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Country report

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Country report

Gender equality

How are EU rules transposed into
national law?

Denmark

Stine Jørgensen

Reporting period 1 January 2018 – 31 December 2018

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1 Introduction

1.1 Basic structure of the national legal system

Denmark is a constitutional monarchy, consisting of Denmark, Greenland and the Faroe Islands. Greenland and the Faroe Islands are not members of the European Union.

The Danish judicial system is based on the traditions of civil law as in continental Europe. In general, rules and legal principles are organised in a number of codes. Approximately 80 % of the Danish labour market is covered by collective agreements. Collective agreements cover areas such as wages and parental leave rights. Thus, collective agreements play a significant role in the legal landscape regarding work-related issues. The agreements are concluded by the labour market parties themselves and the state is not party or in any other way involved in such agreements.¹

A special arbitration panel as well as the Labour Court have been set up by the state in order to assist in solving conflicts in the labour market. Specific legislation concerning employees in general has mainly been passed as part of the process of implementing the European Union directives.

The Danish welfare model is to a large extent funded by general taxes. Regulation and interpretation of social security benefits are tied to the Parliament; courts, in their interpretation of regulations, often follow the intent of the legislators. This suggests that judicial interpretations of the legislation are very closely linked to the preparatory work.

In addition to the court system, there are several specialised administrative complaint boards in Denmark. The Board of Equal Treatment (the Equality Board) was established in 2009. The board handles individual complaints on all grounds of discrimination. Decisions of the Equality Board can be brought before the courts.

1.2 List of main legislation transposing and implementing the directives

Danish legislation is published electronically in Danish by the Danish State in the *Retsinformation*.²

The relevant Danish legislation on equality with regard to the subject of this report is listed below:

- Consolidation Act No 156/2019 on Equal Pay (*Ligelønsloven*).³
- Consolidation No 645/2011 on Equal Treatment of Men and Women as regards access to employment etc., (*Ligebehandlingsloven*).⁴
- Consolidation Act No 1678/2013 on Gender Equality (*Ligestillingsloven*).⁵
- Consolidation Act No 1001/2017 on the prohibition of discrimination in the labour market, (*Forskelsbehandlingsloven*).⁶
- Consolidation Act No 67/2019 on entitlement to leave and benefits in the event of childbirth, (*Barselsloven*).⁷

¹ For more on the Danish labour market system see Kristinasen, J. (ed) (2015) *Europe and the Nordic Collective-Bargaining Model: The Complex Interaction between Nordic and European Labour Law*, Nordic Council of Ministers.

² www.retsinfo.dk.

³ <https://www.retsinformation.dk/Forms/R0710.aspx?id=206381>.

⁴ <https://www.retsinformation.dk/Forms/R0710.aspx?id=137042>.

⁵ <https://www.retsinformation.dk/Forms/R0710.aspx?id=160578>.

⁶ <https://www.retsinformation.dk/Forms/R0710.aspx?id=179869>.

⁷ <https://www.retsinformation.dk/Forms/R0710.aspx?id=206401>.

- Consolidation Act No 950/2015 on Equal Treatment between Men and Women in insurance, pension and similar matters, (*Lov om ligebehandling af mænd og kvinder i forbindelse med forsikring, pension og lignende finansielle ydelse*).⁸

1.3 Sources of law

The main sources of gender equality law in Denmark are the national gender equality legislation, national as well as EU case law, ratified international treaties and collective agreements. The administrative equality body has the competence to decide on discrimination cases brought before it. Decisions by the Equality Board might in principle be used in courts as interpretive tools.

⁸ <https://www.retsinformation.dk/Forms/R0710.aspx?id=168655>.

2 General legal framework

2.1 Constitution

2.1.1 Constitutional ban on sex discrimination

The Danish Constitution does not provide for a ban on sex discrimination.

2.1.2 Other constitutional protection of equality between men and women

There is no constitutional protection of equality between men and women in the Danish Constitution.

2.2 Equal treatment legislation

Gender Equality Act, Consolidation Act No. 1678, 19 December 2013.

Act on prohibition against discrimination in the labour market, Consolidation Act No. 1001, 24 August 2017.

Act on Equal Treatment of Men and Women as regards access to employment etc., Consolidation Act No. 645, 8 June 2011, as amended by Act No. 553, 2012, Paragraph 13; as well as Act No. 217, 2013, and Act No. 217, 5 March 2013.

Equal Pay Act, Consolidation Act No. 558, 17 June 2008, as amended by Act No. 513, 2008 and Act No. 116, 2016.

According to Section 1 of the Gender Equality Act, the purpose of the act is to promote equality between women and men, including equal integration, equal influence and equal opportunities in all society, based on women's and men's equality. The goal was also to prevent direct and indirect discrimination on the ground of gender and to prevent harassment and sexual harassment.

According to Section 1 of the Act on Equal Treatment of Men and Women as regards access to employment etc., the purpose of the act is to ensure that there must be no discrimination on the ground of sex. This applies to both direct discrimination and indirect discrimination, in particular by reference to pregnancy or to marital or family status.

Section 1 of the Act on the prohibition of discrimination in the labour market states that discrimination in the labour market is prohibited with regard to race, colour, religion or belief, political opinion, sexual orientation, age, disability or national, social or ethnic origin.

3 Implementation of central concepts

3.1 General (legal) context

3.1.1 Surveys on the definition, implementation and limits of central concepts of gender equality law

Danish Institute of Human Rights (2016), *Status report on gender 2015/2016*.⁹

This report gives an overview of gender equality in Denmark in general. In particular high level of participation of women in the labour market is mentioned as positive. At the same time the gender-segregated education system as well as gender segregation in the labour market are highlighted as areas of concern.

KVINFO (Danish centre for study of and work with issues relating to gender, equality and diversity) (2018) 'Study on paternity leave in Denmark'.¹⁰

This information site provides information on paternity leave in general. In Denmark most women take a leave of absence when caring for smaller children, which has consequences for the equality of men and women with regard to equal pay and equal pension coverage in old age.

Danish Centre for Social Science Research (2018), *Report on the difference in pay for men and women 2012-2016*.¹¹

According to the report there has been an improvement in the gross salary gap between men and women since 2007. The report concludes that women's educational attainments is one reason for this improvement. Also, an increase in the number of women in management positions adds positively to the decrease in the gross wage difference between men and women.

Danish Ministry of Employment (2016), *Report on Discrimination in the Labour Market 2014-2016*.¹²

The survey gives an overview of discrimination cases decided by the Equality Board as well as by courts from 2014-2016. The purpose of the study is to create a comprehensive overview of the legal situation in this type of case and the extent of discrimination in the labour market on the basis of the decisions requested.

3.1.2 Other issues

Nothing further.

3.1.3 General overview of national acts

The Minister for Gender Equality has the overall responsibility for the Government's activities in the field of gender equality and coordinates the equality work of other ministries. The Department for Gender Equality functions as the secretariat for the minister, and is responsible for Government initiatives in the field of gender equality through the coordination, development and implementation of the Government's policies and councils. In addition, the ministry advises the minister and Parliament on matters

⁹ https://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/udgivelser/status/2015-16/delrapporter_med_issn/status_2015-16_delrapport_om_koen_-_issn.pdf.

¹⁰ <https://kvinfo.dk/viden-om-faedres-barsel/>.

¹¹ <https://www.vive.dk/da/udgivelser/forskelle-mellem-kvindes-og-maends-timeloen-6990/>

¹² <https://bm.dk/media/5145/beskaeftigelsesministeriets-undersogelse-af-forskelsbehandling-paa-arbejdsmarkedet-2014-2016.pdf>.

concerning gender equality. An overview (in Danish) of national acts on gender equality can be found on the webpage for the Minister for Gender Equality: <http://um.dk/da/ligestilling/lovgivning-om-ligestilling/lovgivning/>.

3.1.4 Political and societal debate and pending legislative proposals

In Denmark, #metoo has been a subject of public debate for some time. The debate has turned into a more general discussion of identity policy. The majority opinion is that there is an unhealthy focus on victims of harassment and that this leads to 'political correctness'.

3.2 Sex/gender/transgender

3.2.1 Definition of 'gender' and 'sex'

The concepts of 'gender' and 'sex' are not defined in the legislation. Danish legislation does not distinguish between gender and sex.

3.2.2 Protection of transgender, intersex and non-binary persons

Protection of transgender, intersex and non-binary persons are not specifically mentioned in national law but will be covered by the prohibition to discriminate on the ground of gender.

3.2.3 Specific requirements

There are no specific requirements for trans persons in order to benefit from legal non-discrimination protection.

3.3 Direct sex discrimination

3.3.1 Explicit prohibition

The prohibition on discrimination directly on the ground of gender is explicitly stated in the legislation. Both direct and indirect discrimination is prohibited under the Equal Treatment Acts (Equal Treatment of Men and Women as regards access to Employment and Act on Gender Equality). There is direct discrimination if a person, because of their sex, is treated less favourably than another person is, has been or would be treated in a comparable situation.

3.3.2 Prohibition of pregnancy and maternity discrimination

Discrimination due to pregnancy, maternity, paternity and parental leave is considered direct discrimination. Any less favourable treatment of a woman related to pregnancy and a woman's 14 weeks' absence after birth is considered as direct discrimination.

3.3.3 Specific difficulties

There are no specific difficulties.

3.4 Indirect sex discrimination

3.4.1 Explicit prohibition

Indirect discrimination is explicitly prohibited in the Danish legislation: under Section 1(3) of Section 1(3) of The Act on Equal Treatment of Men and Women as regards access to employment etc., (*Ligebehandlingsloven*); and Section 2(3) of Act on Gender Equality (*Ligestillingsloven*).

