

Coronavirus COVID-19 outbreak in the EU

Fundamental Rights Implications

Country: Denmark

Contractor's name: Danish Institute for Human Rights

Date: 20 March 2020

DISCLAIMER: This document was commissioned under contract as background material for a comparative report being prepared by the European Union Agency for Fundamental Rights (FRA) for the project “Coronavirus COVID-19 outbreak in the EU – fundamental rights implications”. The information and views contained in the document do not necessarily reflect the views or the official position of the FRA. The document is made available for transparency and information purposes only and does not constitute legal advice or legal opinion.

1. Measures taken by government/public authorities

On 11 March 2020 the Prime Minister ordered¹ children and university students to stay home for two weeks as all public schools, universities, public nurseries and kindergartens would close as of 16 March 2020 for a preliminary period of two weeks, cf. section 1 of consolidation act on closure of day care facilities, schools, institutions, etc. and on emergency care in the management of Coronavirus disease 2019 (COVID-19)^{2,3} The Prime Minister ordered a closure of all public cultural institutions and libraries, and sent home all civil servants not performing 'critical functions' i.e. health care professionals, those working in the sector for the elderly, police and people who work with socially vulnerable groups. As far as possible, work must be conducted from home and thus, persons working in the public sector will receive a salary. Measures have been taken, i.e. to support parents playing a critical function in the COVID-19 response by providing emergency caretaking of their children. All schools must offer emergency education while the closures are in effect. This can be supported virtually or online.

On 11 March 2020 Courts in Denmark initiated an emergency response to deal with critical cases, while following the government's announcement of a public-sector shutdown and the health authorities' precautions. An assessment of critical cases is done in close cooperation between a number of Presidents of the Courts and the Danish Court Administration.⁴

On 12 March 2020 the Minister of Health proposed amendments to the Act on Measures against Infectious and Other Communicable Diseases (*epidemiloven*) with a view to contain and mitigate consequences of the spread of COVID-19. Later the same day, the Danish Parliament fast-tracked the proposed amendments to the act on measures against infectious and other communicable diseases (L133)⁵. The amendments entered into force on 17 March 2020. The law is repealed on 1 March 2021 as a sunset clause is attached to the act.

Measures introduced by the public authorities in relation to the COVID-19 outbreak in Denmark have a potential impact on both constitutionally granted rights such as Section 71 (freedom from deprivation of liberty) and Section 79 (freedom of assembly) of the Danish Constitution (*Grundloven*)⁶ as well as rights granted by the European Convention on Human Rights such as article 5 (deprivation of liberty), article 8 (right to family and private life), article 11 (freedom of assembly), article 1 in additional protocol no. 1 (the right to property) and article 2 in additional protocol no. 4 (freedom of movement).

The amendments to the act grants the Minister of Health several authorizations to ensure that generally dangerous diseases are contained. Among other things, the powers of some of the regional Epidemic Commissions are transferred to the Minister of Health. The Minister of Health is given the possibility

¹ Denmark, press conference, speech by the Prime Minister on 11 March 2020, available in Danish at: http://stm.dk/p_14916.html.

² Denmark, consolidation act on closure of day care facilities, schools, institutions, etc. and on emergency care in the management of Coronavirus disease 2019 (COVID-19) (Bekendtgørelse om lukning af dagtilbud, skoler, institutioner m.v. og om nødpasning i forbindelse med håndtering af Coronavirussygdom 2019 (COVID-19)), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=213472>.

