**QUESTIONS FOR NATIONAL HUMAN RIGHTS INSTITUTIONS**

| **QUESTION** | **ANSWER** |
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| ***Question 1.***  *Please provide information in relation to the existence of legislation and policies concerning mainstream and/or specific social protection programmes with regard to persons with disabilities, including:*   * *Institutional framework in charge of its implementation;* * *Legislative, administrative, judiciary and/or other measures aiming to ensure access of persons with disabilities to mainstream social protection programmes (e.g., poverty reduction, social insurance, health care, public work, housing);* * *Creation of disability-specific programmes (such as disability pensions, mobility grants or others);* * *Fiscal adjustments or other similar measures.* | The Danish welfare model The Danish welfare model is based on the principle that all citizens shall be guaranteed certain fundamental rights in case they encounter social problems such as unemployment, sickness or dependency. All citizens in need are entitled to receive social security benefits and social services – regardless of their affiliation to the labour market.  The public sector is responsible for the provision of social security benefits and social services, which are mainly financed from general taxation.  Denmark has divided its welfare tasks between four ministries: the Ministry of Children, Gender Equality, Integration and Social Affairs, the Ministry of Health, the Ministry of Employment, and the Ministry of Education. However, it is important to stress that the local municipalities are responsible for undertaking a considerable amount of Denmark’s welfare tasks. While the area of social welfare is widely governed through legislation, it is up to the local municipalities to assess the need for social services. Local municipalities and regions have wide autonomy when implementing the various social protection schemes.  In addition, local municipalities and regions provide free advisory and counselling services with the purpose of creating favourable living and development conditions for persons for disabilities. Legislation regulating social matters1. The Danish Consolidation Act on Social Services[[1]](#endnote-1) (Remit: the Ministry of Children, Gender Equality, Integration and Social Affairs)  The Danish Consolidation Act on Social Services offers a number of social services. The purposes of this act are:   * to offer counselling and support so as to prevent social problems; * to offer general services designed to serve as preventive measures at the same time; and * to satisfy needs resulting from impaired physical or mental function or special social problems.   The purpose of the assistance provided under the act is to improve the capability of the individual recipient to be self-reliant, or to facilitate his/her daily life and enhance the quality of life.  *Specific protection programmes for persons with disabilities under the Danish Consolidation act on Social Services*  **Support for Necessary Extra Costs (Consolidation Act on Social Services - § 100)**  The local municipalities provides support for the necessary extra costs connected with maintaining a person with permanently reduced functional capacity, when the impairment is of a character, which severely affects daily life and requires significant supportive measures. The extra costs must be a direct result of the reduced functional capacity.  **Personal assistance, care and attendance (Consolidation Act on Social Services - § 83)** The local municipalities offers personal assistance and care services to persons who are unable to carry out these tasks themselves because their physical or mental functional capacity is permanently reduced.  **Citizen-controlled Personal Assistance (BPA) (Consolidation Act on Social Services - § 95 and § 96)**  The purpose of the BPA-scheme is to provide a flexible form of assistance for persons with disabilities that require a substantial help. Citizen-controlled personal assistance is a subsidy, which covers the cost of employing personal care assistants to provide the necessary assistance and care. To become eligible, a person must have severely and permanently reduced physical or mental functional capabilities.  **Substitute or Respite Services (Consolidation Act on Social Services - § 118)**  The local municipality offers substitute or respite care to parents, spouses or other close relatives who care for a person with reduced functional capacity.  **Attendance (Consolidation Act on Social Services - § 97)**  A person with disabilities below the age of 65 years is entitled to 15 hours of attendance per month in order to be accompanied to activities outside the home that he or she wishes to attend. The purpose of the attendance scheme is to assist in normalising and integrating persons who are not able to get around by themselves due to significantly and permanently reduced functional capacity.  **Aids and Consumer Durables (Consolidation Act on Social Services - § 112 and § 113)**  Local municipalities provides support towards aids and consumer durables when such devices may considerably relieve the reduced functional capacity and/or enable the person with disabilities to fulfil a job.  **Support Granted towards the Purchase of a Car (Consolidation Act on Social Services - § 114)**  Support may be granted towards the purchase of a car by persons whose physical or mental capacity is permanently reduced or when the functional capacity considerably impairs the person’s ability to gain or maintain employment or complete education. It is also possible to obtain support to purchase a car if the permanently reduced functional capacity considerably impairs the person’s ability to walk, when it is estimated that a car may substantially facilitate his or her daily life.  **Adaptations to the Home** **(Consolidation Act on Social Services - § 116)**  The local municipalities grants assistance towards adaptations in the home of persons whose physical or mental functional capacity is permanently reduced, if such adaptations are necessary to make the home better suited for the person concerned. 