

# An appeal to the Council of Europe Commissioner for Human Rights

Denmark

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We, the grassroots movement #enmillionstemmer - OneMillionVoices, are deeply disturbed by the Danish government's increasing hostility towards people with disabilities, and the resulting violation of human rights that persons with disabilities are subject to in Denmark.

We appeal to the Council of Europe Commissioner for Human Rights because our repeated protests, complaints and pleas to the higher authorities in Denmark, have not led to action of any kind. We appeal to you with the hope that our voices, the voices of Denmark's largest minority group, will be heard by the Council of Europe.

We appeal to the Council of Europe Commissioner for Human Rights, because of our belief that it is the duty of the Commissioner to foster the effective observance of human rights, and assist member states in the implementation of Council of Europe human rights standards, to promote education in and awareness of human rights in Council of Europe member states, to identify possible shortcomings in the law and practice concerning human rights, and to provide advice and information regarding the protection of human rights across the region. We are aware that the Commissioner's Office cannot act upon individual complaints, but it is our hope that the Commissioner will use their mandate to take wider initiatives on the basis of reliable information regarding human rights violations suffered by this minority group in Denmark.

In this appeal, we will describe the increasingly widespread political and societal acceptance of discrimination against people with disabilities in Denmark, the increasing societal inequality and exclusion of persons with disabilities as a result of this discrimination, the breach of basic human rights for persons with disabilities, as well as the complete lack of right to fair justice for persons with disabilities in Denmark.

#enmillionstemmer - OneMillionVoices, is a grassroots movement in Denmark, which represents persons with disabilities and mental vulnerability. The movement consists of over 31.000 members, and represents persons with disabilities across diagnoses, and our main objective is to fight for better conditions for persons with disabilities and their families, as well as to fight against the violation of human rights of this minority group, which is the largest minority group in Denmark.

### **1. Increasing societal inequality and exclusion from education and society:**

The increasing societal inequality and exclusion of persons with disabilities in Denmark, has now reached the point of being critical. To name only a few examples, at the current time 45% of all children with autism suffer from school refusal, 67% of adults with ADHD are unemployed, and every fourth adolescent with a disability does not have an education after primary school.

### **2. Lack of right to fair justice:**

In Denmark it is local municipalities, of which there are 98, which make decisions and rulings regarding which assistance and compensation persons with disabilities have access to. During the last 5 years, Danish municipalities have made incorrect rulings in approximately 50% of cases which were appealed.

Case samples have shown that there are just as many incorrect rulings in cases which were not appealed. Approximately half of the appealed decisions were overturned. It should not be a condition for legal certainty, that one has the opportunity, resources and knowledge to appeal. Danish legislation does not require that municipality discretion be tried by the National Council of Appeal or the Danish court system. It is therefore common practice that municipality discretion cannot be tried by the Danish legal system. It is worth mentioning that Denmark does not have an Administrative Court.

### **3. Arbitrary and capricious rulings of disability cases:**

When persons with disability and/or mental vulnerability apply for assistance through Danish municipalities, rulings for access to assistance or compensation are arbitrary and capricious. Regardless of a person with disability's documented needs for assistance and compensation, it is arbitrary and capricious which help will be given, or if help will be given at all. These differences vary from municipality to municipality, from caseworker to caseworker, and from family to family. At the present time, persons with disabilities and their families do not have the right to any kind of financial compensation when municipalities make an incorrect ruling. In practice this means that municipalities have an economic incentive to deny all applications for assistance or compensation, since municipalities save money during the time that it takes a person to appeal the municipality's decision, which can often take a year or longer.

It is becoming increasingly common that families must hire lawyers or private socialworkers, in order to get help from their local municipality. The massive resources that families use in fighting to get help for their loved ones, often results in relatives becoming ill from having to fight the system. Relatives lose their jobs, become ill with stress, their marriages often end in divorce, and some also develop PTSD or anxiety disorders. Needless to say, this contributes greatly to increasing societal inequality, where persons with disabilities and their relatives are at a major disadvantage, with regards to having a good quality of life on equal footing with the rest of Danish society.

### **4. Increasing threat to the right to family life:**

The Danish government is in the process of implementing a new law, the Children's law, which will make it easier for municipalities to make rulings of forced adoption, where children are removed permanently from their parents and subsequent adoption of these children. As it is, children with disabilities are grossly overrepresented, with regards to children who are removed from their parents. For example in 2017, children with autism made up 37% of the total number of children

who were removed from the home. Disability organisations and parents report that it is increasingly difficult to get assistance and compensation in the home for children with a disability, and that their applications to Danish municipalities are often incorrectly denied (as described in points 2 and 3). Lack of assistance and compensation in the home can often result in the child not being able to thrive in the home, and thereby resulting in the child being removed from the home by the municipality.

When approached with criticism regarding the Children's law, the Ministry of Social Affairs and the Elderly often cites results from an investigation carried out by the National Council of Appeal, which found that 99% of cases where children were removed from the home, were carried out correctly according to the law.