³ Denmark, press release from the Ministry of Education, available in Danish at: <https://www.uvm.dk/aktuelt/nyheder/uvm/2020/mar/200311-nye-tiltag-mod-covid-19-coronavirus>

⁴ Denmark, press release, the Danish Court Administration, available in Danish at: <http://www.domstol.dk/om/Nyheder/oevrigenyheder/Pages/danmarks-domstole-vaerner-om-retssikkerheden.aspx>

⁵ Denmark, Act no. 133 of 12 March 2020 amending the Danish on Measures against Infectious and Other Communicable Diseases (Expansion of measures to prevent and contain contamination and to secure capacity resources, etc.) (L 133 Forslag til lov om ændring af lov om foranstaltninger mod smitsomme og andre overførbare sygdomme (Udvidelse af foranstaltninger til at forebygge og inddæmme smitte samt sikring af kapacitetsmæssige ressourcer m.v.), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=213433>.

⁶ Denmark, Constitution, available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=45902>

to i.e. order persons who are suspected of being infected to be isolated, to be able to prohibit and further limit large assemblies of above 100 persons (section 6), events, etc. and the possibility of prohibiting access to or restrictions on means of transport. Initially, the government proposed that the police could access a person's home without a court order if a person was presumed to be infected. However, the proposal was taken out during the legislative process. Thus, there will be no access to housing, etc. without a court order, if the person in question must be forcibly examined, admitted or processed.

The legislative amendments also provide the authorities with increased detection opportunities, including by enabling the Minister of Health to lay down rules on information obligations. In addition, the Minister of Health is authorized to lay down rules on derogations from healthcare rights ensured in other parts of the legislation if this is deemed necessary to ensure capacity to treat persons infected with COVID-19. This includes limiting the right to a fast diagnosing or the right to free choice of hospital to ensure that the treatment and staff resources can be prioritized to fight an infectious disease and to treat patients with acute and life-threatening diseases.

On 13 March 2020 the Danish Minister of Justice informed EU Commissioner Johansson of the extension of the temporary border controls at all Danish internal borders effective as of 14 March 2020. As such, border controls are being carried out at all internal borders, including land-, sea-, and air borders, in order to prevent the spread of COVID-19 in Denmark.⁷ Given the risk of COVID-19 infection, the Ministry of Foreign Affairs advises against travelling abroad for now and at least until 13 of April 2020; The Ministry has called on Danes traveling abroad to return to Denmark as soon as possible.⁸ Travellers can enter Denmark if they are 1) Danish citizens 2) Have residence in Denmark, Greenland or Faroe Islands 3) Need to transit through Denmark to return to your country of residence (e.g. Swedes to transferring through Denmark to return to Sweden) or have a worthy purpose to transit through Denmark 4) Have a worthy purpose for entry.⁹

On 17 March 2020 the Prime Minister announced further restrictions on the public, including a temporary ban on holding or attending events, activities or the like where more than 10 people are gathered.¹⁰ This was enacted as of 18 March 2020, at 10.00 a.m. The ban applies to both indoor and outdoor gatherings and includes both public and private events in public sphere. The ban is provisionally valid until 30 March 2020. The ban does not prevent more than 10 people from being present and moving around, for example, in a shop, a supermarket, an airport or at a train station. Similarly, the general use of public transport (trains, buses, aircraft, ferries, etc.) and general presence at a workplace are excluded. The prohibition also does not apply if it is an assembly for a political or other purpose, including demonstrations or political meetings.¹¹ The ban on assembling more than 10 persons is enforced, and sanctions/penalties up to 1,500 DKK are in place for infringement, pursuant to the consolidation act section 11.¹²

⁷ Denmark, letter from the Minister of Justice to EU Commissioner Johansson of 13 March 2020, available in English at: <https://www.ft.dk/samling/2019/1almdel/REU/bilag/305/2163329/index.htm>

⁸ Denmark, Ministry of Foreign Affairs, <https://um.dk/da/rejse-og-ophold/rejse-til-udlandet/coronavirus/>.