Indirect discrimination is, where a provision, criterion or practice which is apparently neutral, would affect persons of one sex more than persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate purpose and the means of achieving that aim are appropriate and necessary.

3.4.2 Statistical evidence

Statistical evidence is in principle not required in order to establish a presumption for indirect discrimination. However, if statistical evidence is available it might provide sound evidence for a presumption for indirect discrimination.

3.4.3 Application of the objective justification test

The justification test applies when a presumption for discrimination is established. Justification requires a legitimate aim and that this aim cannot be achieved through less discriminatory means.

3.4.4 Specific difficulties

The main issues in discrimination cases when it comes to the justification relate to the strength of arguments. Sometimes the courts or the Equality Board are willing to accept arguments, which, in the opinion of the author of this report, are not convincing in justifying an indirect discriminatory rule or practice.

3.5 Multiple discrimination and intersectional discrimination¹³

3.5.1 Definition and explicit prohibition

There is no definition of multiple or intersectional discrimination in Danish equality legislation. There has been no debate or proposals on this topic.

3.5.2 Case law and judicial recognition

Case law does not tend to address multiple discrimination. Discrimination cases are usually decided on one of the prohibited grounds. In a landmark case from the Danish Supreme Court (U.2005.1265H) a young Muslim women working in a grocery store was dismissed because she wore a headscarf, which was against the dress code. The Supreme Court found that the dress code was justified and thus not a violation of the right to non-discrimination on grounds of ethnicity. The intersectional effect of the dress code was not addressed by the court.

3.6 Positive action

3.6.1 Definition and explicit prohibition

The Danish Gender Equality Act (Section 3(1)) and the Danish Equal Treatment Act as regards access to Employment (Section 13(2)) permit public authorities and employers to invoke special temporary measures to support gender equality. According to Section 13(2) of the Equal Treatment Act, the relevant minister under whose responsibility a business comes may allow measures derogating from Sections 2 to 6 in the Gender Equality Act in order to promote equal opportunities for women and men, in particular by remedying actual inequalities affecting access to employment, education, etc.

¹³ See for more information Fredman, S. (2016) *Intersectional discrimination in EU gender equality and non-discrimination law* European network of legal experts in gender equality and non-discrimination, available at <https://www.equalitylaw.eu/downloads/3850-intersectional-discrimination-in-eu-gender-equality-and-non-discrimination-law-pdf-731-kb>.

Further to this, specific rules are laid down in Ministerial Order 340/2017 on measures to promote gender equality without derogation.

3.6.2 Conceptual distinctions between 'equal opportunities' and 'positive action' in national law

The Danish legislation make use of the term special temporary measures. The purpose of a special temporary measure is to ensure equal opportunities for the underrepresented gender.

3.6.3 Specific difficulties

There are no specific difficulties.

3.6.4 Measures to improve the gender balance on company boards.

Legislation in respect of gender balance in boards in state owned companies has been in place since 1990. Legislation that requires the largest companies to set a target figure and establish a policy for the gender composition of management came into force on 1 January 2013.¹⁴ The laws do not provide a specific target or threshold, rather the companies themselves set their own target figure in respect of the business area.

According to Section 11 of the Gender Equality Act and the Danish Financial Statement Act, companies are obliged to set targets for the quota of the underrepresented gender in the boards. Target goals must be set for the share and number of the underrepresented gender. In addition, the companies must report on the status of the achievement of the set targets. The central management body must also establish a policy for increasing the proportion of the underrepresented gender at the company's other management levels. It is essential that the policies are supported by concrete initiatives including specific actions and associated results. The obligation to prepare a policy applies only to companies with 50 or more employees.

The companies must report annually on compliance with the goals set in a gender statement containing information on the target number set as well as on the general policies on women in management. The Business Agency makes a yearly evaluation of the company's gender statement. If a company does not comply with the legal requirements when reporting, the company can be served with an administrative order. The Business Agency has the power to enforce the legal requirements. As a last resort, the Business Agency can report companies that are not in compliance with the regulation to the police.

In 2017, the Business Agency conducted an evaluation of the impact of the legislation on the number of women in management in the largest companies in Denmark. According to the evaluation, the overall picture is that since the legislation came into force, there is a slight tendency for increased annual growth in the proportion of women on the boards of the largest Danish companies. However, the evaluation also shows that the effect of the statutory requirement so far is somewhat limited, as the annual increase in growth has not exceeded 1.1 percentage points.¹⁵

3.6.5 Positive action measures to improve the gender balance in other areas

There are no positive actions to improve gender balance.

¹⁴ Denmark, Act No 1383/2012 amending the Danish Companies Act and the Financial Statements Act <https://www.retsinformation.dk/Forms/R0710.aspx?id=144739>.

¹⁵ The Business Agency (2017) 'Evaluation on the legislation concerning the legislation on target figures and policies for the underrepresented gender effect' https://erhvervsstyrelsen.dk/sites/default/files/2019-02/180921_evaluering_af_maaltal_og_politikker_2018.pdf.

3.7 Harassment and sexual harassment

3.7.1 Definition and explicit prohibition of harassment

Harassment is explicitly mentioned in the equality legislation as a prohibited form of discrimination. According to the Gender Equality Act (Section 2a(2)), sexual harassment is defined as undesirable behaviour displayed in relation to a person's sex for the purpose or effect of violating a person's dignity and creating a threatening, hostile, degrading, humiliating or unpleasant climate. This complies with EU regulation.

3.7.2 Scope of the prohibition of harassment

Section 2a of the Gender Equality Act, prohibiting harassment and sexual harassment, covers discrimination outside the labour market.

Section 1(5) of the Act on Equal Treatment of Men and Women as regards access to employment etc. covers harassment and sexual harassment in the labour market.

Section 3a(1) of the Act on Equal Treatment between Men and Women in insurance, pension and similar matters covers occupational security schemes and insurance.

3.7.3 Definition and explicit prohibition of sexual harassment

Sexual harassment is explicitly mentioned in the equality legislation as a prohibited form of discrimination. According to Section 2a(2) of the Gender Equality Act, sexual harassment is defined as undesirable behaviour displayed in relation to a person's sex for the purpose or effect of violating a person's dignity and creating a threatening, hostile, degrading, humiliating or unpleasant climate. This complies with EU regulation.

3.7.4 Scope of the prohibition of sexual harassment

Section 2a of the Gender Equality Act, prohibiting harassment and sexual harassment, covers discrimination outside the labour market.

Section 1(5) of the Act on Equal Treatment of Men and Women as regards access to employment etc. covers harassment and sexual harassment in the labour market.

Section 3a(1) of the Act on Equal Treatment between Men and Women in insurance, pension and similar matters covers occupational security schemes and insurance.

3.7.5 Understanding of (sexual) harassment as discrimination

Section 1(4) and Section 1(5) of the Act on Equal Treatment of Men and Women as regards employment etc. explicitly includes harassment and sexual harassment. The law explicitly states that the fact that a person rejects or submits to such conduct cannot be used against that person (Section 1(4)).

3.7.6 Specific difficulties

There are no specific difficulties.

3.8 Instruction to discriminate

3.8.1 Explicit prohibition

Instruction to discriminate is explicitly prohibited in the equality legislation. According to Section 2 of the Gender Equality Act, an instruction to discriminate against a person on the ground of sex is considered discrimination.

3.8.2 Specific difficulties

There are no specific difficulties.

3.9 Other forms of discrimination

The Danish Equality Board in a decision of 24 June 2011 (case 101/2011) specifically mentioned the ECJ case C-303/06 *Coleman* and the right not to be discriminated against on the grounds of association to a person protected by non-discrimination law.

3.10 Evaluation of implementation

In the opinion of the author, Danish legislation complies with the directives with regard to the various forms of discrimination (direct, indirect, (sexual) harassment and instruction). Most discrimination cases are decided by the Equality Board. The board has the power to decide on cases only on the merit of written evidence and the board cannot evaluate evidence. This means that no oral evidence can be submitted before the board and all cases are decided on a written basis. This means that in some cases the board will reject the case on the basis of lack of evidence. Cases decided by the lower courts in Denmark are not published. Most decisions on cases heard in the higher courts, as well as all cases by the Supreme Court, are published. Therefore, any evaluation of case law tends to be slightly flawed.

3.11 Remaining issues

There are no remaining issues.

4 Equal pay and equal treatment at work (Article 157 of the Treaty on the Functioning of the European Union (TFEU) and Recast Directive 2006/54)

4.1 General (legal) context

4.1.1 Surveys on the gender pay gap and the difficulties of realising equal pay

The Danish Centre for Social Science Research (2018) *Report on the difference in pay for men and women 2012-2016*.¹⁶

According to the report there has been an improvement in the gross salary gap between men and women since 2007. The report concludes that women's educational attainment is one reason for this improvement. Moreover, an increase in the number of women in management positions adds positively to the decrease in the gross wage difference between men and women.

4.1.2 Surveys on the difficulties of realising equal treatment at work

Danish Institute of Human Rights (2016), *Status report on gender 2015/2016*.¹⁷

This report gives an overview of gender equality in Denmark in general. In particular, the high level of participation of women in the labour market is mentioned as positive. At the same time the gender-segregated education system as well as gender segregation in the labour market are highlighted as areas of concern.

KVINFO (Danish centre for study of and work with issues relating to gender, equality and diversity) (2018) 'Study on paternity leave in Denmark'.¹⁸

This information site provides information on paternity leave in general. In Denmark, most women take a leave of absence when caring for smaller children, which has consequences for the equality of men and women.

4.1.3 Other issues

There are no further issues.

