



LATHAM &amp; WATKINS

In summer 2012, as part of the Poverty is Not a Crime campaign, Housing Rights Watch conducted a survey of national laws that penalise or criminalise the behaviour of people who are homeless. Legal experts prepared country reports that describe the nature of anti-social behaviour laws, as well as other regulations or ordinances that affect homeless people.

## Denmark

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### 1. Introduction

The Danish government has carried three national surveys on homelessness in recent years (2007, 2009 and 2011).<sup>1</sup> Each survey counted approximately 5,000 homeless people in Denmark, including rough sleepers, people in homeless shelters, and “hidden homeless” people without a housing solution staying temporarily with friends and family or awaiting release from hospitals, treatment centers or prisons. While the total number of homeless people has remained around 5,000, the latest survey shows an increase of young homeless people and those who spend nights with friends and family.<sup>2</sup> The survey further notes a wider spread of homeless people outside the capital in the suburban municipalities of Copenhagen and Aarhus municipality.

The following sections discuss Danish legislation particularly affecting homeless people and legislative efforts to reduce homelessness.

### 2. Criminal Offences

There are no criminal provisions in Denmark directly targeting homeless people. However, a few provisions in the Danish Criminal Code and other laws are more likely to affect homeless people by virtue of their situation than others.

One group of homeless people particularly vulnerable to police control and prosecution in Denmark are foreign homeless people. There are several accounts of foreign homeless people being subject to repeated ID controls and getting their belongings confiscated by the police on the basis that they were probably stolen.<sup>3</sup>

Furthermore, Danish legislation prevent public facilities and services that are run by the state or receive funding<sup>4</sup> by the state to help foreign homeless people that do not have right to receive

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<sup>1</sup> More information about these surveys is available at <http://www.sfi.dk>.

<sup>2</sup> See Summary of National Survey of Homelessness in Denmark 2011, available at [http://www.sfi.dk/search\\_results\\_-\\_view-7352.aspx?PID=18908&NewsID=3301](http://www.sfi.dk/search_results_-_view-7352.aspx?PID=18908&NewsID=3301).

<sup>3</sup> See

<http://www.udenfor.dk/uk/Menu/News/Foreign+homeless+feel+criminalized+and+persecuted+by+police>.

<sup>4</sup>

Danish social security payments. This effectively precludes foreign homeless people from gaining access to most shelters and day centers.<sup>5</sup>

More severely, foreign homeless people are also systematically deported. For example, several homeless Roma people have been deported from Denmark for camping in a public spaces.<sup>6</sup> Homeless EU citizens residing in another EU country enjoy a broader protection than other foreign homeless people by virtue of the Schengen Agreement.<sup>7</sup> Some of these deportations have therefore been successfully challenged because they conflicted with the freedom of movement under afforded to EU citizens under the Schengen Agreement. Nonetheless, several hundred EU citizens have been deported from Denmark since 2009 because they lacked the required subsistence of 350 DKK (approximately €50) per day to legitimately stay in Denmark.<sup>8</sup>

*Offences directly affecting homeless people*

### **Begging**

Begging after being informed by the police that it is illegal, or allowing a minor belonging to the same household to beg, may result in up to six months in prison under Section 197 of the Criminal Code.<sup>9</sup> Notably a warning from the police under this provision serves as proper notice for five years. The prohibition is regularly enforced. For example in May 2010 the news media reported that a 52 year old Rumanian man faced charges and deportation for begging in Århus.<sup>10</sup>

*Offences indirectly affecting the homeless*

### **Drinking**

Drinking in public or appearing intoxicated is not generally criminalized in Denmark. Local ordinances may however restrict public drinking and intoxication in certain areas and generally prohibit conduct that disturbs the peace. Section 138 of the Danish Criminal Code also specifically provides that an intoxicated person who intentionally or through gross negligence puts other people or property in danger may be fined or sentenced up to one year in prison.