⁹ Denmark, Information from the Danish authorities about coronavirus/covid-19, available in English at: <https://politi.dk/en/coronavirus-in-denmark/if-you-are-travelling-to-and-from-denmark>

¹⁰ Denmark, consolidation act on prohibition of major assemblies and prohibition of access to and restrictions on certain premises for coronavirus disease management 2019 (COVID-19) (Bekendtgørelse om forbud mod større forsamlinger og forbud mod adgang til og restriktioner for visse lokaler i forbindelse med håndtering af Coronavirussygdom 2019 (COVID-19)), available in Danish at: <https://www.retsinformation.dk/Forms/R0710.aspx?id=213485>

¹¹ See also Denmark, Danish Police (*politiet*), available in Danish at: <https://politi.dk/coronavirus-i-danmark/seneste-nyt-fra-myndighederne/nye-tiltag-mod-spredning-af-covid-19-i-danmark>.

¹² Denmark, The Danish Prosecution service, available in Danish at: <https://anklagemyndigheden.dk/da/boedetakster-overtraedelse-af-forbud-mod-stoerre-forsamlinger-som-foelge-af-covid-19>

Moreover, the Prime Minister introduced with effect as of 18 March 2020, at 10.00 a.m., a temporary ban on nightclubs, discos, bars, hookah cafés, etc. The ban is provisionally valid until 30 March 2020.¹³

Main measures taken to avoid the spread of COVID-19 have been communicated to the public through high level press conferences¹⁴, on text messages or through the digital platform ‘e-boks’. At these press conferences information was initially provided without sign language but has now been made accessible for people with hearing and other disabilities. A public website gathering all information from public authorities has been made available in both Danish and English.¹⁵ The Danish authorities have also communicated advice for people belonging to a risk group Coronavirus in a variety of languages, including in Arabic, Farsi, German, Greenlandic, Polish and Turkish.¹⁶

The government has decided that critical functions are maintained while public servants are sent home. The social services sector is part of the critical functions that are being maintained.¹⁷ Thus, persons with disabilities or with special social needs will continue to receive assistance needed, and the municipalities are responsible for securing shelter for homeless persons.

On 6 March 2020 and based on recommendations from the Danish Health Authority (*Sundhedsstyrelsen*) on the management of COVID-19, the Ministry of Immigration and Integration (*Udlændinge- og Integrationsministeriet*) recommended that municipal councils do not conduct planned constitutional ceremonies until the recommendations of the health authorities change. The citizenship agreement from 2018 requires that during a local citizenship ceremony, applicants for citizenship show respect for Danish values. Accordingly, during the ceremony applicants must shake hands with one or more municipal representatives and by this symbolic act show respect for the Danish society.

Given the circumstances caused by COVID-19, the Ministry of Immigration and Integration will exempt

applicants for Danish citizenship from deadlines in relation to attending a constitutional ceremony as set out in section 1 of consolidation act no. 1767 of December 27, 2018. It is the Ministry's expectation that once the situation is normalized, ceremonies will be conducted.¹⁸

Other developments that could be relevant:

- On 18 March 2020, the government, with support from all parties in parliament, presented an aid package to businesses.¹⁹ The aid package supplements earlier initiatives to support

¹³ Denmark, consolidation act on Prohibition of Major Assemblies and Prohibition of Access to and Restrictions on Certain Premises for Coronavirus Disease Management 2019 (COVID-19) (Bekendtgørelse om forbud mod større forsamlinger og forbud mod adgang til og restriktioner for visse lokaler i forbindelse med håndtering af Coronavirussygdom 2019 (COVID-19)), available in Danish at:

<https://www.retsinformation.dk/Forms/R0710.aspx?id=213485>

¹⁴ Denmark, Office of the Prime Minister's Office, available in Danish at: http://stm.dk/a_2240.html.

¹⁵ Denmark, Information from the Danish authorities about coronavirus/covid-19, available in English at:

<https://politi.dk/corona>

¹⁶ Denmark, Coronavirus advice for people belonging to a risk group, available in English at:

https://www.sst.dk/-/media/Udgivelser/2020/Corona/Infokampagne-s%C3%A5rbare/Sprogversioner/SST_Coronavirus_Saarbare_Folder_UK_digital.ashx?la=da&hash=2B08F1DFEDE059580C811FA3C2C06CDDA11F8099.

