taken place in response to the coronavirus/COVID-19-crisis, creating the legal basis for various increased executive powers, incl. restrictions on freedom of assembly, personal freedom, respect for personal and private life etc. (see below under the COVID-19-item)
Lack of judicial review/increased executive powers:

The act mentioned above also restricts access to justice/inflicts on the possibility of judicial review in cases of revocation of citizenship of certain persons (persons identified as “foreign fighters”), in which the person has a four weeks deadline to try an administrative revocation decision before the courts, even if the administrative decision was taken without prior consultation with the person, e.g. because the person is abroad and not checking his/her official electronic mailbox. The Danish Institute for Human Rights finds that there is a significant risk that the time limit can result in that a person can be left with no real possibility of challenging the decision of revocation/stripping of his/her Danish citizenship at the time, when he/she gains knowledge of the decision.

Another two examples are increased powers to the police in terms of getting access to private homes without a court order:

Since 1 January 2020, the police have been able to search the home of some sex offenders and remove objects, e.g. computers, from their homes without first obtaining a court order. The legislative amendment also expands the list of places the courts can prohibit convicted sex offenders from visiting. The Danish Institute for Human Rights assesses that the far-reaching powers granted to the police and the consequent interference in the right to privacy exceed what is necessary for supervising convicted sex offenders.

In June 2020, the parliament has adopted similar legislation concerning individuals convicted of terror-related crimes. The Danish Institute for Human Rights assesses that the proposed legislation can result in legal uncertainty with a risk of the supervision being arbitrary.
Functioning of justice systems

See examples above which also impact on effective judicial protection.

In-focus section on COVID-19 measures

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law in the country

In 2020, restrictions have been set in place in Denmark and Greenland impeding the freedom to assembly as well as other human rights limitations in order to limit the spread of the new coronavirus (COVID-19).

References

- The Danish Institute for Human Rights on the expedited legislative process re. revocation of Danish citizenship from “foreign fighters”: News article from Danish Broadcasting Corporation, 21 October 2019, “Harsh criticism on Government’s proposal on foreign fighters” (“Kritikken vælter ned over regeringens lovforslag om fremmedkrigere”), available in Danish: https://www.dr.dk/nyheder/politik/kritikken-vaelter-ned-over-regeringens-lovforslag-om-fremmedkrigere
- The Danish Institute for Human Rights on the contents of the draft bill on revocation of citizenship from “foreign fighters”, public consultation memo, 21 October 2019, available in Danish: https://menneskeret.dk/hoeringssvar/aendring-reglerne-frakendelse-fremmedkrigeres-statsborgerskab
- The Danish Institute for Human Rights on access to homes of persons convicted of sexual crimes, public consultation memo, 11 February 2019, available in Danish: https://menneskeret.dk/hoeringssvar/lovudkast-forbud-doemte-seksualforbrydere
- The Danish Institute for Human Rights on initiatives against foreign fighters and other persons convicted of terror-related crimes, public consultation memo, 18 February 2020, available in Danish: https://menneskeret.dk/hoeringssvar/initiativer-fremmedkrigere-andre-terrordoeemte
Denmark:

- Restrictions on freedom of assembly (from 18 March to 8 June 2020 max. 10 persons could assemble). As of 9 June 2020, this was changed to max. 50 persons – the ban does not apply to private homes or to demonstrations.
- Restrictions on movement (police can temporarily forbid people to gather in popular public spaces if too many assemble in the same spot).
- Access to coercively isolate, treat, vaccinate individuals or submit them to hospital.
- Authorities can submit companies (e.g. phone companies etc.) to give access to relevant data when necessary in order to avoid spread of COVID-19.
- An official app was launched 18 June 2020 in order to help break chains of infection. The app is voluntary to use and uses anonymous data, generated via combined Apple/Google bluetooth solution. The authorities do not have access to data. The app relies on a person to insert an alert if he/she is tested COVID-19-positive. The app will then warn people having been in close contact with the person (<1m) for more than 15 min. during the days, when the person is thought to have been a disease carrier.
- Tightened punishment for COVID-19-related crimes.
- Increased access to expel foreigners for COVID-19-related crimes.
- The borders were closed for inbound travel to Denmark from 14 March 2020 until 14 June. Only Danish citizens can enter the country. Foreign nationals can enter if entry has a legitimate purpose and they show no symptoms of COVID-19. As of 15 June 2020, the borders are open to tourist travel for persons with residence in Germany, Norway and Iceland. The borders are expected to open further by 27 June 2020 to tourist travel for residents in EU/Schengen.

Greenland:

- As of April 2020: Recommendation (not ban) as to avoid assembling more than 100 persons.
- All flight traffic to Greenland is cancelled by the Greenlandic authorities, so far until 1 June 2020. Only necessary inbound travel was allowed and needed authorisation from Greenlandic authorities. Necessary travel were SAR-operations, medical evacuations, transport in order to uphold critical functions in society etc. People travelling from Greenland (which was allowed from 4 May 2020) could only re-enter under conditions described above. This includes Danish/Greenlandic citizens. As of 1 June inbound travel to Greenland is allowed for 600 persons/week. Conditions apply
(negative COVID-19 test, home-isolation for five days after arrival followed by new negative test).

- During 28 March-30 April 2020, all traffic to/from Nuuk was forbidden, excluding critical operations, medical evacuations etc. in order to prevent the spread of COVID-19 from Nuuk (confirmed cases) to other parts of Greenland (no confirmed cases).

- During 18 March-8 April 2020: Temporary bans in Nuuk included bans of assemblies of more than 10 people, closing of shops/malls/restaurants/bars/sport facilities etc, excluding grocery shops. Travel ban as described above (was prolonged after the 8 April).

- During 28 March-15 April 2020: Ban on sale of alcohol in Nuuk.

- The restrictions are generally either time-limited, some apply for three months, others until early 2021, or subject to revision later in 2020.

**Most important challenges due to COVID-19 for the NHRI’s functioning**

As an independent state-funded Danish institution, the Danish Institute for Human Rights follow directives and recommendations from the Danish government and health authorities. All staff members in Denmark worked from home from 14 March to 14 June and we suspended all travel activities and physical meetings. Online consultations and meetings effective and frequent.

We are in daily contact and dialogue with our local representations around the world to make sure that we follow local recommendations and regulations, and that our staff and partners are not exposed to risk or will put others to risk as a result of our activities.
References

- Danish authorities’ app “Smittestop” (information in Danish): https://smittestop.dk/