4.1.4 Political and societal debate and pending legislative proposals

There are no political and/or societal debates and no pending legislative proposals.

4.2 Equal pay

4.2.1 Implementation in national law

In Denmark, equal pay between men and women is governed by the Equal Pay Act, which dates back to 1976 when it was adopted to implement the Equal Pay Directive. It has been amended on several occasions. The latest amendment was in 2016.

Collective bargaining is of paramount importance in all wage issues in Denmark. Collective agreements must comply with the principle of equal pay for men and women. This interpretation is supported by a mediation agreement from 28 March 1973, which abolished different pay rates for men and women in collective agreements between members of the LO, the Danish Confederation of Trade Unions, and the DA, the

¹⁶ <https://www.vive.dk/da/udgivelser/forskelle-mellem-kvindes-og-maends-timeloen-6990/>.

¹⁷ https://menneskeret.dk/sites/menneskeret.dk/files/media/dokumenter/udgivelser/status/2015-16/delrapporter_med_issn/status_2015-16_delrapport_om_koen_-_issn.pdf.

¹⁸ <https://kvinfo.dk/viden-om-faedres-barsel/>.

Confederation of Danish Employers, which have been the two main organisations since 1 April 1976 (i.e. three months after Article 141 EC then Article 119 EEC - became directly applicable in Denmark due to the *Defrenne-II* judgement). In practice, there are no express equal pay clauses in Danish collective agreements. Not all collective agreements specifically mention the principle of equal pay, but the principle of equal pay is still valid for and binding on the contracting parties. This implicit way of regulating the issue does not contribute to a better understanding of the notion of pay. Collective agreements in Denmark are private contracts, hence, in principle, a matter for the contracting parties.

4.2.2 Definition in national law

According to Section 1(1) of the Equal Pay Act, it is a violation of the principle of equal pay if gender is the reason for a different salary. This applies to direct as well as indirect discrimination.

There is no definition of pay in the legislation. However, Section 1(2) of the Equal Pay Act states that the principle of equal pay applies to all elements of the pay, both in kind and in cash, as well as to all conditions related to the payment. The wording of the Equal Pay Act Section 1(2) corresponds to the wording of Article 4 of the Recast Directive.

4.2.3 Explicit implementation of Article 4 of Recast Directive 2006/54

The Danish Equal Pay Act was amended in 2008 in order to implement the Recast Directive in matters of equal pay. Section 1 of the Equal Pay Act was reworded so as to follow closely the wording of the directive.

4.2.4 Related case law

Danish Equality Board, case 2017-6810-22191: A male employee found that the parental leave policy in his work place was an infringement of the right to non-discrimination on grounds of gender as well as an infringement of the Equal Pay Act. According to the policy, the entitlement to compensation related to parental leave for mothers was calculated on the basis of seniority whereas the compensation for fathers was a fixed amount. Accordingly, there was the potential for mothers to receive a higher level of compensation than fathers. The Equality Board found this to be an infringement of the right to equal pay.

Danish Equality Board, case 2015-6810-03775: A female store manager was placed in another store after returning from parental leave. The store was situated in an area with fewer customers. Accordingly, it became more difficult to comply with the goals set in the employment contract that would result in an economic bonus. According to the employment contract, a bonus would be awarded when the turnover in the store reached a certain amount. Because of the difficulties in obtaining a bonus, the female store manager found the placement in the new store after the return from parental leave to be an infringement of her right to equal pay. The Equality Board found that the placement in a different store was in accordance with her employment contract and therefore was not an infringement of the right to equal pay, even though it became more difficult for her to be awarded a bonus.

Danish Equality Board, case 2014-6810-07992: A female health consultant was employed in a local health centre on a temporary contract. In total 13 health consultants were employed at the centre, the vast majority of whom were female. The complainant was working in a smaller unit with only two consultants, one man and one woman. The complainant was assigned salary level 4, while the other consultants in her unit were both assigned a higher salary level. The complainant claimed that her assignment of a lower salary level was an infringement of the right to equal pay. The Equality Board pointed to the fact that the health centre mainly employed female consultants and accordingly found

that the assignment of salary levels was not related to gender and thus not an infringement of the right to equal pay.¹⁹

4.2.5 Permissibility of pay differences

There is no permissibility of pay differences.

4.2.6 Requirement for comparators

A comparator is not required but is often used to set out or prove a difference in treatment. Comparators can be within the same employer or be taken more broadly across different sectors.

4.2.7 Existence of parameters for establishing the equal value of the work performed

No parameters are laid down in the Equal Pay Act.

4.2.8 Other relevant rules or policies

There are no other relevant rules or policies.

4.2.9 Wage transparency

In 2016, the Equal Pay Act was amended by Act No 116/2016. Following the amendment, Section 5 of the Equal Pay Act stipulates that only companies with a minimum of 35 full-time workers have to prepare gender-segregated wage statistics every year. The management has to inform employees about the wage differences and engage in a hearing on gendered wage differences. Until the introduction of the recent amendment, such an obligation applied to companies with a minimum of 10 full-time workers. The duty only applies to companies that employ a minimum of 10 men and 10 women with comparable job functions.

The preparatory work to this amendment stated that it was not expected that there would be any negative gender consequences. The purpose behind the reduction of companies under the obligation to prepare gender-segregated wage statistics was to ease the administrative burden on smaller companies.

4.2.10 Implementation of the transparency measures set out by European Commission's Recommendation of 7 March 2014 on strengthening the principle of equal pay between men and women

The Commission's recommendation provides guidance to Member States on a better and more effective implementation of the equal pay principle. Some of the instruments mentioned in the recommendation are in effect in Denmark, however, the recommendation was not specified as the basis for putting the instruments into effect in practice.

4.2.11 Other measures, tools or procedures

According to the Equal Pay Act, the Government is obliged to present a national statement on the status and development of the gender pay gap every three years. This monitoring report is based on an extensive review as well as a large dataset and is made public. Furthermore, all companies with more than 35 employees have to make available a yearly statistical overview on pay distribution segregated by sex. This allows for full transparency on wages within companies, and the national statement ensures that the gender pay gap is analysed and kept on the political agenda.

¹⁹ These cases were published on the Danish Equality Board database.

Section 5a of the Danish Equal Pay Act, on gender-segregated pay statistics was improved in 2015.²⁰ The amendment to the Equal Pay Act aimed to strengthen cooperation on equal pay in the workplace by increasing the number of companies covered by the duty to provide gender specific wage statistics. According to the 2015 amendment, the duty to provide gender-segregated wage statistics yearly applied to companies with more than 10 employees. In 2016, the act was amended again, such that only companies with 35 or more employees are under the obligation to provide gender-segregated wage statistics yearly.²¹

A research group at the University of Copenhagen has conducted a study that found that wage transparency helps to reduce the wage gap between men and women.²²

4.3 Access to work, working conditions and dismissal

4.3.1 Definition of the personal scope (Article 14 of Recast Directive 2006/54)

The Act on Equal Treatment of Men and Women as regards access to employment etc. applies to workers as well as job seekers.

The Act on Equal Treatment between men and women in insurance, pensions and similar matters implements the Recast Directive with regard to insurance and occupational social security schemes. The act applies to workers, including self-employed persons, persons whose activity is interrupted by illness, maternity, accident or involuntary unemployment and persons seeking employment and to retired and disabled workers, and to their close relatives their beneficiaries, according to Section 1.

4.3.2 Definition of the material scope (Article 14(1) of Recast Directive 2006/54)

The Act on Equal Treatment of Men and Women as regards access to employment etc. applies to access to work including recruitment, working conditions and transfers of job as well as to dismissals. The act also applies to access to vocational training and guidance as well as to retraining.

The Act on Equal Treatment of Men and Women in insurance, pensions and similar matters applies to occupational social security schemes, insurance and other financial services.

4.3.3 Implementation of the exception on occupational activities (Article 14(2) of Recast Directive 2006/54)

Section 13 of the Act on Equal Treatment of Men and Women as regards access to employment etc. allows for derogation by the relevant minister if the occupational activity and training is strictly relevant to a person of a particular gender.

There has not been any assessment of this provision.

4.3.4 Protection against the non-hiring, non-renewal of a fixed-term contract, non-continuation of a contract and dismissal of women connected to their state of pregnancy and/or maternity

Under Chapter 3 of the Act on Equal Treatment of Men and Women as regards access to employment etc., an employer may not dismiss an employee or demote an employee to a less favourable position due to the fact that the employee has insisted on exercising her/his right of absence on the grounds of pregnancy or maternity/paternity/parental leave.

²⁰ Denmark, Act 513/2014 amending the Act of Equal Pay.

²¹ Denmark, Act 116/2016 amending the Equal Pay Act.

²² https://news.ku.dk/all_news/2018/12/wage-transparency-works/.

4.3.5 Implementation of the exception on the protection for women in relation to pregnancy and maternity (Article 28(1) of Recast Directive 2006/54)

Special measures on the protection for women in relation to pregnancy and maternity are explicitly excluded from the notion of discrimination, (Section 1(8) of the Act on Equal Treatment of Men and Women as regards access to employment etc).

4.3.6 Particular difficulties

There are no particular difficulties

4.3.7 Positive action measures (Article 3 of Recast Directive 2006/54)

Section 13(2) of the Act on Equal Treatment as regards access to Employment permits employers to invoke special temporary measures to support gender equality. According to Section 13(2) of the Act, the relevant minister under whose responsibility a business comes may allow measures derogating from Sections 2 to 6 in order to promote equal opportunities for women and men, in particular by remedying actual inequalities affecting access to employment, education, etc.