¹⁷ Denmark, Danish Police (*politiet*), available in Danish at: <https://politi.dk/coronavirus-i-danmark/hvis-du-er-socialt-udsat-eller-paaroeerende>.

¹⁸ Denmark, Ministry of Immigration and Integration, available in Danish at:

<https://uim.dk/arbejdsomrader/statsborgerskab/udenlandske-statsborgere/betingelser/deltagelse-i-kommunal-grundlovsceremoni>.

¹⁹ Denmark, Ministry of Finance, available in Danish at:

[https://www.fm.dk/nyheder/pressemeddelelser/2020/03/regeringen-og-partier-enige-om-hjaelpepakke-\(19-March-2020\)](https://www.fm.dk/nyheder/pressemeddelelser/2020/03/regeringen-og-partier-enige-om-hjaelpepakke-(19-March-2020))

businesses suffering from consequences of the coronavirus. Together, these amounts to 40 billion DKK.²⁰

- On 20 March 2020, the Danish news media K-news brought an article on a person whose pre-trial detention period was prolonged with reference to delays caused by the coronavirus.²¹
- On 21 March 2020, the Parliamentary Ombudsman (*Folketingets Ombudsmand*) commented on a number of complaints received concerning measures taken by the Danish Prison and Probation Service (Kriminalforsorgen) to limit the spread of COVID-19 infection in relation to the authority's decision to not to allow visits to and exit from prisons and custodies.

2. Impact of the outbreak on certain national or ethnic communities

On 27 January 2020 the Danish newspaper Jyllands-Posten published a satirical cartoon of a Chinese flag with the five gold stars replaced by illustrations of the coronavirus.²² The cartoon was heavily criticised for connecting the Chinese people to the coronavirus. The critique of the cartoon was especially significant on social media and on the comment sections of articles depicting the cartoon. The critique of the cartoon led to Danish politicians defending the artist's freedom of speech, in which references to the Muhammed cartoons controversy were made.²³ Jyllands-Posten is the newspaper which published the Muhammed cartoons in 2005. The Chinese embassy in Denmark issued a press release where they demanded a public apology from Jyllands-Posten and the artist Niels Bo Bojesen. Both the Newspaper and the artist have expressed that they will not issue an apology.²⁴ Jyllands-Posten did offer an explanation of the cartoon where they both in English and Mandarin expressed that they had no intention of being offensive.²⁵

On 20 March 2020 Jyllands-Posten published a blog post by Mikael Jalving. The newspaper published the blog post in the debate section of their webpage where external debaters can publish unedited blog posts. The author of the post compares the coronavirus to immigration and argues that immigration from "hot countries" is more dangerous than the virus. He argues that when Muslims commit acts of terrorism, mass media and political correctness blame it on the tone of the political rightwing and on racism against Muslims. The blog post was later removed by Jyllands-Posten due to the author

²⁰ DI Business, Dansk Industri, available in Danish at: <https://www.danskindustri.dk/di-business/arkiv/nyheder/2020/3/sandahl-milliardhjalp-sikrer-tusindvis-af-nodstede-virksomheder/> (18 March 2020)

²¹ K-news, article in Danish at: https://www.k-news.dk/nyheder/den-laengste-varetaegtsf%C3%A6ngsling-forlaenget-p%C3%A5-grund-af-corona?utm_medium=email&_hsmi=84992039&_hsenc=p2ANqtz-4tk2j-K731IwLGfBdoEVGo9ur_jNeiuGLfn3T_E-uVM_5Oy3WYgKTI2YrqWj5otPWO4y&utm_content=84992039&utm_source=hs_email (20 March 2020)

²² Jyllands-Posten, illustration: <https://jyllands-posten.dk/debat/tegning/ECE11898365/dagens-tegning-coronavirus> (27 January 2020)