This claim has been criticized by disability organisations for being misleading, since the investigation in question only investigated the correctness of the legal rulings, but did not investigate:

- if the removal of the child from the home could have been avoided if municipalities had granted the necessary assistance and compensation in the home
- if other alternatives could have been used instead of removing the child from the home
- the quality of the municipalities work in providing assistance and compensation to the child and the family as a whole.

Data from the National Council of Appeal show that from 2016 to 2018, 229 decisions were appealed by parents, regarding forced removal of a child from the home. Parents won in 118 of these cases - in other words more than half - and the decision on forced removal of the child was overturned. Now in the current year 2021, it has emerged that a single municipality had made grievous and disturbing errors over the course of several years, in a total of 363 cases of forced intervention in families with vulnerable and disabled children.

#enmillionstemmer - OneMillionVoices hears regularly from parents who are afraid to ask their municipality for assistance and compensation for their disabled child, for fear of their child being removed permanently from their home. Much of this fear is based in families' past experiences, when parents have contacted their child's caseworker when applying for assistance or compensation for their disabled child, only to be met with implicit or explicit threats of forceful removal of the child from the home, by the caseworker or other municipality employees or managers.

##### **5. Increasing threat to the right to freedom of movement:**

Persons with disabilities are subjected to social isolation, loneliness, and lack of opportunity for inclusion in society, due to Danish municipalities' inability to provide them with the necessary and correct assistance and compensation.

As a consequence, persons with disabilities can be left in a situation where they are unable to leave their home, and thereby also are deprived of their right to participate in the workforce, to complete an education, and to participate in meaningful social relations and interactions with the rest of society. Danish legislation only provides assistance to leave one's place of residence for a total of up to 15 hours a month, equivalent to less than 30 minutes a day. To put this in perspective, prisoners in Danish prisons have the right to movement outside of the prison buildings and in the fresh air for 60 minutes a day (i.e. fresh air within the confinement of the prison grounds) - in other words, prisoners have access to fresh air twice as long as a person with a disability.

It is an exclusion criteria for the right to assistance to leave one's home, if a person with a disability needs assistance with using the toilet.

Furthermore, persons with disabilities right to freedom of movement is further threatened by the fact that municipalities will only provide assistance in the home at specific predefined times of day. What this means in practice, is that a person who needs help to use the toilet, will only receive assistance with using the toilet at predetermined specific times of the day.

Since assistance to leave one's residence does NOT include assistance in using the toilet outside of one's own home, this results in the person not having the right to assistance to leave their home. In other words, if a person with disability needs assistance with using the toilet, then they are not entitled to assistance to leave their home, and are thereby subjected to a life of social isolation and exclusion from society as a whole.

Although legislation allows a certain amount of flexibility with regards to these rules, it is common practice for municipalities not to use these options. #enmillionstemmer - OneMillionVoices hears regularly from persons with disabilities and their families, where the municipality has chosen not to use relevant legislation to grant help to leave the home, but instead has ruled against granting assistance and compensation, and then has attempted to coerce the person with a disability to be placed in a nursing home or an institution.

#### **6. Increasing threat to the right to private life:**

Persons with a disability are subjected to humiliating violations of their privacy due to distrust of their own information. In order to calculate how much or how little help a person with a disability needs, municipality caseworkers will show up (often unannounced) at the residence of the person in question, together with a consultant who is a stranger to the person in question. The caseworker and the consultant will proceed to monitor the person with a disability during intimate situations such as bathing and using the toilet, and they will use a stopwatch in order to calculate how much or how little help the person in question will be granted.

Monitoring can take place for anywhere from a couple of hours up to 14 days (potentially longer), where the person with a disability is monitored up to 24 hours a day and in all situations of their daily life, including bathing, using the toilet and sleeping.

This inhumane and degrading practice is currently becoming more and more common, with more and more municipalities adopting these invasive and inhumane methods.

#### **7. Increasing gross negligence resulting in death or harm of persons with disabilities who are institutionalized:**

There is a lack of proper monitoring of Danish institutions and residence homes for persons with disabilities. Newspapers, persons with disabilities and their families, have reported repeated cases of negligence regarding children, young people and adults with disabilities, living in institutions or residence homes, where neglect has resulted in bodily or psychological harm, and in some cases in death.

To name but a few examples of cases which have reached the public eye:

- Within the last two years, there have been three cases of girls and young women with disabilities being severely burned during bathing situations at the institutions or residence homes where they lived - two cases resulted in hospitalization for treatment of second degree burns, and the third case resulted in death.

- A young woman with a disability who lives in a residence home and had a broken ankle, did not receive medical treatment for over two months. When the woman's parents drove her from the residence home to the emergency room for treatment, the municipality attempted to revoke the parent's guardianship of their daughter.
- A man with a disability who lived in a residence home and who required to be checked on every 15 minutes, did not receive the necessary assistance, and was left alone without assistance for over four hours. He was found outside the residence home, and had died during this time period without assistance.

The following link gives access to several articles from Danish newspapers (in Danish), regarding the deplorable conditions persons with disabilities and their families are subjected to in Denmark.

The included articles are but a fraction of the total number of articles which have been published in Danish newspapers during the last 3 years.