2. The Danish Consolidation Act on Social Pensions[[2]](#endnote-2) (Remit: the Ministry of Children, Gender Equality, Integration and Social Affairs)  *Mainstream social protection programmes also covering persons with disabilities under the Danish Consolidation act on Social Pensions*  **Anticipatory pension – (Consolidation Act on Social Pensions - § 16)**  Available to those between 18 to 65 years of age whose earning capacity is materially reduced for physical, mental or social reasons.  **Old-age pension** **– (Consolidation Act on Social Pensions - § 1 and § 13)**  Available to everyone from the age of 65 years. 3. The Danish Consolidation Act on Active Social Policy[[3]](#endnote-3) (Remit: the Ministry of Employment)  The purpose of the act is:   * To prevent that persons who have or may have difficulties maintaining a job, will need public assistance, and * To create a financial safety net for anyone who is not otherwise able to provide for himself or herself and his or her family.   *Mainstream social protection programmes also covering persons with disabilities under the Danish Consolidation Act on Active Social Policy*  **Cash benefits (Consolidation Act on Active Social Policy - § 11)**  Guarantees an income for persons who cannot support themselves.  **Rehabilitation benefits -** **(Consolidation Act on Active Social Policy - § 46 and § 47)**  Payable in conjunction with rehabilitation or education and training. 4. Consolidation Act on Benefits in the Event of Illness or Childbirth[[4]](#endnote-4) (Remit: the Ministry of Employment)  *Mainstream social protection programmes also covering persons with disabilities under the Consolidation Act on Benefits in the Event of Illness or Childbirth*  Benefits under this act are provided in the event of illness, including personal injury, maternity and adoption. Benefits are paid by the employer to any employee who is absent from work due to illness for two weeks from the first full day of such absence and by the local municipalities in all other cases. 5. Consolidation Act on Active Employment Efforts[[5]](#endnote-5) (Remit: the Ministry of Employment)  *Mainstream social protection programmes also covering persons with disabilities under the Consolidation Act on Active Employment Efforts*  **Flexi-job – (in Consolidation Act on Active Employment Efforts - § 69)**  The target group is persons with a permanently reduced working ability. A position under the ’flexi-job’ programmes is subsidised by a permanent wage subvention and may be held in the private as well as the public sector. Due to the reduced working ability of the target group, the number of hours and/or task assignments are reduced according to a specific agreement between the employer, the flex-jobber and the local municipality (the latter being responsible for administering the scheme).  **Wage subsidy-employment – (in Consolidation Act on Active Employment Efforts - § 51)**  Persons receiving anticipatory pension have the possibility of working with a wage-subsidy. |
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| ***Question 2.***  *Please provide information on how persons with disabilities are consulted and actively involved in the design, implementation and monitoring of social protection programmes.* | Persons with disabilities are indirectly consulted and involved in the design, implementation and monitoring of social protection programmes, through professional organisations and NGOs that seek to influence the political decision-making processes in a large number of areas. Involvement of these organisations takes place via formal channels, such as representation on committees, boards and commissions, which the decision-makers consult about political issues (e.g. new legislation). However, the organisations also seek influence via more informal contacts. In general, Danish political culture is characterised by co-operation, dialogue and negotiation between the politicians, the various authorities and interest groups.  In Denmark, the Disabled People’s Organisations Denmark (DPOD) is the umbrella organisation for 33 organisations representing people with disabilities. DPOD represents about 320.000 members and conducts NGO activities at the local, regional and national level. Acitivites include, *inter alia*, contact with the various authorities, responses to public hearings on relevant bills, attempts to influence public attitudes through publication of information material and through the media. The DPOD is represented on a number of relevant committees, boards and commissions, putting great effort into raising awareness of the objectives of Danish disability policy and of the UN Convention on the Rights of Persons with Disabilities. |
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| ***Question 3.***  *Please provide information in relation to difficulties and good practices on the design, implementation and monitoring of mainstream and/or specific social protection programmes with regard to persons with disabilities:* | **Difficulties**  The area of disability is, to a great extent, regulated by the Danish Consolidation Act on Social Services, according to which the municipal administrations (which are responsible for allocating the services) are allowed a high degree of discretion in allocating these services. This applies to e.g. the Personal Help and Care Services Programmes. It follows from the provision (section 83) that citizens who cannot carry out the necessary activities (i.e. due to temporary or permanent impairment of physical or mental function) may be eligible for personal and practical assistance. The assessment hereof, which is carried out by the municipal administrations, includes an assessment of which persons exactly are covered by the provision, and of what can be considered ’necessary activities’.  Due to the discretionary aspects of the law, many persons with disabilities experience discrepancies in the allocation of services among the municipal administrations. Unfortunately, studies of the municipal administrations show that the municipalities often do not comply with the relevant legislation. This is a concern in relation to the legal rights of persons with disabilities.  