²³ DR article in Danish: <https://www.dr.dk/nyheder/indland/kina-kraever-undskyldning-en-illustration-i-jyllands-posten#!/> (28 January 2020)

²⁴ TV2 article in Danish: <https://nyheder.tv2.dk/samfund/2020-01-28-kina-forlanger-offentlig-undskyldning-for-tegning-i-jyllands-posten> (28 January 2020)

²⁵ Jyllands-Posten, *Jyllands-Posten presents view on cartoon - in English and Mandarin*: <https://jyllands-posten.dk/debat/ECE11905179/jyllandsposten-presents-view-on-cartoon-in-english-and-mandarin/> (28 January 2020)

comparing the corona virus to the common flu. Jyllands-Posten saw this as a factual mistake and asked the author to edit the post. After the author edited the post, it was re-published by Jyllands-Posten.²⁶

Other incidents that could be relevant:

- On 15 March 2020 the Danish newspaper Jyllands-Posten brought a story on Asian students in Aarhus being verbally assaulted in the streets. The assaulters all connected their Asian appearance with the spread of the coronavirus.²⁷
- On 6 February 2020 the Danish People's Party proposed to deny Chinese people entry into Denmark.²⁸ No such ban was implemented.
- On 12 February 2020 the politician Martin Henriksen (The Danish People's Party) wrote a Facebook post linking immigration and coronavirus (though the article he refers to does not make the same connection).²⁹
- On 7 March 2020 an article from the Danish newspaper BT criticised the way Italian tourists were entering easily into Denmark.³⁰

Incidents of alleged discrimination on the grounds of nationality in access to goods and services, employment, healthcare and any other sector

We have not been able to find incidents of the above. We have consulted information sources from Mino Denmark (webpage, twitter), the Equal Treatment department of the Danish Institute for Human Rights (national equality body in relation to race and ethnicity and gender), prominent media sources and searched Google for "corona, Denmark, differential treatment" ("*corona Danmark forskelsbehandling*"), "corona, Denmark, differential discrimination" ("*corona, Danmark, diskrimination*"), "corona, Denmark, racism" ("*corona, Danmark, racism*").

We have also replaced "corona" with "Covid-19" in the above-mentioned search-keys.

However, when consulting Mino Denmark's webpage, we found that the organisation has translated the main Covid-19 government announcements into 12 different languages.³¹

3. Impact on privacy and spread of disinformation

According to the Danish Police, there have been incidents where scammers have contacted citizens asking about the coronavirus and personal information while pretending to be the Danish Health Authorities.³² No data breaches were noted. However, Statens Serum Institut (SSI,

²⁶ Jyllands-Posten article in Danish: <https://jyllands-posten.dk/debat/blogs/mikaeljalving/ECE11997830/corona-terror-og-hoejrefloej/> (10 March 2020)

²⁷ Jyllands-Posten article in Danish: <https://jyllands-posten.dk/indland/ECE12002164/foerst-forstod-jeg-det-ikke-men-saa-gik-det-op-for-mig-at-de-raabte-corona-efter-os/> (20 March 2020)

²⁸ DR article in Danish: <https://www.dr.dk/nyheder/indland/df-om-coronavirus-kinesere-skal-kunne-naegtes-indrejse-i-danmark> (6 February 2020)

²⁹ Facebook post in Danish: https://www.facebook.com/permalink.php?story_fbid=2535826590023258&id=1604502423155684 (12 February 2020)

³⁰ BT article in Danish: <https://www.bt.dk/samfund/lars-sad-i-fly-med-50-norditalienere-de-gik-bare-ned-i-metroen-og-tog-ind-mod> (7 March 2020)

³¹ Mino Denmark webpage: <https://mino.dk/covid19> (17 March 2020)