4.4 Evaluation of implementation

The implementation of the Recast Directive in Danish legislation is satisfactory, in the opinion of the author. The Danish labour market is to a large degree covered by collective agreements. The collective agreements must comply with the directive. To a large degree, the effect of the legislation depends upon its interpretation by courts and administrative tribunals.

4.5 Remaining issues

There are no remaining issues.

5 Pregnancy, maternity, and leave related to work-life balance for workers (Directive 92/85, relevant provisions of Directives 2006/54 and 2010/18)²³

5.1 General (legal) context

5.1.1 Surveys and reports on the practical difficulties linked to work-life balance

There are no current reports on work-life balance.

5.1.2 Other issues

There are no other issues.

5.1.3 Overview of national acts on work-life balance issues

Consolidation Act 67/2019 on entitlement to leave and benefits in the event of childbirth (*Barselsloven*).

Consolidation Act No 1084/2017 on the Working Environment (*Arbejdsmiljøloven*).

5.1.4 Political and societal debate and pending legislative proposals

On 26 June 2017, the Minister for Employment wrote to the European Commissioner for Employment, Social Affairs, Skills and Labour Mobility on behalf of the Danish Parliament to state that Denmark does not support the Commission's proposal on work-life balance (COM (2017) 253 final).²⁴

Think Tank Europe has produced a report on the Danish position on the work-life balance proposal from the Commission.²⁵

The Danish Government has indicated that it would like to encourage fathers to take more parental leave, but currently the Government has no policy initiatives ensuring a more gender-balanced distribution between parents' caring responsibilities.

5.2 Pregnancy and maternity protection

5.2.1 Definition in national law

There is no definition of a pregnant worker in Danish legislation.

5.2.2 Obligation to inform employer

The pregnant employee is obliged to inform the employer of the intended date of birth with a three months' notice. In addition, a mother who has exercised her right to a leave of absence according to Section 7 of the Act on entitlement to leave and benefits in the event of childbirth, must give the employer notice of the date of their return to the job no later than eight weeks after confinement.

²³ See Masselot, A. (2018) 'Family leave: enforcement of the protection against dismissal and unfavourable treatment', European network of legal experts in gender equality and non-discrimination, available at <https://www.equalitylaw.eu/downloads/4808-family-leave-enforcement-of-the-protection-against-dismissal-and-unfavourable-treatment-pdf-962-kb> and McColgan, A. (2015) 'Measures to address the challenges of work-life balance in the EU Member States, Iceland, Liechtenstein and Norway', European network of legal experts in gender equality and non-discrimination, available at <https://www.equalitylaw.eu/downloads/3631-reconciliation>.

²⁴ <https://www.ft.dk/samling/20161/almdel/LIU/bilag/103/1773465.pdf>.

²⁵ Think Tank Europe (2017), 'EU Foreslår Øremærket Barsel, Men Danmark Stritter Imod', <http://thinkeuropa.dk/sites/default/files/>.

5.2.3 Case law on the definition of a pregnant worker, a worker who has recently given birth and/or a worker who is breastfeeding

There is no case law on the definition of a pregnant worker.

5.2.4 Implementation of protective measures (Article 4-6 of Directive 92/85)

The employer must ensure safe and healthy working conditions and all recognised health and safety norms and standards must be followed.

According to the Public Order on the Performance of Work 559/2004, Section 8, the employer must take into consideration the employee's age, experience, the specific tasks of the employee's position and other qualifications. Specifically sensitive groups of workers, including pregnant and breastfeeding employees must be protected against dangers that might affect them. The employer is required to assess the risks for pregnant and breastfeeding women. If there is a risk, the employer is obliged to take necessary steps to avoid it.

5.2.5 Case law on issues addressed in Articles 4 and 5 of Directive 92/85

There is no case law from higher courts.

5.2.6 Prohibition of night work

According to the Working Environment Act, the employer must ensure a healthy and safe working environment. According to Ministerial Order No 1234/2018, employers are obliged to evaluate the working environment with regard to the risks when they are made aware that an employee is pregnant or is breastfeeding. In Denmark there is not, as such, a general prohibition on night work for pregnant and or breastfeeding women.

5.2.7 Case law on the prohibition of night work

There is no case law on the prohibition of night work.

5.2.8 Prohibition of dismissal.

The Act on Equal Treatment of Men and Women regarding employment etc. protects a pregnant worker from being dismissed. Any worker who has exceeded his or her right to leave of absence or has been absent from work due to pregnancy, birth or adoption is protected from dismissal (Section 9).

5.2.9 Redundancy and payment during maternity leave

The Act on Equal Treatment Act between Men and Women as regards employment etc. protects against dismissal due to pregnancy, maternity or adoption. If the employment contract is terminated at any time from the beginning of the pregnancy until the maternity leave expires, then a reversal of the burden of proof applies, and it is the responsibility of the employer to prove that the termination is not due to pregnancy/maternity leave.

5.2.10 Employer's obligation to substantiate a dismissal

The Act on Equal Treatment between Men and Women as regards employment etc. not only applies to dismissals, but also includes less favourable treatment. The rules on the burden of proof also apply to this situation. If an employee is made redundant during her maternity leave, the employer bears the burden of proof. Public benefits will replace the salary due to an agreement in the contract, the period of employment and the collective agreements, etc. Thus, the employee is protected as are other employees.

5.2.11 Case law on the protection against dismissal

In case 9318/2019 from the Equality Board, a pregnant waiter was dismissed from her position. One of the owners of the restaurant knew about the waiter's pregnancy. The Equality Board found, according to the shift in the burden of proof, that the employer could not prove that the waiter's pregnancy had no bearing on the dismissal.

The case was therefore decided in favour of the complainant and she was granted compensation equal to six months' salary.

5.3 Maternity leave

5.3.1 Length

Obligatory maternity leave is up to 18 weeks according to Section 6 of the Act on entitlement to leave and benefits in the event of childbirth.

5.3.2 Obligatory maternity leave

A woman is entitled to a leave of absence from work due to pregnancy from the beginning of the four-week period preceding the expected date of confinement.

A woman in continued employment is entitled to a leave of absence prior to the four-week period if it appears from a medical assessment that the pregnancy is taking an abnormal course involving a risk to the woman's health or the health of the foetus. This also applies if the special nature of the work involves a risk to the foetus or if the pregnancy prevents the mother from carrying out her work due to public authority requirements and the employer is unable to offer the mother any suitable alternative employment.

Collective agreements also contain leave rights for parents including maternity leave.

5.3.3 Legal protection of employment rights (Article 5, 6 and 7 of Directive 92/85)

Section 1 of the Act on Equal Treatment of Men and Woman as regards employment etc. prohibits any discrimination, direct or indirect, against a worker due to pregnancy, childbirth, breastfeeding, motherhood or illness related to pregnancy or childbirth. The burden of proof is reversed in such cases.

5.3.4 Legal protection of rights ensuing from the employment contract

The Maternity, Paternity and Parental Leave and Benefit Act (Parental Leave Act), Section 1, is a mandatory rule stating that the purpose of the act is to ensure that parents are entitled to a leave of absence for pregnancy, childbirth and adoption, and to ensure that parents have the employment right to maternity pay during leave for pregnancy, childbirth and adoption, etc.

5.3.5 Level of pay or allowance

The level of pay or allowance is the same level as sick-leave benefits. Some collective agreements provide for the full salary to be paid during all or part of the leave. Other agreements have a cap on the salary.

5.3.6 Additional statutory maternity benefits

Some collective agreements provide for the full salary to be paid during all or part of the leave. Other collective agreements have a cap on the salary. Several collective agreements provide a portion of the parental leave to the father together with the salary. Due to the

collective agreement between the State and the Unions, the mother has the right to claim her full salary during the maternity leave of six weeks before the expected date of confinement and 14 weeks after birth. Fathers are entitled to two weeks of paid paternity leave.

5.3.7 Conditions for eligibility (Article 11(4) of Directive 92/85)

According to the Act on entitlement to leave and benefits in the event of childbirth, Section 3, the right to maternity benefit depends upon the mother's legal residence in Denmark.

5.3.8 Right to return to the same or an equivalent job (Article 15 of Directive 2006/54)

According to Section 8a of the Act on Equal Treatment as regards access to Employment mothers who have exercised the right to a leave of absence according to the Act on entitlement to leave and benefit in the event of childbirth have the right to return to the same or an equivalent job. In addition, the mother has a right to benefit from any improvements in working conditions to which they would have been entitled had they not been absent.

5.3.9 Legal right to share maternity leave.

There are no legal rights to share maternity leave.

5.3.10 Case law

The Equality Board considered a case in which a female florist was dismissed shortly after returning to her job after having taken maternity and parental leave.²⁶ During the complainant's leave, the business had recruited another florist who had essentially taken over the duties the woman had undertaken prior to her leave. The Equality Board considered that the woman had proven facts suggesting that there had been discrimination on the grounds of sex. The business had not proved that the principle of equal treatment had not been violated.

The woman received compensation of EUR 26 800 (DKK 200 000).

5.4 Adoption leave

5.4.1 Existence of adoption leave in national law

The Act on entitlement to leave and benefits in the event of childbirth also contains a provision regarding leave in the event of adoption. Section 8 of the Maternity, Paternity and Parental Leave and Benefit Act (Parental Leave Act), regulates the right to leave of absence for adoptive parents.