## **3. Administrative Offences**

*Offences directly affecting homeless people*

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<sup>5</sup> The Danish Government's Policies on Homeless Migrants' Rights to Public Space and Public Facilities and Services for Homeless People: An Example of the Criminalisation of Homelessness in Copenhagen, Jeanett Schmidt, 2012, p. 4 available at [http://www.feantsa.org/files/freshstart/Communications/Homeless%20in%20Europe%20EN/PDF\\_2012/Homeless\\_in\\_Europe\\_Summer\\_2012.pdf](http://www.feantsa.org/files/freshstart/Communications/Homeless%20in%20Europe%20EN/PDF_2012/Homeless_in_Europe_Summer_2012.pdf).

<sup>6</sup> *Ibid.*

<sup>7</sup> EU citizens have the right to travel in the EU and to stay in Denmark between three to six months.

<sup>8</sup> *Supra* note 6, p.4.

<sup>9</sup> The Danish Criminal Code is available (in Danish only) at <https://www.retsinformation.dk/Forms/R0710.aspx?id=138671>.

<sup>10</sup> *See e.g.* [http://www.politi.dk/Oestjylland/da/lokalnyt/Nyheder/Betleri\\_210510.htm](http://www.politi.dk/Oestjylland/da/lokalnyt/Nyheder/Betleri_210510.htm).

*Offences indirectly affecting the homeless*

*Miscellaneous ordinances and decrees*

*Repression linked to offences*

### **Sanctions**

4. **Appeals procedure**
5. **National Case Law**
6. **International Case Law**
7. **Additional Information**

Like in many other countries legislative efforts in Denmark to help homeless people are integrated into general social services regulations. The Danish Social Services Act<sup>11</sup> and other regulations identify a range of means to deal with homelessness and related issues, including homeless hostels, intermediate supported housing, long-term supported housing, individual social support, social drop-in centers and substance abuse treatment.<sup>12</sup> However, Danish legislation does not provide a statutory right to housing and offer little help to people who cannot secure permanent housing through the open market. As provided in the Social Services Act:

#### Section 80

“The municipal council shall allocate temporary housing against payment if a single person or a family is homeless. Such payment shall not exceed the rental value of the accommodation allocated or the usual rent payable in the local area by a single person or a family of the size in question.”

#### Section 110

“The municipal council shall provide temporary accommodation in facilities for persons with special problems who have no home or who cannot stay in their own home, and who are in need of accommodation and activating support, care and subsequent assistance.”

As a result of these limited regulations local authorities have considerable leeway to interpret and choose different means and standards of intervention to help homeless people. Services

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<sup>11</sup> See Social Services Act available at [http://english.sm.dk/MinistryOfSocialWelfare/legislation/social\\_affairs/social\\_service\\_act/Sider/Start.aspx](http://english.sm.dk/MinistryOfSocialWelfare/legislation/social_affairs/social_service_act/Sider/Start.aspx).

<sup>12</sup> The Homelessness Strategy in Denmark, Kenneth Hansen, 2010, p 118, available at <http://eohw.horus.be/files/freshstart/European%20Journal%20of%20Homelessness/Volume%20Four/policy-review-1.pdf>.

for vulnerable groups like the homeless are almost entirely publicly funded with only limited contributions from non-governmental organizations.<sup>13</sup>

The bottom line is that all homeless people lawfully residing in Denmark have a right to at least temporary accommodation in shelters. The Ministry for Social Affairs and Integration expressed that their overall objective is to secure everyone, regardless of legal residence, access to temporary emergency shelters.<sup>14</sup>

Back in 2009 the Danish government presented a Homelessness Strategy for 2009-2012. This strategy set out four key objectives in the fight against homelessness:

Reducing the number of homeless people sleeping in the streets.

Offering better options than placement in a homeless hostel for young homeless people (below 25 years).

Reducing the average time spent in a homeless hostel to 3-4 months for people who are ready to move to a dwelling (with or without social support).

Arranging housing solutions for people prior to their release from prison or treatment centers.<sup>15</sup>

With the end of 2012 coming up, it is time to evaluate how successful this strategy has been.

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<sup>13</sup> *Ibid.*

<sup>14</sup> Presentation to the European Commission of Denmark's National Roma Inclusion Strategy, Ministry for Social Affairs and Integration, 2011 available at [http://ec.europa.eu/justice/discrimination/files/roma\\_denmark\\_strategy\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_denmark_strategy_en.pdf).

<sup>15</sup> *Supra* note 11.