³² Statement from the police in Danish: <https://politi.dk/coronavirus-i-danmark/seneste-nyt-fra-myndighederne/pas-paa-online-corona-svindl>

<https://en.ssi.dk/about-us>) under the auspices of the Danish Ministry of Health, is looking into getting access to tele data to monitor whether the government's initiatives to limit Covid-19 are working.³³

We have found the following statements by the data protection authorities on the subject, however, noting the Centre for Cyber Security (DK: Center for Cybersikkerhed) is not as such a 'data protection authority'. The Centre for Cyber Security is the national IT security authority, Network Security Service and National Centre for Excellence within cyber security. The Centre's mission is to advise Danish public authorities and private companies that support functions vital to society on how to prevent, counter and protect against cyberattacks.³⁴

- Statement/opinion by the data protection authority in Denmark concerning data protection when working from home: <https://fe-ddis.dk/cfcs/publikationer/Vejledninger/Pages/Gode-raad-om-hjemmearbejde.aspx> and: <https://www.datatilsynet.dk/presse-og-nyheder/nyhedsarkiv/2020/mar/gode-raad-om-hjemmearbejde/>
- Statement/opinion by the data protection authority in Denmark on GDPR and corona for employers: <https://www.datatilsynet.dk/presse-og-nyheder/nyhedsarkiv/2020/mar/hvordan-er-det-med-gdpr-og-coronavirus/>

Describe any measures taken in your country to counter the spread of disinformation online. For example, measures taken by public authorities (such as announcements/ guidelines on factual reporting), and any media and private sector initiatives along the same lines - including mainstream media outlets and social media, such as Twitter, Facebook, Tik Tok.

- After an incorrect checklist of corona symptoms was shared by thousands of Danes on social media platforms, the Danish Health Authorities wrote a tweet on 14 March 2020 addressing the incorrect checklist.³⁵
- A rumour that vitamin C can prevent corona has also been widely spread in Denmark. The claim has since been dismissed by several media, among these DR (Denmark's largest digital media enterprise).³⁶
- On 12 March 2020 DR wrote an article on the topic of disinformation and corona, stating that fear and lack of knowledge of corona has created the perfect environment for fake news and conspiracy theories.³⁷
- In general, the Danish authorities have made an effort to be visible on social media platforms (Twitter, Facebook and Instagram) with infographics and daily updates on corona. Additionally, the government has made a targeted effort to reach youth, e.g. by hosting a child-targeted press conference on corona³⁸ and by collaborating with a popular youth YouTube-

³³ <https://www.dr.dk/nyheder/indland/coronavirus-seruminstitut-vil-tjekke-danskernes-bevaegelser-med-mobildata>

³⁴ https://fe-ddis.dk/cfcs/CFCSDocuments/Generel%20CFCS_A5_Engelsk_12092016.pdf

³⁵ Tweet from the Danish Health Authorities in Danish: <https://twitter.com/SSTSundhed/status/1238843235537223681> (14 March 2020)

³⁶ DR article in Danish: <https://www.dr.dk/nyheder/viden/kroppen/video-om-coronavirus-og-c-vitamin-spreder-sig-men-dit-immunforsvar-bliver-ikke> (3 March 2020)

³⁷ DR article in Danish: <https://www.dr.dk/nyheder/viden/teknologi/opfundet-af-bill-gates-og-kan-kureres-med-hvidloeg-nettet-vrimler-med-fake> (12 March 2020)

³⁸ DR article in Danish: <https://www.dr.dk/nyheder/indland/mette-frederiksen-holdt-ogsaa-pressemoede-boernene-se-det-her> (13 March 2020)

blogger on a video on information about corona. The video was shared on the blogger's YouTube-channel which has 382,000 subscribers.³⁹

³⁹ Jyllands-posten article in Danish: <https://jyllands-posten.dk/indland/ECE12010077/mette-frederiksen-raekker-ud-til-de-unge-paa-kendt-youtubers-kanal/> (14 March 2020)