Chapter 8

Migrants' Access to Social Protection in Denmark

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8.1 Overview of the Welfare System and Main Migration Features in Denmark

8.1.1 *Main Characteristics of the National Social Security System*

The Danish welfare state is together with its Nordic counterparts often presented as distinct. The model has traditionally been characterised as universalist, de-commodified, residence-based, non-contributory and relatively generous (Cornelissen 1997; Cox 2004; Nannestad 2004). Firstly, the Danish welfare state is described as universalist, promoting equality of status among its citizens. In such system, the needy is not distinguished from the non-needy. Welfare universalism benefits the middle class as much as the poor, as benefits are available to all citizens. Social policies are not targeted to low income groups as in the residual welfare state, nor they depend on labour market participation as in the insurance-based welfare state (Korpi and Palme 1998).

Secondly, according to Esping-Andersen's famous welfare worlds, a key feature of the model is the high degree of 'de-commodified' welfare rights (Esping-Andersen 1990). A de-commodified welfare state will thus grant social rights on the basis of citizenship rather than on the basis of market performance, i.e. attachment to the labour market. Thirdly, social rights are granted based on residence (Cornelissen 1997, 32). A person is entitled to welfare because s/he has legal residence, and not qua social contributions or citizenship. Fourthly, benefits have traditionally been tax-financed and not based on contributions. Yet, tax payment is not a

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Table 8.1 Socio-economic heterogeneity in the European Union (2015)

Member State	GDP per capita in PPS (EU-27 = 100)	Social protection expenditure (in % of GDP)	Social contributions (as % of total social protection receipts)
Belgium	118	29,1	60,3
Bulgaria	47	17,3	50,8
Czech Republic	87	18,6	71,6
Denmark	126	31,1	18,1
Germany	124	28	64,7
Estonia	75	16,2	79,4
Ireland	176	15,6	39,2
Greece	68	26,1	54,7
Spain	89	24,3	54,3
France	106	32	61,1
Italy	96	28,9	49,5
Cyprus	81	21,5	46,1
Latvia	64	14,6	58,1
Lithuania	74	14,8	72,8
Luxembourg	268	21,6	50,4
Hungary	68	19,9	63,6
Malta	92	17,3	39,8
Netherlands	128	28,4	62,3
Austria	127	29,4	62,5
Poland	68	18,7	62,7
Portugal	76	24,8	45,1
Romania	57	14,3	45,1
Slovenia	82	23,5	66,4
Slovakia	77	17,8	67,9
Finland	109	31,1	47,7
Sweden	123	28,7	47,2
United Kingdom	108	28,6	40,1

Source: Martinsen and Werner (2018), based on data compiled from the Eurostat database (data files `prc_ppp_ind`, `une_rt_a`, `spr_exp_sum` and `spr_rec_sumt`). Data for Poland in columns 2 and 3 are from 2014, due to unavailability of data for 2015

direct requirement to receive a specific social benefit. Finally, the Danish welfare model has also been characterised by relatively generous benefits and with extensive welfare services (Lindbom 2001).

These characteristics still apply to the Danish welfare state, when compared to its European counterparts. As Table 8.1 demonstrates, among the European Union (EU) Member States, Denmark has the highest share of non-contributory benefits and the second highest social protection expenditure as a percentage of the Gross Domestic Product (GDP), only surpassed by France (Martinsen and Werner 2018). However, it is also important to note that the model has undergone considerable change (Kvist and Greve 2011). During the 1990s, the Danish pension system developed collective and individual private schemes, which supplement the public pension. Also, wage payment during parental leave depends on which collective agreement one is covered by or the individual employer. In addition, some employers grant their employees private healthcare insurance. Thus, a more multi-tiered welfare state has developed in Denmark (Kvist and Greve 2011), where labour

market attachment has come to matter more for the degree and quality of welfare protection.

Due to its key characteristics, the Danish welfare state has sometimes been argued as 'unfit' for migration and EU rules on free movement, because entitlement to welfare does not depend on contribution (Martinsen 2005). Foreigners may thus access the welfare state without necessarily having contributed to it. Before Denmark became member of the European Community (EC), welfare benefits were subject to Danish nationality and guarded by a principle of territoriality. For example, the Danish public pension was granted to all Danish citizens who had resided at least one year in Denmark. As a result of Danish EC membership in 1973, the Danish citizenship clause was waived, but the one year residence rule was changed into a fractional pension rule where pension would be calculated on basis of years of residence in Denmark. A full pension came to require 40 years of residence (Rasmussen 2004).¹ Recently, new residence clauses have been adopted for minimum benefits, unemployment benefits and for family benefits, as will be presented below. Furthermore, a previous period of residence is required to receive study grants. Foreigners will have to have resided five years in Denmark to qualify for study grants. This applies both for EU and non-EU citizens, but is waived for EU workers and persons covered by EU Regulation 883/2004.² Danes living abroad will have to have resided two out of the last 10 ten years in Denmark to be entitled to study grants.