Prospective adoptive parents who reside abroad in order to adopt a child each have a right to be absent from work for up to four weeks before receiving the child. The child is received by the parents when the formal conditions to return home with the child are met. Prospective adoptive parents, who are adopting a child in Denmark, are entitled to leave for up to one week prior to receiving the child, if the child is not already residing in the adopter's home. In the first 14 weeks after receiving the child, one of the adopting parents at a time is entitled to leave. There is a right to a simultaneous absence for the parents for two consecutive weeks. The right to be absent under parental leave, according to Section 8(7), can start in the first 14 weeks after receiving the child. Section 8(7) provides that, after the 14th week after receiving the child, adopters have the right to a leave of absence from work during parental leave according to Sections 9 and 10 (i.e. the normal

²⁶ Danish Equality Board, case J 18-3188 <https://www.retsinformation.dk/Forms/R0710.aspx?id=202970>.

rules on parental leave). Thus, adopting gives the same rights as in the maternity situations described above, except regarding the adoption of children from Denmark, in which case the pre-leave is only one week, according to Section 8(3).

5.4.2 Protection against dismissal (Article 16 of Directive 2006/54)

Parents who adopt are under the same protection with regard to dismissal as are other parents.

5.4.3 Case law

There is no relevant case law.

5.5 Parental leave

5.5.1 Implementation of Directive 2010/18

Directive 2010/18 was implemented into Danish legislation by an amendment to the Act on Equal Treatment between Men and Women regarding employment etc. in 2013. The amendment introduced a right for parents to request flexible working arrangements when returning after parental leave. The amendment also specified that the protection of parents with regard to pregnancy and parental leave applies not only to dismissals, but also to less favourable treatment. The duration of parental leave was not revised when implementing Directive 2010/18.

5.5.2 Applicability to public and private sectors (Clause 1 of Directive 2010/18)

The Act on Equal Treatment between Men and Women regarding employment etc. applies to both the public and private sectors.

5.5.3 Scope of the transposing legislation

The right to absence from work stipulated in Section 2 of the Parental Leave Act applies to all parents.

The right to parental leave benefit applies to employees who fulfil the required employment requirements of having been employed for at least 160 hours within the past 4 months before the leave of absence (see Section 27 of the Parental Leave Act).

According to Section 28 of the Parental Leave Act, self-employed people are eligible to parental leave benefit if they comply with the required employment requirements for self-employed people to have carried out business at least half a normal working week for at least six months, of which the last month's work must be prior to the leave of absence.

5.5.4 Length of parental leave

Each of the parents has a right to parental leave of 32 weeks. However, the parents will only be compensated with a benefit for 32 weeks in total. The duration of parental leave was not revised following Directive 2010/18. There is no difference in the duration of parental leave in the public sector and the private sector.

5.5.5 Age limits

Parental leave is granted to take care of a child up to nine years old.

5.5.6 Individual nature of the right to parental leave

The right to leave of absence for parents is individual in the sense that each of the parents has a right to leave. However, the parental leave benefit is the only social security benefit that is not individual, but rather is confined to the parents.

5.5.7 Transferability of the right to parental leave.

Under the current Danish Act on entitlement to leave and benefits in the event of childbirth, the parents can agree to share the parental leave benefit between them, as they please.

5.5.8 Form of parental leave

Parental leave can take the form of either full-time or part-time leave. Under Section 11 of the Act on entitlement to leave and benefits in the event of childbirth, employed workers have the right to resume work and defer at least 8 weeks and a maximum of 13 weeks of leave of absence. The right to postpone a leave of absence can only be used by one of the parents. The deferred absence must, when exercised, be used in a continuous period.

5.5.9 Work and/or length of service requirements (Clause 3(b) of Directive 2010/18)

Under Section 2 of the Parental Leave Act, the right to leave of absence applies to all parents with no qualifying period. The right to benefit applies with a qualifying period. The parent claiming the benefit must have fulfilled a qualifying period in accordance with Section 27 (employees) or Section 28 (self-employed people) of the act.

Section 27 of the Parental Leave Act stipulates the employment requirements for employees and states that an employee is entitled to maternity benefits from Payment Denmark (*Udbetaling Danmark*; the Danish authority which pays the benefit), where the employee:

- 1) has participated in the labour market continuously for the last 13 weeks before the period of absence begins and during this period has been employed for at least 120 hours;
- 2) would have been entitled to unemployment benefit or another benefit instead under the Unemployment Insurance Act, if he or she had not been entitled to benefits under this act;
- 3) within the past month has completed vocational training for at least 18 months;
- 4) is in work training in a programme that is regulated by or under the act; or
- 5) is employed in a flexible job according to Section 70(c) of the Active Employment Act.

The calculation of the above 13-week period includes periods that the employee:

- has worked as an employee;
- has worked as a self-employed person immediately prior to working as an employee and the company has met the employment requirement according to Section 28;
- is receiving benefits under the Sickness Benefits Act or benefits under this act;
- has received unemployment benefit or an allowance in lieu thereof;
- is on annual leave with pay or holiday pay;
- has received compensation during a period of notice from the Employees Guarantee Fund; or
- is the subject of a labour dispute.

For self-employed persons, Section 28 of the Parental Leave Act grants the right to maternity benefits, subject to the condition that, within the last 12 months, the person has been self-employed for at least half the normal contractual working week for at least

six months, which includes the last month immediately prior to the absence. The condition for the payment of maternity benefits is that the employment requirements in Section 27 or Section 28 have been met at the start of a period of absence.

5.5.10 Notice period

Under Section 16 of the Parental Leave Act there is a notice period of 16 weeks.

5.5.11 Postponement of parental leave (Clause 3(c) of Directive 2010/18)

In accordance with the Parental Leave Act, it is possible to extend the parental leave with some degree of public benefits.

Parents who are employees and who are entitled to parental leave under the act may postpone 8 to 13 weeks of the 32-week parental leave.

Only one parent may postpone parental leave and the postponed leave must be kept together and be taken before the child is nine years of age.

5.5.12 Special arrangements for small firms (Clause 3(d) of Directive 2010/18)

There are no special arrangements for small firms.

5.5.13 Special rules and exceptional conditions for parents of children with a disability or long-term illness (Clause 3(3) of Directive 2010/18)

According to Section 26 of the Act on leave and benefits in the event of childbirth, parents with severely ill children under the age of 18 are entitled to unemployment benefit if, in connection with the child's illness, they completely or partly abandon wage work or personal work in self-employment.

Section 42 of the Social Services Act provides parents with a right to leave and a right to compensation for loss of income if they look after their mentally impaired child at home. This provision also applies to parents who care for a child who suffers from long-term illness.

5.5.14 Measures addressing the specific needs of adoptive parents (Clause 4 of Directive 2010/18)

Prospective adoptive parents who reside abroad in order to adopt a child each have a right to be absent from work for up to four weeks before receiving the child. The child is received by the parents when the formal conditions to return home with the child are met. Prospective adoptive parents, who are adopting a child in Denmark, are entitled to leave for up to one week prior to receiving the child, if the child is not already residing in the adopter's home. In the first 14 weeks after receiving the child, one of the adopting parents at a time is entitled to leave. There is a right for the parents to take simultaneous leave for two consecutive weeks. The right to be absent under parental leave, according to Section 8(7), can start in the first 14 weeks after receiving the child. Section 8(7) provides that, after the 14th week after receiving the child, adopters have the right to a leave of absence from work during parental leave according to Sections 9 and 10 (i.e. the normal rules on parental leave). Thus, adopting gives the same rights as in the maternity situations described above, except regarding the adoption of children from Denmark, in which case the pre-leave is only one week, according to Section 8(3).

5.5.15 Provisions protecting workers against less favourable treatment or dismissal (Clause 5(4) of Directive 2010/18)

The statutory provisions on discrimination related to pregnancy and maternity, maternity leave, paternity leave, parental leave and adoption leave are to be found in the Act on Equal Treatment of Men and Women as regards access to employment etc., Section 9, which contains a prohibition on discrimination on grounds related to pregnancy and maternity, maternity leave, paternity leave, parental leave and adoption leave, and in the Maternity, Paternity and Parental Leave and Benefit Act, which entered into force on 3 July 2006.

5.5.16 Right to return to the same or an equivalent job (Clause 5(1) of Directive 2010/18)

According to Section 8a of the Act of Equal Treatment of Men and Women as regards access to employment etc., parents who have exercised the right to a leave of absence (under the Act of entitlement to leave and benefits in the event of childbirth, Sections 6-14) have the right to return to the same or equivalent job, which is no less favourable to them, and to benefit from any improvements in working conditions.

5.5.17 Maintenance of rights acquired or in the process of being acquired by the worker (Clause 5(2) of Directive 2010/18)

All rights acquired or in the process of being acquired by the worker on the date on which parental leave starts are maintained as they stand until the end of the parental leave (Section 8, Act of Equal Treatment of Men and Women as regards access to employment etc.).

5.5.18 Status of the employment contract or relationship during parental leave

The status of the employment contract/relations during parental leave is not defined in the legislation. However, the contract is not terminated due to parental leave but is rather suspended during the time of absence.

5.5.19 Continuity of entitlement to social security benefits

Parents on parental leave continue to be entitled to social security benefits.

5.5.20 Remuneration

The weekly allowance is approximately EUR 550 (DKK 4 100) for 32 weeks in total. However, some collective agreements provide a right to the full salary during part or all of the parental leave.

5.5.21 Social security allowance

Parents are entitled to parental leave benefit for 32 weeks in total. The allowance is maximum EUR 448 (DKK 3 332) per week, according to section 35 of the Parental Leave Act.

5.5.22 More favourable provisions (Clause 8 of Directive 2010/18)

National law does not introduce any more favourable provisions but only implements the requirements of Directive 2010/18.

5.5.23 Case law

There is no case law.

5.6 Paternity leave

5.6.1 Existence of paternity leave in national law

Paternity leave is covered by the Maternity, Paternity and Parental Leave and Benefit Act, Section 7(3).

