

Pro Bono Practices and Opportunities in Denmark¹

I. Introduction

Historically there has been a strong tradition of legal aid in Scandinavia, including in Denmark. Legal aid has primarily been focused on providing advice to citizens with limited financial means and is traditionally provided by licensed lawyers on a voluntary basis. Since 1827, Danish citizens have been able to obtain legal aid for lawsuits so long as the citizen has a good reason for taking the case to court and the citizen does not have the financial means to cover court costs (see below for details on income criteria). In addition to this form of state legal aid, in which lawyers are provided with stipends from the state to assist low-income individuals in legal matters, there also exists a private legal aid system, in which lawyers can volunteer to provide pro bono legal advice at legal aid clinics throughout the country. Private legal aid has also been available in Denmark for legal issues outside of the court system since 1885, when the first private legal aid office was opened in Copenhagen. This legal aid office, the Copenhagen Legal Aid Office (*Københavns retshjælp*), remains active and is now the largest legal aid office in Denmark.²

Although legal aid is to some extent perceived as a public responsibility, as legal clinics are staffed pro bono by practicing lawyers and/or law students on a voluntary basis, the primary barrier to legal aid is the availability of a sufficient number of volunteers. A study by the Danish Bar and Law Society indicated that, in 2011, only 18% of lawyers regularly engaged in pro bono work.³ Danish lawyers are not required to complete pro bono work either as a condition of their original license or as part of their continuing education requirements. In addition, lawyers seeking to offer pro bono legal services are free to choose to donate their time to NGOs or other private organizations rather than to public legal aid clinics. As a result, although in theory legal aid and pro bono legal work have historically been strongly supported by the Danish government and Danish society in general, the provision of pro bono legal services is not in practice as established or as widespread as in other jurisdictions, such as the United States.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	1. Describe the laws/rules that regulate the provision of legal services?	Legal services in Denmark must be provided in accordance with the Rules of the Danish Bar and Law Society (the “Rules”). ⁴ The Rules are promulgated by the Danish Bar and Law Society (<i>Advokatsamfundet</i>) and are approved by the Minister for Justice. The supervisory board of the Danish Bar and Law Society, called the General Council, is responsible for the supervision of lawyers and their authorized assistant attorneys (i.e. those who are in the process of carrying out practical legal work in furtherance of the provision of basic, verbal legal advice free of charge under

¹ This chapter was drafted with the support of Mark Raboso Ebbesen of ASE.

² Copenhagen Legal Aid (*Københavns retshjælp*), <https://www.copenhagenlegalaid.com/front-page> (last visited on May 1, 2019).

³ Danish Bar and Law Society, “Report on Legal Aid in Denmark” (2011).

⁴ See https://www.advokatsamfundet.dk/Service/English/Rules/~/_/media/Files/English/Advokatsamfundets_regler_2_eng - 081208_eng1.ashx (last visited on May 1, 2019).

		Section 323 of the Administration of Justice Act (<i>Retsplejeloven</i>)). ⁵
	2. Describe any licensure requirements governing the provision of legal services.	<p>According to the Danish Administration of Justice Act, Title VI, Part 12, Section 119, those wishing to practice law in Denmark must:</p> <ul style="list-style-type: none"> • be legally competent and not under guardianship pursuant to section 5 or section 7 of the Danish Legal Incapacity and Guardianship Act; • have not filed for suspension of payments and not be in bankruptcy; • hold a Danish Bachelor’s and Master’s degree in Law; • have carried out practical legal work for at least three years; and • have completed theoretical basic education and passed an examination “in matters of special importance to the profession of lawyer” as well as passed a practical exam in litigation.⁶ <p>If a person holds a Master’s degree in Law from one of the EU Member States or from another country with which the European Community has entered into an agreement that corresponds with a Danish Bachelor’s or Master’s degree in Law, the person can practice law in Denmark following a trial period during which the person demonstrates sufficient understanding of Danish procedural law and mastery of the Danish language. This requirement may be waived by the Minister for Justice in order to fulfil Denmark’s EU obligations.⁷</p> <p>Only those who have been admitted to practice law may use the title “<i>advokat</i>”.</p>
(b)	Pro Bono Practice and Culture	

⁵ <https://www.advokatsamfundet.dk/Service/English.aspx> (last visited on May 1, 2019).