8.1.2 Migration History and Key Policy Developments

Over the past 15 years, Denmark has been the object of international attention and criticism due to its increasingly restrictive immigration policies limiting immigrants and refugees' access to the country and its social benefits. With refusals of accepting the United Nations (UN) quota refugees, controversial bills aimed at impounding the belongings of refugees, and trans-national advertisements signalling the country's cuts in the social benefits of refugees, Denmark's relationship with immigration became increasingly politically controversial. The 2011 national election marked a turn in the history of Danish immigration policy, as immigration occupied an unprecedented central topic on the political agenda and marked the beginning of a much more restrictive approach and negative politicisation of immigrants and refugees.

Until the latter half of the twentieth century, Denmark was a culturally homogeneous country witness to only small inflows of immigrants arriving mainly from other Scandinavian countries. However, with economic growth from the mid-1960s,

¹ See the amendment on the Danish law on social pension no. 257 and no. 258 of 7 June 1972.

² Regulation (EC) No 883/2004 of the European Parliament and the Council of 29 April 2004 on the coordination of social security systems.

the Danish industry's demands for foreign labour grew. This marked the beginning of Denmark's short history of non-European labour immigration. The arrival of the so-called 'guest workers' from countries such as Morocco, Turkey, Pakistan, and Yugoslavia gave rise to unparalleled and diversified inflows of migrants (Nielsen 2012). Although generally favoured by the employers, the guest workers were met with wider scepticism by trade unions such as the Danish Confederation of Trade Unions (LO) which feared that migration could lead to unemployment and cultural adaptation problems (Jønsson and Petersen 2012). The concerns of the trade unions became particularly articulated during the oil crisis and overall economic decline of the 1970s, which eventually led the Government and the social partners to decide on a total stop for labour immigration in 1973 (Martens and Stenild 2009). This decision also marked the end of the labour immigration phase in Denmark, which has since then primarily taken place within the context of the European Union and the inter-Nordic labour market (Jønsson and Petersen 2012). From now on, immigration from third countries became more associated with refugees.

Until the mid-1980s, the number of refugees in Denmark was limited, consisting mainly of refugees from Hungary, Uganda, Chile, and Vietnam (Ibid.). With the Aliens Act of 1983, the rights of refugees were improved as they were now allowed to stay in the country while their asylum applications were being handled. At the same time, the requirements and conditions for gaining residence and family reunification were simplified. Due to its relatively few requirements for obtaining the refugee status, the act became known for its liberal and humanitarian outlook (Mikkelsen 2008). In the immediate years after its entry into force, thousands of refugees fleeing from conflict and war in Iran, Iraq, and Palestine arrived in Denmark. This development continued in the 1990s, with refugees arriving from Somalia and the former republic of Yugoslavia.

Figure 8.1 shows the total numbers of immigrants from EU and non-EU countries in the period of 1980–2018. Since 1980, immigration from non-EU countries has exceeded immigration from the EU. In 1980, 67,756 EU and 66,949 non-EU immigrants stayed in Denmark. In 2018, the ratio was 207,899 EU immigrants to 383,779 non-EU immigrants. As observed in the figure, this development began around 1985 and has increased since. In 2018, immigrants in Denmark came primarily from Poland (40,601 persons), Syria (35,441 persons) and Turkey (32,924 persons).³

The increasing cultural heterogeneity of the population in Denmark, as well as immigration's impact on the social expenditures of the welfare state, became an important issue on the political agenda during the 1990s. The debates of the 1990s revolved mainly around immigrants on social welfare, their missing participation on the labour market as a consequence of the crisis in the 1970s and the vulnerabilities of refugees, and their potential non-integration into Danish society and the labour market (Jønsson 2018). The growing political concern led to several adjustments of the Aliens Act in the 1990s, which restricted family reunification and asylum

³ Statistics Denmark (2018) "Indvandrere i Danmark 2018".