**#enmillionstemmer - OneMillionVoices, article archive:**

<https://drive.google.com/drive/folders/1Z6Jnixgivb7YKA3MXIwmxlK2bUXBXtUA?usp=sharing>

### **8. Unwillingness by Danish Parliament to incorporate The UN Convention on the Rights of Persons with Disabilities into Danish law:**

In 2016, Denmark took the exam in human rights. In 2016, Denmark received 8 recommendations directly related to people with disabilities. By 2021, this number had almost doubled and had risen to 15.

On May 17th 2021, the Danish parliament voted on whether to incorporate the UN Convention on the Rights of Persons with Disabilities into Danish law.

This could clarify the rights of people with disabilities: the right to education, the right to participate in political and public life, the right to accessibility, the right to the protection of personal integrity. The right to basic human dignity.

However, on June 3rd a majority of the Danish parliament voted against incorporating the UN Convention on the Rights of Persons with Disabilities into Danish law.

The above points are but a few, which illustrate the Danish government's increasing hostility towards persons with disabilities, as well as the government's general accept of the widespread discrimination of person's with disabilities in Denmark, as well as a lack of respect for basic human rights.

In June 2020, the Ministry for Social Affairs and the Elderly initiated an evaluation of disability services in Denmark. However the Ministry has stated that the evaluation does not guarantee change, and that the evaluation does not include evaluating the lack of right to fair justice for persons with disabilities. We therefore fear that the evaluation in question will be yet another excuse for the Danish government to refrain from taking necessary steps to rectify the dire conditions for persons with disabilities and mental vulnerability.

In the autumn of 2020, #enmillionstemmer - OneMillionVoices collected almost 500 testimonies from persons with disabilities and their families. These testimonies illustrate what it is like to be a person with a disability in Denmark, or to have a family member with a disability.

The following are but a few examples of the collected testimonies:

**Danish municipalities systematically deny applications for assistance and compensation:**

*“Since our son’s case has been moved to the adult disability office, we have complained and appealed over 32 decisions made in our municipality. In the National Council of Appeal, we have won in 30 out of the 32 cases.”*  
 - Parents of a young man with physical and mental disabilities

**Persons with disabilities are deprived of the opportunity to decide for themselves where they want to live:**

*“When my severely disabled daughter turned 18, the municipality tried to send her to a residential home, despite her clear desire to continue living at our home. When the municipality did not succeed, they reduced her total vital assistance by 80%, WITHOUT justification.”*  
 - Parents of a daughter with multiple disabilities

**Families are scared to move from one municipality to another, for fear of losing assistance and compensation for a family member with a disability:**

*“When my wife and I decided to buy a house together, we did not dare to move out of the municipality for fear that our daughter would lose her place in the special education school - even though it would mean moving closer to her school.”*  
 - Stepfather to a girl with autism and ADD

**Families move to a new municipality in the hope of getting help:**

*“My daughter is struggling with PTSD, nightmares and flashbacks after the municipality announced that they would remove her from our home against her will. So we had to move to another municipality to avoid her being removed from our home. Now 3 ½ years later, all the meetings that I have with the municipality cause her great anxiety (and also anxiety in me).”*  
 - Mother to two children with autism

**Parents of children with disabilities are exposed to threats of parental competency examinations and threats of forceful removal of their children from the home:**

*“The municipality threatened to forcibly remove the oldest child from our home, if we did not sign papers that we would voluntarily agree to the oldest child being placed in a residence home. We had only contacted the municipality because we needed to apply for relief care and compensation for lost earnings.”*  
 - Parents to three children with autism

**Persons with disabilities are subjected to humiliating infringement of their basic human rights:**

*“The visitator (red. consultant or socialworker who decides if the person can be granted assistance) came unannounced and went into my home along with the homecare nurse. She went with me in the shower. Everything took place without an independent assessor, a family member or a support person. This took place without anyone having told me what was going to happen and without my consent. A stranger literally came in from the street and took a shower with me.”*

- Adult with 18 different diagnoses who is a wheelchair user

In the autumn of 2020 we collected over 53.000 signatures supporting a petition for a structural reform, regarding the administration of support services for people with disabilities in Denmark. On June 3rd 2021 the Danish Parliament voted against supporting the petition and the petition was consequently rejected.

Our repeated protests, complaints, pleas and testimonies to the higher authorities in Denmark, have not led to action of any kind. With this letter we appeal to the Council of Europe Commissioner for Human Rights, with the hope that our voices will be heard.

#enmillionstemmer - OneMillionVoices would welcome the opportunity to provide the Council of Europe Commissioner for Human Rights with more in-depth information regarding the current crisis for people with disabilities in Denmark. We would greatly appreciate any prospect of meeting with representatives of your organization in order to get your insights and suggestions on any possible further actions we could take to be effective advocates for the disabled and hopefully, to influence positive change. If this is possible, members of #enmillionstemmer - OneMillionVoices can be available at any time that's convenient for you.

Sincerely,

*Margit Jonsson, Monica Lylloff, Nina Refstrup, Peter Schlaeger, and Sara Newell*

**On behalf of #enmillionstemmer - OneMillionVoices  
Denmark  
August, 2021**