A father or co-mother has the right to leave for two weeks after the delivery or the receipt of a child in the home or, with the agreement of the employer, within the first 14 weeks after the birth.

5.6.2 Protection against unfavourable treatment and/or dismissal (Article 16 of Directive 2006/54)

The same rights for protection against unfavourable treatment apply to paternity leave as to maternity leave (see above) as the act applies to all parents.

5.6.3 Case law

There is no case law on the subject.

5.7 Time off/care leave

5.7.1 Existence of care leave in national law (Clause 7 of Directive 2010/18)

Workers are entitled to time off from work on grounds of force majeure for urgent family issues in case of sickness or accident according to the Act on employees right to leave for special family-related reasons. According to the Social Services Act, compensation can be awarded to employees who take leave of absence in order to care for a child with a severe illness or a handicap, or for a close relative with substantial and permanent physical or mental disorder or to care for relatives in a terminal condition.

5.7.2 Case law

There is no relevant case law.

5.8 Leave in relation to surrogacy

There is no leave in relation to surrogacy in Denmark. According to the Children Act, any agreement on surrogacy is rendered invalid. Parental leave is not available in relation to surrogacy, which might result in a very insecure legal position, in particular for a woman who tries to become the legal mother of a child carried by another woman. Under Section 31 of the Children Act, any agreement that a woman who gives birth to a child will surrender the baby to someone else after the birth is invalid. Under Section 33 of the Adoption Act, help must not be given or received in order to make a connection between a woman and another person who wants the woman to give birth to a child for the adoptive mother.

5.9 Flexible working time arrangements

5.9.1 Right to reduce or extend working time

According to Section 8a(2) of the Act on Equal Treatment of men and women as regards access to Employment Act, the employee has the right to ask the employer about changes in working hours and working patterns within a specified period after return from a leave of absence. The employee has no legal right to obtain modified working time

arrangements. However, the employer is obliged to consider a written application from the employee and to provide a written response.

According to Section 9 of the Act on Equal Treatment of men and women as regards access to Employment, the employer cannot expose the employee to 'less favourable treatment' if the employee has applied for a modified work schedule.

According to the Act on Parental Leave e, it is possible to extend parental leave. In total, 13 weeks of the 32 weeks of parental leave can be postponed.

Some collective agreements contain provisions on flexible working arrangements after the return from a leave of absence. As one such example is the agreement covering the financial sector, which allows parents with children under the age of 12 an agreement on reduced working hours. According to clause 80 of this collective agreement, employees are entitled to a reduction in working hours up to 30 hours per week. The specific conditions must be agreed on with the employer and the agreement applies for a period of 3 to 12 months. The employer can refuse to enter an agreement if the agreement is inconsistent with the operational conditions of the company. In such situations, the employer is obliged to discuss the refusal with trade union representatives and explore alternative options.

5.9.2 Right to adjust working time patterns

There is no individual right to adjusted working time. However, the employer and the employee can agree on adjusted working time. Working hours and patterns must appear in the employment contract and are thus a matter of agreement between the parties. The contractual freedom is however, limited by regulation and collective agreements.

5.9.3 Right to work from home or remotely

There is no right to work from home or remotely in Denmark. However, in some sectors, a right to work from home or remotely can be agreed between employer and employee.

In some parts of the public sector, employees are subject to restrictions on working from home, by law or by collective agreements (see Act on the extension and renewal of collective agreements and agreements for certain groups of employees in the public sector, No 409, 26 April 2013). Thus, both by law and by collective agreements, employees in specific parts of the public sector have been precluded from working from home. For primary school teachers the possibility of working from home was precluded by law, whereas for high school teachers the possibility of working from at home was precluded by a collective agreement.

5.9.4 Other legal rights to flexible working arrangements

There are no further rights on flexible working arrangements.

5.9.5 Case law

There is no case law on the right to flexible working arrangements.

5.10 Evaluation of implementation

National law implements EU law, but the stipulated rights do not extend beyond the level required by EU law.

5.11 Remaining issues

There are no remaining issues.

6 Occupational social security schemes (Chapter 2 of Directive 2006/54)

6.1 General (legal) context

6.1.1 Surveys and reports on the practical difficulties linked to occupational and/or statutory social security issues

There are no specific reports addressing difficulties linked to occupational and or statutory social security issues.

6.1.2 Other issues related to gender equality and social security

There are no other issues.

6.1.3 Political and societal debate and pending legislative proposals

There are no pending debates or proposals related to occupational and or social security issues.

6.2 Direct and indirect discrimination

The principle of equal treatment of men and women covers occupational pension schemes according to Consolidation Act No 950/2015 on Equal Treatment between Men and Women regarding insurance, pensions and similar matters. According to the act, direct as well as indirect discrimination is prohibited. In respect of occupational pensions, the act prohibits both the payment of different contributions as well as different benefits even in situations where the reason for different treatment is due to actuarial factors. However, this provision applies only to workers who joined the scheme after July 1999.

6.3 Personal scope

The Act on Equal Treatment between Men and Women regarding insurance, pensions and similar matters, covers workers, including self-employed persons, workers who are temporarily out of work due to illness, pregnancy and maternity, accident or involuntary unemployment, and persons seeking work, as well as retired and disabled workers and the beneficiaries of those workers. Thus the coverage complies with Directive 2006/54.

6.4 Material scope

The Act on Equal Treatment between Men and Women regarding insurance, pensions and similar matters covers all occupational security schemes including occupational injuries, sickness, invalidity, unemployment and age (see Section 4). The act also covers benefits in kind.

6.5 Exclusions

There are no exclusions.

6.6 Laws and case law falling under the examples of sex discrimination mentioned in Article 9 of Directive 2006/54

There is no specific case law.

6.7 Actuarial factors

In 1998, the Act on Equal Treatment between man and women in insurance, pension and similar matters was adopted. The act provides for unisex occupational pension schemes.

The main provision in the act prohibits provisions in occupational pensions schemes according to which men and women are treated differently on grounds of gender as regards the determination and calculation of contributions and benefits. Of special importance is that the act prohibits different contributions as well as different benefits, even in situations where the reason for difference in treatment is due to actuarial factors. However, the prohibition on treating contributors differently on grounds of gender-specific actuarial factors applies only to workers who joined the scheme after 1 July 1999.

In Denmark, most occupational pension schemes are defined-contribution schemes. During the past 25 years, a number of pension schemes have been established in connection with the renewal of collective agreements in 1989 and 1993. Most of the schemes use actuarial calculations that result in women receiving the same monthly benefit as men for whom identical contributions have been paid.

6.8 Difficulties

There are no specific difficulties

6.9 Evaluation of implementation

Implementation is satisfactory.

6.10 Remaining issues

There are no remaining issues.

7 Statutory schemes of social security (Directive 79/7)

7.1 General (legal) context

7.1.1 Surveys and reports on the practical difficulties linked to statutory schemes of social security (Directive 79/7)

There are no recent national surveys or reports linked to statutory schemes of social security.

7.1.2 Other relevant issues

No other relevant issues.

7.1.3 Overview of national acts

Act No 1678/2013 on Gender Equality

7.1.4 Political and societal debate and pending legislative proposals

There are no pending political or social debates or proposals regarding Directive 79/7.

7.2 Implementation of the principle of equal treatment for men and women in matters of social security

Denmark implemented Directive 79/7/EC by removing all direct discriminatory elements in the legislation. Most benefits were made gender neutral, however in specific situations the implementation resulted in a levelling down, for instance widows pension was abolished and was not replaced by a gender-neutral survivors pension. The principle of gender equality in matters of social security was first made visible in the Danish legislation by the adoption of the Equality Act in 2000. Before 2000, the principle of equal treatment of men and women with regard to social security was not evident in Danish legislation.

7.3 Personal scope

The Gender Equality Act covers persons lawfully residing in Denmark.

7.4 Material scope

According to Section 1a of the Gender Equality Act, the scope of the act is defined by listing the organisations (public authorities, organisations and persons within public administration) that are covered by the principle of non-discrimination. The Gender Equality Act does not explicitly specify particular benefits to be covered by the principle of non-discrimination, rather all public social security schemes are covered by the act.

7.5 Exclusions

There are no exclusions.

7.6 Actuarial factors

Sex is not used as an actuarial factor; the percentage of contributions and the level of benefits is the same for men and women.

7.7 Difficulties

There are no specific difficulties.

7.8 Evaluation of implementation

The implementation in national law is satisfactory.

7.9 Remaining issues

There are no remaining issues.

8 Self-employed workers (Directive 2010/41/EU and some relevant provisions of the Recast Directive)

8.1 General (legal) context

8.1.1 Surveys and reports on the specific difficulties of self-employed workers

There are no recent surveys or reports concerning the specific difficulties of self-employed workers.

8.1.2 Other issues

There are no further issues.

8.1.2 Overview of national acts

Consolidation Act No 645/2011 on Equal Treatment of Men and Women as regards access to employment etc.

Consolidation Act No 156/2019 on Equal Pay.

Consolidation Act No 1678/2013 on Gender Equality.

8.1.3 Political and societal debate and pending legislative proposals

There are no current political debates or pending legislative proposals.

8.2 Implementation of Directive 2010/41/EU

There is no specific act on self-employed persons in Denmark and nor is there a general definition of the concept of self-employment in the legislation.

Directive 2010/41/EU on self-employed people and helping spouses is implemented in Danish law by Section 5a of the Act on Equal Treatment of Men and Women as regards access to employment etc. (*Liegebehandlingsloven*) and the Gender Equality Act (*Ligestillingsloven*). These three acts complement each other. Most provisions on the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such a capacity, are found in the Act on Equal Treatment of Men and Woman in access to employment etc. However, there is no definition of self-employment in Danish law. Self-employed persons are covered.