⁶ Consolidated Act No. 1261 of 23 October 2007 (hereinafter the “Administration of Justice Act”), Title VI, Part 12, Section 119, as excerpted in the Rules, https://www.advokatsamfundet.dk/Service/English/Rules/~media/Files/English/Advokatsamfundets_regler_2_eng_-_081208_eng1.ashx (last visited on May 1, 2019).

⁷ The Administration of Justice Act, Title VI, Part 12, Section 135a, as excerpted in the Rules, https://www.advokatsamfundet.dk/Service/English/Rules/~media/Files/English/Advokatsamfundets_regler_2_eng_-_081208_eng1.ashx (last visited on May 1, 2019).

<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>Section 323 of the Administration of Justice Act (<i>Retsplejeloven</i>) states that every person has the right to basic, verbal legal advice free of charge. See II.d.(1) below for more information.</p> <p>In addition, if a person meets certain income eligibility criteria set forth in the Administration of Justice Act section 325, additional legal aid is available. See II.d.(1) below for more information. This type of free legal aid is distinct from the state legal aid system through which solicitors are paid by the state to represent low-income clients and relies on lawyers providing pro bono legal services on a voluntary basis through legal aid clinics.</p> <p>The Administration of Justice Act section 327 limits the provision of Step 2 and Step 3 legal aid (i.e. legal aid regarding actual filed claims) to those cases that have a fair chance of success. However, this criterion is waived for certain types of cases, such as those involving housing or employment. In addition, approximately 90% of Danish citizens hold private insurance that covers legal fees.⁸ If a person holds such insurance, Step 2 and Step 3 legal aid is only available if the insurance does not cover the case or to the extent that the costs exceed the insurance coverage.</p>
<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Lawyers in Denmark are not required to work a minimum number of pro bono hours—any pro bono work is done on a completely voluntary basis. Certain Danish law firms encourage their lawyers to engage in pro bono work or partner with organizations providing pro bono legal advice (see II.b.(5) below) but on the whole participation by Danish lawyers in pro bono legal aid is quite low. According to the most recent available statistics, from a 2011 study by the Danish Bar and Law Society, only 18% of lawyers engaged in legal aid regularly.⁹</p>
<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>Aspiring lawyers in Denmark are not required to complete a minimum number of pro bono hours. However, hours spent engaging in pro bono legal work can count toward an aspiring lawyer’s requirement to engage in practical legal work for three years.</p>

⁸ Id.

⁹ Danish Bar and Law Society, “Report on Legal Aid in Denmark” (2011). No more recent statistics are available.

<p>4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?</p>	<p>Rather than a specific area of law, the primary unmet legal need in Denmark is the availability of lawyers who are willing to volunteer pro bono in legal aid clinics. Due to reforms in the Danish court system that have resulted in courts being concentrated in the larger cities, law firms have now also concentrated in larger cities, leaving fewer lawyers available to participate in legal aid outside of urban areas in Denmark. In addition, lawyers have become more specialized, and fewer lawyers are comfortable advising on the broad range of legal issues encountered in legal aid offices.¹⁰</p>
<p>5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?</p>	<p>The main providers of pro bono legal services in Denmark are legal clinics (which operate with certain levels of public subsidy) and non-profit organizations.</p> <p>Danish law firms are also increasingly including pro bono work as part of their regular focus and are highlighting pro bono work on their websites. The Association of Danish Law Firms (<i>Danske Advokater</i>) has established a Code of Conduct (<i>advokatkodeks</i>), which includes five elements that law firms joining the code pledge to uphold. One of the elements is social responsibility, which encourages law firms to set goals for how they can contribute to the achievement of full access to legal assistance for all.¹¹ A number of large Danish law firms have joined the code, including Kromann Reumert, Bech-Bruun, Gorrissen Federspiel and Plesner. A full list of the Danish firms that have joined the code can be found online.¹²</p>
<p>(c) Obstacles to Provision of Pro Bono Legal Services</p>	
<p>1. Do lawyers require a license to provide pro bono legal services?</p>	<p>In Denmark, pro bono legal advice must be given by licensed lawyers or by law students or social work students closely supervised by a licensed lawyer. See II.a.(2) above on licensing requirements for lawyers in Denmark.</p>