Persons with disabilities who have not been allocated the social services they have applied for can appeal the decisions of the municipal authorities to the social complaints boards of the State administration, which consists of five independent, regional bodies. Appeal of the decisions of the social complaints boards can be directed to the National Social Appeals Board, which is an independent State appeals court. The National Social Appeals Board may accept to consider an appeal if it is on a point of law or a matter of general public importance.  **Good Practices**  The Minister for Children, Gender Equality, Integration and Social Affairs has set up a Task Force in the disability area the purpose of which is to offer assistance to the local municipalities in managing their initiatives for persons with disabilities.  The purpose of the work is to support local municipalities in their casehandling in relation to both children and adults with disabilities in order to strengthen the quality of the casehandling. Moreover, the Task Force offers local municipalities shorter and longer development programs with focus on casework. The short programs will typically be one to two days of training in the municipality, while others are part of a long-term programme of six months' duration.  The long-term programmes offer an analysis of the local authorities’ casehandling (from specific casehandling to professional management and organization in the disability area). Based on the analysis the Task Force will produce a report with recommendations, which the local authority can then implement in a one and a half year long development programme. The long-term programme also includes a test of the improvement of the casehandling. |
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| ***Question 4.***  *Please provide any information or data available, disaggregated by impairment, sex, age or ethnic origin if possible, in relation to:*   * *Coverage of social protection programmes by persons with disabilities;* * *Rates of poverty among persons with disabilities;* * *Additional costs or expenses related to disability.* | Statistics Denmark has recently (May 18th 2015) published statistics on adults (16 to 64 years of age) with disabilities receiving social benefits based on accounts from 13 local municipalities. The statistics show that 79 percent of adults with disabilities receiving social benefits are on passive relief. 80 percent of the adults with disabilities that are on passive relief receive anticipatory pension (*førtidspension*) and 15 percent receives cash benefits (*kontanthjælp*).  The new data about adults with disabilities provide an overview of the services allocated to adults with disabilities by the local municipalities under the Danish Consolidation Act on Social Services.  Data of social services allocated to adults with disabilities disaggregated by age and sex is available online at Danish at the Statistics Denmark’s webpage: <http://www.dst.dk/da/Statistik/NytHtml.aspx?cid=18099>  Data in English on adults receiving social benefits is available online at Statistics Denmark’s webpage: <http://www.dst.dk/en/Statistik/nyt/relateret.aspx?psi=1392>  Statistics Denmark may also be helpful in providing statistics on rates of poverty among persons with disabilities. |
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| ***Question 5.***  *Please provide information in relation to the eligibility criteria used for accessing mainstream and/or specific social protection programmes with regard to persons with disabilities, including:*   * *Definition of disability and disability assessments used for eligibility determination;* * *Consistency of the eligibility criteria among different social protection programmes;* * *Use of income and/or poverty thresholds;* * *Consideration of disability-related extra costs in means-tested thresholds.* | Several of the laws, which include regulations related to persons with disabilities, describes initially which persons who may be entitled to the benefits provided by the law. Often it is an overall and broad description. For persons with disabilities it is often stated that ‘the grant can be given to persons who need it because of substantial physical or mental impairment’. The conditions for receiving the benefits are usually not laid down in the law. Thus, most often it is left to the discretion of the municipal administrations to determine to whom and to what extent benefits should be allocated.  When assessing if and to what extent a person is entitled to receiving benefits, the local municipalities must base their assessment on the preconditions and special needs of the individual person.    In Danish legislation the definitions of disability are used differently. Some provisions, e.g. the Act on Social Services, only includes persons with significant or serious disabilities. This places persons with disabilities that are not significant or serious, but which may also have a need for support, in an inferior situation compared to other persons with disabilities. This kind of differential treatment may constitute discrimination on grounds of disability, if it is not objective and proportional.[[6]](#endnote-6) |

1. The Danish Consolidation act on Social Services may be found in English here: <http://sm.dk/en/files/consolidation-act-on-social-services-1.pdf> [↑](#endnote-ref-1)
2. The Danish consolidation act on Social Pensions may be found in English here: <http://sm.dk/en/files/consolidation-act-on-social-pensions.pdf> [↑](#endnote-ref-2)
3. The Danish Consolidation act on Active Social Policy is not available in English but may be found in Danish here: <https://www.retsinformation.dk/Forms/R0710.aspx?id=165684#Kap4> [↑](#endnote-ref-3)
4. Consolidation Act on Benefits in the event of Illness or Childbirth can be found in English here: <http://legislationline.org/documents/action/popup/id/5767> [↑](#endnote-ref-4)
5. Consolidation Act on Active employment Efforts is not available in English but may be found in Danish here: <https://www.retsinformation.dk/Forms/r0710.aspx?id=164698#Kap12> [↑](#endnote-ref-5)
6. Source: The Danish Institute for Human Rights’ website: <http://www.menneskeret.dk/emner/handicap/forstaa-konvention/artikel-1-formaal/instituttet-mener> [↑](#endnote-ref-6)