8.3 Personal scope

8.3.1 Scope

In Denmark, gender equality in employment and self-employment is governed by the Equal Pay Act (*Ligelønsloven*), the Act on Equal Treatment of Men and Women as regards access to employment etc. (*Liegebehandlingsloven*) and the Gender Equality Act (*Ligestillingsloven*). These three acts complement each other. Most provisions on the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, or contributing to the pursuit of such a capacity, are found in the Act on Equal Treatment of Men and Woman in access to employment etc. However, there is no definition of self-employment in Danish law. Self-employed persons are covered.

8.3.2 Definitions

There is no general definition of self-employment in Danish law.

8.3.3 Categorisation and coverage

There are no differences in coverage between groups of self-employed people. All self-employed persons fall under the same category.

8.3.4 Recognition of life partners

There is no specific regulation defining life partners. In general, cohabitating persons are not treated the same as married persons.

The life partner of a self-employed person does not have the same right as a married person in respect of tax, due to the Act No 1403/2010 on Taxation at Source (*Kildeskatteloven*) and Act No 1163/2015 on Taxation on Personal Income (*Personskatteloven*).

A spouse can be jointly taxed with the self-employed person. This is not the case for the life partner of a self-employed person.

Thus, in general, life partners are not recognised as equal to spouses. On the other hand, the directive is not clear with regard to the obligations that must be implemented in national law.

Following a Supreme Court judgment,²⁷ there is a difference between the legal position of unmarried life partners and spouses, not only with regard to self-employed workers but also in general. This judgment did not concern self-employed workers but compensation with regard to taxation due to the cessation of cohabitation between life partners and stated that it is a legal right for the state to treat spouses and life partners differently.

8.4 Material scope

8.4.1 Implementation of Article 4 of Directive 2010/41/EU

Directive 2010/41 on self-employed persons and helping spouses was implemented in Denmark by the Act on Equal Treatment of Men and Women as regards access to Employment which extends the prohibition against sex discrimination by anyone who makes decisions on access to or conditions of work as a self-employed person or helping spouse (see Section 5 of the act).

8.4.2 Material scope

The material scope of Section 5 of the Act on Equal Treatment of Men and Women with regard to access to Employment etc. is the same as that of Article 4 of Directive 2010/41/EU.

8.5 Positive action

Denmark has not adopted positive action measures in this field.

8.6 Social protection

Under Section 41 of Consolidation Act No 68/2019, a self-employed person and their spouse are entitled to sickness benefit after the first two weeks of sickness from the municipality.

²⁷ Supreme Court, U2012, 1629 H, case No. 94/2010 of 01-02-2012.

In addition, self-employed people can take out an additional insurance covering the first two weeks of sickness.

The premium for sickness insurance is determined relative to the amount of guaranteed sick pay and the period covered. The total premiums must be fixed so that they are estimated to cover 55 % of expenditure of the guaranteed sick pay from the third day of absence, and 85 % of guaranteed sick pay from the first day of absence.

8.7 Maternity benefits

A specific Act on maternity for self-employed persons was put in effect in 2013. A voluntary maternity fund for self-employed persons was part of the regulation. However, the act was repealed in 2016, probably because very few self-employed people joined the fund.

Self-employed persons are eligible for maternity leave but there is no joint insurance fund compensation for the loss of income. Self-employed persons are eligible for maternity allowance under the Act on entitlement to leave and benefit in the event of childbirth.

8.8 Occupational social security

8.8.1 Implementation of provisions regarding occupational social security

Under Section 45 of the Sickness Benefits Act, Consolidation Act No. 938, 12 August 2015, a self-employed worker and spouse can choose to take out additional insurance covering the first two weeks of sickness.

8.8.2 Application of exceptions for self-employed persons regarding matters of occupational social security (Article 11 of Recast Directive 2006/54)

National law introduces no exceptions for self-employed persons regarding occupational social security matters.

8.9 Prohibition of discrimination

Section 5a of the Act on Equal Treatment of Men and Women as regards employment etc. prohibits discrimination (direct as well as indirect) on grounds on gender by anyone who makes decisions on access to or conditions of work as a self-employed person or a helping spouse.

8.10 Evaluation of implementation

The implementation is satisfactory.

8.11 Remaining issues

There are no remaining issues.

9 Goods and services (Directive 2004/113)²⁸

9.1 General (legal) context

9.1.1 Surveys and reports about the difficulties linked to equal access to and supply of goods and services

Danish Institute for Human Rights (2013), *Report on Women's Equal Access to Goods and Services*.²⁹ The report analyses legislation and case law in relation to the prohibition of discrimination in relation to goods and services. The report concludes that the application of the principle of non-discrimination in cases relating to services and goods differs from the application of the principle of non-discrimination in cases relating to the labour market. Cases from the Equality Board on services and goods are primarily men complaining of a direct discriminatory practice, whereas cases relating to discrimination in the labour market primarily concerns women who are complaining of an indirect discriminatory practice.

9.1.2 Specific problems of discrimination in the online environment/digital market/collaborative economy

Issues of discrimination concerning access to and supply of goods in the digital economy have not attracted any attention.

9.1.3 Political and societal debate

There are no specific political or societal debates pending.

9.2 Prohibition of direct and indirect discrimination

The Act on Equal Treatment of Men and Women in insurance, pensions and similar matters prohibits direct as well as indirect discrimination.

9.3 Material scope

The Act on Equal Treatment of Men and Women in insurance, pensions and similar matters covers insurance and similar financial matters (see Section 1).

9.4 Exceptions

Section 3a of the Gender Equality Act implements Article 4(5) of Directive 2004/113.

9.5 Justification of differences in treatment

Article 4(5) of Directive 2004/113 is copied in the national implementing measure under Section 3a of the Gender Equality Act.

9.6 Actuarial factors

According to Section 8 of the Act on Equal Treatment of Men and Women in insurance, pensions and similar matters, business-related insurance schemes must not contain provisions according to which discrimination based on sex is established in respect of the determination and calculation of contributions and benefits.

²⁸ See e.g. Caracciolo di Torella, E. and McLellan, B. (2018), *Gender equality and the collaborative economy*, European network of legal experts in gender equality and non-discrimination, available at <https://www.equalitylaw.eu/downloads/4573-gender-equality-and-the-collaborative-economy-pdf-721-kb>.

²⁹ https://menneskeret.dk/files/media/dokumenter/udgivelser/undersogelse_om_lige_adgang.pdf.

However, the act further states that for members admitted before 1 July 1999, in business-related insurance schemes, where benefits are calculated on a pre-determined basis, benefits may differ for men and women to the extent that the calculation is based on actuarial factors that are different for the two sexes. In these schemes, employers' contributions can be set differently for men and women, in so far as the levels of benefit for men and women are approximated. For members admitted before 1 July 1999 in business-linked insurance schemes, where contributions are calculated based on pre-determined benefits, employers' contributions may differ for men and women to the extent that the calculation is based on actuarial factors that are different for the two sexes.

9.7 Interpretation of exception contained in Article 5(2) of Directive 2004/113

The Act on Equal Treatment of Men and Women in insurance, pensions and similar matters was amended in 2012 and 2014 to adopt the CJEU decision in the *Test-Achats* case.

Sections 5 and 18 of the Act on Equal Treatment between Men and Women in insurance, pensions and similar matters were adjusted after the C-236/09, *Test-Achats* case in 2012 (Act No. 1287, 19 December 2012) and in 2014 (Act No. 403, 28 April).

2012 amendment:

Section 18b of the act relates to the use of gender as a factor in calculating premiums and benefits for insurance and related financial services. In the previous version of the Danish act it was possible, under Section 18b(2-4), to use gender as a parameter in calculations. Following the CJEU's decision in *Test-Achats*, these provisions were deleted and the possibility was removed from Danish law in 2012.

2014 amendment:

In 2014, Section 5(2) of the act was repealed following the *Test-Achats* ruling. Before the amendment to the act, there was an opportunity to emphasise gender with regard to pension arrangements. Following legislative amendment, the entire area of insurance and pensions is now subject to a unisex principle.

9.8 Positive action measures (Article 6 of Directive 2004/113)

There are no positive action measures as understood by Article 6 of Directive 2004/113.

9.9 Specific problems related to pregnancy, maternity or parenthood

There are no specific problems to report.

9.10 Evaluation of implementation

The implementation of Directive 2004/113 in Danish legislation is satisfactory.

9.11 Remaining issues

There is nothing further to report.

10 Violence against women and domestic violence in relation to the Istanbul Convention

10.1 General (legal) context

10.1.1 Surveys and reports on issues of violence against women and domestic violence

The Ministry of Gender Equality, published an *Action Plan against Violence Against Women* in March 2019. The action plan focuses on violence against women in close relationships, paying particular attention to mental or psychological violence. Mental or psychological violence has specifically been criminalised. (Act No 329/2019 amending the Criminal Code) The action plans in addition contains a number of initiatives with the purpose of combating mental or psychological violence.³⁰

10.1.2 Overview of national acts on violence against women, domestic violence and issues related to the Istanbul Convention

In 2014, the Danish Criminal Code was amended so as to comply with the ratification of the Istanbul Convention. The preparatory works to the amendment act state that Danish legislation was already almost compliant with the Istanbul Convention. Section 94 of the Criminal Code was adjusted as to comply with the Convention. Under Section 94(4) the period in which a complaint can be presented has been prolonged with regard to notification. Thus, the limitation period will begin from the date the victim is 21, if the victim was under 18 when the crime was committed. Furthermore, forced marriage, forced abortion and forced sterilisation were added to the list of crimes covered by the Criminal Code.

