

Special Rapporteur on the right to adequate housing
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**QUESTIONNAIRE ON THE RIGHT TO ADEQUATE
HOUSING AS A COMPONENT OF THE RIGHT TO AN
ADEQUATE STANDARD OF LIVING AND ON THE
RIGHT TO NON-DISCRIMINATION**

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The Danish Institute for Human Rights (DIHR) – Denmark’s national human rights institution is a national human right institution in accordance with the UN Paris Principles and a National Equality Body in accordance with EU equal treatment directives.

DIHR published a thematic status report on the right to housing in Denmark in April 2015. The thematic report is a part of DIHR’s annual status report on the human rights situation in Denmark.

In the thematic report on the right to housing, DIHR examines the following four topics: Access to housing, Eviction of tenants, Homelessness and Criminalization of homelessness. This reply to the questionnaire from the Special Rapporteur on Adequate Housing, Ms. Leilani Farha, summarizes the main findings on homelessness and de facto criminalization of homelessness in the annual report with updated data from 2015.

The full thematic report on the right to housing is available in Danish at: http://menneskeret.dk/files/media/dokumenter/udgivelser/status/2014-15/delrapporter/retten_til_bolig.pdf.

A summary of the full annual report (compiled from 22 thematic reports) is available in English at: http://menneskeret.dk/files/media/dokumenter/udgivelser/status/2014-15/status_uk_2015.pdf. The summary of the thematic report on the right to housing is found on page 49-51 in the overall summary.

HOMELESSNESS IN DENMARK

There has been a steady increase in the number of homeless people in Denmark since the Danish National Centre for Social Research (SFI) in 2007 started monitoring homelessness in biannual surveys.¹ SFI counts the number of persons living in homelessness during a specific week and data shows an increase from 4,998 persons in 2009,² 5,290 persons in 2011, 5,820 persons in 2013 and 6,138 homeless persons in 2015. This is a total increase of 23 percent over the last six years. Calculating for changes in the population, 0.09 percent of the population were in a situation of homelessness in 2009 while it was 0.11 percent of the population in 2015. SFI has estimated that between 13,000-15,000 persons were affected by homelessness during 2013.

The data shows a significant increase in youth homelessness and an increase in the number of homeless “sleeping rough”. The number of homeless persons between 18 and 24 years of age has gone from 633 in 2009 to 1,172 in 2015 and the number of homeless “sleeping rough” has increased from 506 in 2009 to 606 in 2015.

Data from SFI surveys show that homelessness is closely linked to mental illness and problematic use of drugs and alcohol. In 2015, 65 percent of persons living in homelessness were reported to have a problematic use of drugs or alcohol and 49 percent to suffer from mental illness. 32 percent of homeless persons in Denmark suffer from both substance abuse and mental illness.

The Danish government launched a national action plan on homelessness for the period of 2008-2012.³ The aim was to reduce homelessness by introducing a “housing first”-strategy combined with individual social support interventions. While the evaluation of the strategy is overall positive, the national action plan has failed to reduce homelessness. There is no new national action plan to follow up on the 2008-2012 action plan. However, in the annual earmarked social reserve fund, funds have regularly been allocated to various initiatives aimed at preventing homelessness, youth homelessness etc.

¹ A short description of research methods is available in English at: http://www.sfi.dk/visning_projekter-4729.aspx?Action=1&NewsId=4551&PID=9507

² The first comparable data are from 2009.

³ See Lars Benjaminsen, Policy Review Up-date: Results from the Housing First based Danish Homelessness Strategy, available in English at: http://www.feantsaresearch.org/IMG/pdf/lb_review.pdf

The Danish National Audit Office (Rigsrevisionen) found in 2013 that the overall state response to homeless had been insufficient and criticised the response to homelessness by state authorities (ministries) as well as local authorities (municipalities). The Danish National Audit Office points to several insufficiencies in the response but a primary concern raised by both the evaluation of the national action plan and the National Auditing Office is an insufficient coverage of affordable social housing. The National Audit's report shows a significant decrease in the number of less expensive dwellings affordable to people with a low income.

Structural housing affordability problems is seen as a major cause for the increase in homelessness and the lack of affordable housing combined with lack of full coverage of high-intensive social support interventions are seen as barriers for upscaling the overall housing first-strategy.

On this basis, DIHR recommends that the government sets a specific target for the supply of affordable housing and implements the methods (housing first combined with individual social support) from the national action plan in all municipalities.

DE FACTO CRIMINALIZATION OF HOMELESSNESS IN DENMARK

The number of migrants mainly from Eastern European EU-countries and "third country-nationals" living in homelessness in Denmark has increased over the latest years. This situation has led to a heated public debate on the response to the presence of homeless migrants in Denmark and their need for shelter, health care services etc.

Several governments have had a very clear public policy towards homeless migrants: Denmark will not give migrants access to social services and the police should ensure public order and expel homeless migrants without legal residence. However, at the same time a special fund has for several years been allocated for civil society organizations to provide "emergency shelter" for homeless migrants during wintertime. In 2011, the Supreme Court, found the immigration authority's decisions to expel EU-citizens based on public order disturbances or isolated cases of intrusion on private land contrary to EU law.

Homelessness is not in itself a criminal offense in Denmark. However, living as homeless in public places may involve conduct that – under certain circumstances – could be considered a disturbance of public order. Activities such as "sleeping rough", eating, medicine intake and

socializing in public might be considered public disorder punishable by fine pursuant to the Administrative Act on Public Order. The Administrative Act on Public Order leaves much discretion to the police when determining if such acts shall be considered a criminal offense.

There is no available data on how, or to what extent, the Administrative Act on Public Order is applied to penalize conduct directly related to homelessness. Media reports and case law for instance shows that “sleeping rough” in parks and public squares in some cases are being prosecuted as disturbances of public order.

Homelessness is closely connected to poverty and begging. Begging is criminalized in the Danish Criminal Code when the police, prior to such conduct (begging) has issued an individual enforcement notice to refrain from begging. Data suggests an increase in the enforcement of the begging provision during the last decade.

While some uncertainties exist on the statistical data, numbers from the Danish Police journals indicate that non-Danish citizens are more often met with individual enforcement notices to refrain from begging and convicted for begging than Danish nationals. Non-Danish citizens account for 179 of 185 enforcement notices issued from 2008-2012 and for 45 of the 49 convictions for begging within the same period.

The Danish Police has a mandate to investigate criminal activities as well as carrying out general immigration control in Denmark. Therefore, special attention should be paid to ensure that the prosecution of homeless migrants for actions directly related to their homelessness is not pursued in order to provide a ground for later expulsion in cases where Danish nationals in a similar situation would not have been prosecuted.

In its status report, DIHR recommends that the Danish government decriminalizes begging and only prosecute such begging when the conduct itself constitute a violation of public order.

DIHR also recommends that the Danish police, in their registration of the use of the Administrative Act on Public Order distinguish cases directly related to homelessness - such as sleeping in public – from other public order cases to provide knowledge about de facto criminalization of homelessness in Denmark.

Finally, DIHR recommends that the Danish government develop a comprehensive policy for migrants living in homelessness based on human rights standards.

Yours sincerely,

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