Fig. 8.1 Total number of immigrants from EU and non-EU countries in Denmark (1980–2018) (Source: Statistics Denmark. Population 1st of January by sex, age, ancestry, country of origin and citizenship, 1980–2019. Found at www.statistikbanken.dk (accessed on 10 March 2019))

permits. The later adoption of the Integration Act of 1998, the first law on immigration in the country's history, saw further restrictions and cuts in the rights of refugees. The act proposed three ways to solve the issue of participation: a three-year introduction program of Danish language lessons, education, and employment to all refugees; a geographical distribution of refugee residences; and a special integration allowance with benefit set remarkably lower than social assistance. The latter became particularly controversial as special legislation for immigrants conflicted with the ideals of the universalist welfare model.

Since the Integration Act of 1998, the Danish immigration policy has been influenced by the growing political power of the Danish People's Party and their demands for a stricter course on immigration. This has led to several modifications of the Alien Act in terms of further limitations to gaining residence and asylum, family reunification, and equal treatment in relation to social benefits. In recent years, Denmark has made further cuts in social provisions offered to refugees and extended the periods of time necessary for achieving residence permits. The transformations from a liberal to a more restrictive immigration policy appears to have become the new norm in Danish politics as more and more parties such as the Social Democrats have adopted a restrictive stance to the question of immigration. In 2018, 20,909 Danes emigrated from Denmark. The main countries of destination for Danes emigrating in 2018 were Greenland (1941 persons), the United States (US, 1785 persons) and Sweden (1776 persons).⁴

⁴ Source Statistics Denmark: www.statistikbanken.dk/UDVAN (last accessed 15 April 2020).

8.2 Migration and Social Protection in Denmark

Immigrants with the right to reside in Denmark have access to the social protection schemes of the Danish welfare state, i.e. the various cash benefits provided; unemployment benefits, guaranteed minimum benefits and family benefits among other types of benefits, as well as benefits in kind offered by a large public service sector; long term care, healthcare, child care, education among other welfare services. The different eligibility conditions for selected benefits are detailed below.

8.2.1 *Unemployment*

Unemployment benefit in Denmark is a voluntary unemployment insurance scheme providing earnings-related benefits. The scheme is financed by contributions from employees and self-employed through membership payment and by the state through general taxes. There is no special unemployment assistance scheme in Denmark.

Entitlement to unemployment benefits depends on membership of and contributions to an unemployment insurance fund for at least one year. The amount paid can be up to 90% of the member's previous work income, with a maximum threshold. Unemployment benefits can be received for a maximum of two years within a three-year period. In order to qualify for unemployment benefits, the person must be registered as job seeker, be available to the employment services and be available for work. Furthermore, the person must actively seek employment and cooperate with the employment office to build up an individual action plan.

The Danish law on unemployment has recently changed in December 2018. The change of law inserted a residence criteria for all beneficiaries (Danes, EU citizens and non-EU nationals alike), stipulating that one has to have resided seven years out of the last 12 years in Denmark. In accordance with EU Regulation 883/2004, the personal scope of the regulation can use the principle of aggregation to fulfill the residence criteria. Residence periods spent in the EU/EEA are treated as periods spent in Denmark, but periods outside the EU/EEA does not count into the seven years residence requirement. Furthermore, the principle of aggregation can be used to fulfill the one-year requirement of unemployment insurance. This means that an EU citizen who has been insured against unemployment in another EU state for nine months, for example, will only need to pay contributions to a Danish social insurance fund for the remaining three months, before being entitled to unemployment benefits. Denmark, however, has a special clause in Regulation 883/2004, according to which one will have to have been member of a Danish unemployment insurance fund at least three months before being able to use the principle of aggregation. The principle of aggregation, nevertheless, implies that a migrant worker can have more immediate access to Danish unemployment benefits than the national worker who stayed within Denmark. However, figures show that very few have aggregated

periods from other Member States to open up Danish unemployment benefits. In 2017, only 41 EU or EEA citizens had used the principle of aggregation to be entitled to Danish unemployment benefits after fulfilling the three months residence clause (see the Minister of Employment's answer to parliamentary question no. S. 340, 12 December 2018). Furthermore, EU Regulation 883/2004 allows for exportability of unemployment benefits for up to three months. The EU law thus waives the Danish residence clause, but only for a limited number of months.