¹⁰ Bettina Lemann Kristiansen, *Legal Aid in Denmark, in Outsourcing “Legal Aid in the Nordic Welfare States”* 99-124 (O. Halvorsen Rønning and O. Hammerslev eds., 2018). Available online at https://link.springer.com/chapter/10.1007/978-3-319-46684-2_5#citeas (last visited on May 1, 2019) (hereinafter “Lemann Kristiansen”).

¹¹ The Lawyers’ Code of Conduct (*advokatkodeks*), <http://advokatkodeks.dk/cases/socialt-ansvar/> (last visited on May 1, 2019).

¹² See <http://advokatkodeks.dk/advokater-med-kodeks/> (last visited on May 1, 2019).

<p>2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?</p>	<ul style="list-style-type: none"> • See II.a.(2) above for information on foreign lawyers’ ability to practice law in Denmark.
<p>3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?</p>	<p>In Denmark, lawyers are required to have professional indemnity legal insurance. These policies must cover “any liability which the person, in his capacity as a lawyer, may incur for property damage inflicted on a third party as a result of any form of negligent act or act of omission committed by the lawyer.”¹³</p> <p>Most legal aid offices in Denmark have their own liability insurance that covers the volunteer lawyers. In addition, a lawyer is covered by their own liability insurance as long as they are acting as a lawyer. That means that the lawyer’s individual liability insurance will cover any liability in connection with legal aid clinics, as long as the lawyer is acting under his or her title as an <i>advokat</i>.</p>
<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>We are not aware of any rules in Denmark that prohibit advertising of pro bono successes or soliciting new pro bono clients. Danish law firms that participate in pro bono work regularly advertise their pro bono work on their websites, often referring to such work as “corporate social responsibility” (see, for example, the website of the Danish law firm Kammeradvokaten, which advertises its collaboration with the Copenhagen Legal Aid as part of its CSR program).¹⁴</p>
<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>Lawyers do not receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked. In Denmark, continuing legal education can only be in the form of writing, teaching or participating in a formal course.¹⁵</p>
<p>(d) Sources of Pro Bono Opportunities and Key Contacts</p>	

¹³ Bye-Laws of the Danish Bar and Law Society, Bye-Law 61. Available at <https://www.advokatsamfundet.dk/Service/English/Rules/Bye-laws.aspx> (last visited on May 1, 2019).

¹⁴ Kammeradvokaten, CSR – Social Responsibility, <https://kammeradvokaten.dk/om-os/csr-social-ansvarlighed/kobenhavns-retshjaelp/> (last visited on May 1, 2019).

¹⁵ Order No. 1474 of 11 December 2007, “Order on ongoing mandatory continuing education for lawyers and assistant attorneys,” as excerpted in the Rules. Available at https://www.advokatsamfundet.dk/Service/English/Rules/~~/media/Files/English/Advokatsamfundets_regler_2_eng_-_081208_eng1.ashx (last visited on May 1, 2019).