10.1.3 National provisions on online violence and online harassment

The Government has taken initiatives to prevent sexual harassment in the digital realm, including through a package of initiatives against digital sexual harassment.

For example, the maximum penalty for sharing intimate photographs or videos of others without consent has been increased from six months to a term not exceeding three years under aggravating circumstances. The maximum fine for indecent exposure, such as unsolicited sharing of intimate photos of oneself, has been doubled.

10.1.4 Political and societal debate

In 2017, the Danish Government took action to launch a set of initiatives to combat digital sexual harassment. The initiatives include an increase in the maximum penalty for sharing intimate photographs or videos without consent, and better education of the police to increase the quality of investigations.³¹

10.2 Ratification of the Istanbul Convention

Act No. 168, 26 February 2014, amended the Criminal Code (*Lov om ændring af straffeloven (Gennemførelse af Europarådets konvention til forebyggelse og bekæmpelse af vold mod kvinder og vold i hjemmet)*). The act came into force on 1 July 2014.

Denmark has ratified the Istanbul Convention. It is stated in the preparatory works to the ratification act that almost the whole content of the convention was already covered by Danish law, so it was nearly in compliance with the obligations in the convention, and only

³⁰ <https://www.ft.dk/samling/20181/almdel/LIU/bilag/58/2025429/index.htm>.

³¹ http://www.justitsministeriet.dk/sites/default/files/media/Pressemeddelelser/pdf/digitale_sexkraenkelser_u_dspil.pdf.

a few new rules were needed (See the amended act to the Criminal Code, No. 168, 24 February 2014).³²

However, Denmark has not introduced stalking as a specific crime in the Criminal Code.

Section 94 of the Criminal Code was changed following Denmark's accession to the Istanbul Convention. In Section 94(4), the limitation period to present a complaint has been prolonged with regard to notification. Thus, the limitation period will start from the date the victim is 21, if the victim was under 18 or for children under 15 when the crime was committed. Furthermore, forced marriage, forced abortion, forced sterilisation were added to the list of crimes in the act.

³² Latest version of the Danish Criminal Code: Consolidation Act No. 873, 9 July 2015 as amended by Act No. 152, 18 February 2015.

11 Compliance and enforcement aspects (horizontal provisions of all directives)

11.1 General (legal) context

11.1.1 Surveys and reports about the particular difficulties related to obtaining legal redress'

There are no specific reports on particular difficulties related to obtaining legal redress.

11.1.2 Other issues related to the pursuit of a discrimination claim

Victims of discrimination can bring a case before the Equality Board as well as to the civil courts. As such, there is satisfactory access to addressing discrimination claims. There are no further issues related to the pursuit of a discrimination claim.

11.1.3 Political and societal debate and pending legislative proposals

There are no pending proposals or pending debates.

11.2 Victimisation

The provision on victimisation in the directives is repeated in the Danish implementation legislation. According to Section 14 of the Act on Equal Treatment between Men and Women as regards access to employment etc., victims of discrimination are entitled to compensation.

Dismissals contravening the principle of non-discrimination are rendered void unless it appears unreasonable to the employer to maintain or restore the employment relation (see Section 16 of the act).

11.3 Access to courts

11.3.1 Difficulties and barriers related to access to courts

Claims regarding gender discrimination are settled within the system set up for the settlement of industrial disputes, the ordinary civil courts of law and the Board of Equal Treatment. However, most cases are decided by the lower courts. These cases are not published.

Access to court in a civil law suit is as a general rule conditioned upon the claimant being directly affected by the administrative action or regulation that forms the basis of the legal action. Cases regarding allegations of discrimination in the labour market must be brought before the Labour Court. It is possible to apply for legal aid, either via an insurance policy or via the public legal aid. The public legal aid is subject to a means test.

11.3.2 Availability of legal aid

Public legal aid in Denmark can also be granted to cover civil cases. Application for aid in civil actions is decided by the civil directorate of the Ministry of Justice (*Civilstyrelsen*) and is granted in view of the expected outcome of the lawsuit.

In addition, insurance companies offer legal insurance coverage as part of the basic family insurance packages.

11.4 Horizontal effect of the applicable law

11.4.1 Horizontal effect of relevant gender equality law

The gender equality legislation applies to all authorities, organisations, private persons as well as public and private employers. Thus the gender legislation also applies between private parties.

11.4.2 Impact of horizontal direct effects of the charter after Bauer

It is not expected that the *Bauer* judgment will have any added impact.

11.5 Burden of proof

The provisions on shared burden of proof in the underlying directive are repeated in the Danish equality legislation. In addition, the Act on Equal Treatment of Men and Women in access to employment etc. provides for a reversed burden of proof in cases concerning dismissal during pregnancy, maternity, paternity and parental leave.

11.6 Remedies and sanctions

11.6.1 Types of remedies and sanctions

Under the Act on Equal Treatment of Men and Women in access to employment etc. the typical sanction for a breach of the duty not to discriminate on grounds of sex is compensation, which may cover both financial and non-financial loss.

In equal pay cases, the typical remedy is the payment of the difference in payment between the woman and the male comparator. Interest to compensate for the loss sustained can be awarded. The substantive right to equal pay or compensation for a breach of the ban on sex discrimination will usually be time-barred after five years. In principle, a fine can also be used as a sanction for companies violating the duty to perform yearly gender-segregated wage statistics.

The consequences (remedies and sanctions, civil and/or criminal) in a case of discriminatory harassment are the same as for other discrimination cases.

In case law, in employment cases, the typical remedy against the employer who is the defendant is monetary compensation. There is no remedy under discrimination law for a harasser/fellow worker who is not an addressee.

It is a breach of the duties under the employment contract to commit unlawful harassment. Depending on the specific circumstances, under employment law, the employer may have the right to take disciplinary measures, transfer the worker to other work or – in serious cases – to dismiss him/her.

11.6.2 Effectiveness, proportionality and dissuasiveness

The typical remedy for unjustified discrimination is compensation. In unjustified discrimination cases under the Act on Equality Between Men and Women regarding access to employment etc. (for instance an unjustified dismissal), compensation corresponds to the loss of salary for a certain number of months, typically nine months.

The level of compensation for unjustified discrimination under the Gender Equality Act is very low, typically EUR 3 347 (DKK 25 000). It is debatable whether the level of compensation serves as an effective remedy to prevent discrimination.

11.7 Equality body

The Equality Board (*Ligebehandlingsnævnet*) has the competence to decide on individual complaints. The board has horizontal competence: it has powers in relation to all discrimination grounds according to the specific equality acts governing the prohibition of discrimination. The competence of the Equality Board is defined in Consolidation Act No. 1230/2016. It is competent to decide on complaints about discrimination on the grounds of gender according to the Consolidation Act No. 1230/2016, Section 2(2-5).³³

The Equality Board is also competent to decide on complaints of discrimination in collective agreements. A full text of all decisions of the Equality Board are published in Danish on the board's website, although the board members are anonymised.³⁴ The Equality Board does not have the responsibility to produce reports and recommendations on sex equality issues.

The Equality Board has processed a large number of complaints regarding discrimination on the ground of gender. In 2017, the board processed 119 cases on gender.³⁵

The Danish Institute for Human Rights is the Danish national human rights institution. The institute monitors the general human rights situation in Denmark, including in relation to gender discrimination. In 2016, the Institute for Human Rights was given the mandate to bring cases before the Equality Board. The institute produces surveys and reports on specific discriminatory issues as well as on more generalised and broader areas of discrimination.

11.8 Social partners

The collective agreements covering large parts of the Danish labour market bind the parties subject to the agreements. Collective agreements are a very important source of law in Denmark. Gender equality legislation is subsidiary to the collective agreements, which provide for similar protection as prescribed by law. The social partners are thus very influential in respect of gender equality provisions in Denmark. Some collective agreements offer better protection in respect of flexible working conditions for parents than do the general provisions in the Act on entitlement to leave and benefit in the event of childbirth.

11.9 Other relevant bodies

The Danish Institute for Human Rights (menneskeret.dk) is the national human rights centre in Denmark. The Institute for Human Rights advises the Parliament, ministries and authorities on human rights issues in general, including equality issues. The institute also produce analyses and research on equality issues and carries out specific projects to promote equal treatment. It also provides advice to those who may have been a victim of discrimination.

11.10 Evaluation of implementation

Denmark has implemented the EU anti-discrimination directives satisfactorily in the areas covered by this report.

11.11 Remaining issues

In 2017, Statistics Denmark launched a gender site (www.dst.dk/equality) with a gender indicator system to improve data collection and analysis of gender equality data in

³³ <https://www.retsinformation.dk/Forms/R0710.aspx?id=179851>.

³⁴ www.ligebehandlingsnaevnet.dk.

³⁵ Yearly report of the Equality Board 2017.

Denmark. The gender site was launched in response to a recommendation made by the CEDAW Committee following a country review.

12 Overall assessment

As stated in this report, Denmark has implemented the EU gender equality directives in national law. In the opinion of the author of this report, the current status of the implementation is satisfactory and there are no gaps due to a lack or poor implementation of EU legislation.

The major issue regarding gender equality in Denmark is the gender segregation of the labour market, both vertically and horizontally. Women tend to work in the public sector and women are still significantly underrepresented in boards, top management posts and at professor level in universities. Unequal pay between men and women is one consequence of the segregated labour market. In addition, due to lower pensions, women are at higher risk of poverty in their old age than men.

Women also take on the largest role in caring for children and progress on this issue has been very slow. In Denmark, more women than men work part time. However, the unequal sharing of care-related activities offers only part of the explanation for this phenomenon.

The general situation for gender equality in Denmark is not specifically tied to non-compliance with EU legislation.

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