<p>1. Describe any governmental sources of pro bono and/or other legal services in Denmark.</p>	<p>Section 323 of the Administration of Justice Act (<i>Retsplejeloven</i>) states that every person in Denmark has the right to basic, verbal legal advice free of charge. This is sometimes referred to as “Step 1 legal aid” and is akin to a “legal A&E department”.¹⁶</p> <p>Step 1 legal aid is limited to verbal advice and is focused on determining whether a person has a viable legal claim and, if so, what are the possibilities for pursuing the claim and what chances there are of receiving further legal aid if a claim is pursued.¹⁷ This basic form of legal aid is available to all citizens regardless of income and is available for all types of legal questions. Step 1 legal aid is provided by lawyers acting in a voluntary capacity through legal aid clinics (<i>advokatvagt</i>), of which there are more than 100 in Denmark.¹⁸</p> <p>Public subsidies, generally funded by the VAT charged on legal services, cover some of the office expenses of these legal aid clinics, although many clinics operate without permanent premises, either within the offices of the private law firms that support them or in public buildings like local libraries.</p> <p>Step 2 and Step 3 legal aid are provided by private legal aid offices (<i>retshjælpskontorer</i>) to individuals meeting certain income criteria (a total personal income of no more than DKK 329,000 for single persons, DKK 418,000 for married couples and an increase of DKK 57,000 for each child under the age of 18).¹⁹</p> <p>Lawyers are paid DKK 1,030 (approximately €137) for Step 2 legal aid and DKK 2,350 (approximately €313) for Step 3 legal aid. Clients are responsible for 25% of the bill and a public subsidy covers the remaining 75%.²⁰</p> <p>Step 2 legal aid covers extended verbal advice, drawing up documents such as letters, summonses</p>
---	---

¹⁶ Lemann Kristiansen.

¹⁷ Id.

¹⁸ The Danish Bar and Law Society (Advokatsamfundet), Public Legal aid and Lawyer’s Legal Aid, <https://www.advokatsamfundet.dk/Service/English/Legal-Aid/Public%20Legal%20Aid%20and%20Lawyers%20Legal%20Aid.aspx> (last visited on May 1, 2019).

¹⁹ The Danish Ministry of Justice (Justitsministeriet), Free Process (Fri Process), http://www.civilstyrelsen.dk/Fri_proces/fri_proces/okonomiske_betingelser.aspx (last visited on May 1, 2019).

²⁰ Lemann Kristiansen.

	<p>or subpoenas, the settlement of estates in divorces, and simple wills and prenuptial agreements.</p> <p>Step 3 legal aid covers disputes where a settlement or compromise is thought to be a possible outcome (i.e. mainly aimed at preventing lawsuits).</p> <p>Complaints involving administrative authorities are not eligible for legal aid, as such complaints are expected to be handled by the administrative authorities themselves.²¹</p> <p>The three-step legal aid system in Denmark is separate from any legal aid provided in the context of a court case, which is subsidized by the state and is available according to the same income criteria as Step 2 and Step 3 legal aid. In this case eligible citizens are provided with a lawyer free of charge by the government.</p>
<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Denmark.</p>	<p>The primary source of non-governmental pro bono legal advice in Denmark is private entities and non-profit organizations. These actors often give advice in specific fields of law, for example refugee rights, trade unions or tenant associations.</p> <p>These alternative sources of legal aid seldom have public funding and are therefore not subject to regulations related to the provision of legal aid, including income criteria. Some require subscription, membership or payment of fees, while others are free of charge.</p>
<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>Volunteering at legal aid clinics in Denmark is managed directly by each clinic.</p>

May 2019
Pro Bono Practices and Opportunities in Denmark

This memorandum was prepared by **Latham & Watkins LLP** for the **Pro Bono Institute**. This memorandum and the information it contains is not legal advice and does not create an attorney-client relationship. While great care was taken to provide current and accurate information, the Pro Bono Institute and Latham & Watkins LLP are not responsible for inaccuracies in the text.

²¹ Administrative Order on Legal Aid Offices 2014 (*Bekendtgørelse nr. 637 af 11/06/2014*).