The principle of aggregation and the possibility to export unemployment benefits does not apply for non-EU foreigners. In terms of exportability, this implies that non-EU foreigners cannot bring their unemployment benefit with them for up to three months to look for employment outside Denmark. The bilateral social security agreements adopted with the first three non-EU countries of destination for Danes abroad do not cover unemployment benefits. When it comes to bilateral social security agreements with the first three main non-EU countries of origin of foreigners residing in Denmark, these set out that nationals of these countries will be treated equally with Danish citizens concerning unemployment benefits.

8.2.2 *Health Care*

Danish healthcare is provided by means of a national health service (NHS) system, which offers healthcare as benefits-in-kind, tax-financed, largely free of charge and publicly supplied. The system can be characterised as a decentralised, public, integrated healthcare system in which the responsibility for organising and delivering services is placed in the hands of the five Danish regions (Martinsen and Vrangbæk 2008). Primary care services are provided by private practitioners, i.e. general practitioners (GPs), but are publicly funded and firmly integrated into regional planning. General practitioners serve as important gatekeepers in the system, referring patients to specialised care and hospital care. Treatment is largely provided free of charge, but co-payments exist, primarily for medicine, dentistry and physiotherapy. All residents in Denmark are entitled to healthcare, irrespective of nationality. This means that nationals, EU citizens and non-EU foreigners have the same rights. The Danish healthcare system is organised by a principle of territoriality. Authorisation to healthcare treatment abroad is only seldom given (Martinsen and Mayoral Diaz-Asensio 2016). Danish citizens residing abroad are not entitled to Danish healthcare. If a Danish citizen residing abroad wants healthcare treatment in Denmark, s/he will have to pay the full costs and make the necessary arrangements with the public hospital him/herself.

All employees and self-employed, including helping spouses, are entitled to cash benefits in case of sickness. Sickness benefits can be received up to 22 weeks. The requirement is to be unable to work due to sickness. No later than four weeks after the beginning of the sickness leave, the employer shall call for a meeting to work out a plan for the return to work. A written declaration from the doctor stating the possibilities of working can be demanded. The general rule is that one has to reside

and pay taxes in Denmark to be entitled to cash sickness benefits. However, a person may, in particular circumstances, leave the country without losing the sickness benefit. That is if a stay abroad has been medically advised or similar situations. EU Regulation 883/2004 allows EU citizens to take their sickness benefits with them to another EU country. Bilateral agreements with non-EU countries may also stipulate this right. However, if staying abroad while on cash sickness benefits, the person will have to meet the same requirements as if staying in Denmark, show up at the meeting called by the employer to design a recovery plan and hand in a written declaration from the doctor, if demanded.

Invalidity benefit is a social pension in Denmark. The invalidity benefit is calculated according to the years of residence in Denmark, in the same way as the public pension. To be granted a full pension, one has to have resided 40 years in total. If one has resided less, a share pension is paid, for example 3/40, 7/40, 13/40 and so on. To open up pension rights, Danes and EU citizens will have to have resided at least three years in Denmark. If covered by EU Regulation 883/2004, EU citizens can use the principle of aggregation and qualify after one year of residence. Non-EU foreigners will have to have resided at least 10 years in Denmark, five years immediately before the pension is payable. This benefit can be exported, also permanently.

The bilateral social security agreements adopted with the first three non-EU countries of destination for Danes abroad do not cover healthcare. When it comes to bilateral social security agreements with the first three main non-EU countries of origin of foreigners residing in Denmark, these state that nationals of these countries will be treated equally with Danish citizens concerning healthcare.

8.2.3 Pensions

Denmark has a multi-tiered pension system (Kvist and Greve 2011). The public pension (*folkepension*) is the basic, flat-rate, universal pension who all residents or those who have earned pension rights by means of previous residence are entitled to. This pension is not means tested. As noted above, before Danish EC membership in 1973, this pension was granted on the basis of Danish nationality. The EC *acquis* made it necessary to change this and instead, the Danish Government managed to negotiate a 40 years residence clause to be entitled to full public pension. This means that, as with invalidity benefits (*førtidspension*) described above, one has to have resided 40 years in total to be granted a full pension. If one has resided less, a share pension is paid, for example 3/40, 7/40, 13/40, etc. To open up pension rights, Danes and EU citizens will have to have resided at least three years in Denmark. If covered by EU Regulation 883/2004, EU citizens can use the principle of aggregation and qualify after one year of residence. Non-EU foreigners will have to have resided at least 10 years in Denmark, five years immediately before the pension is payable. The old-age pension can be exported to other countries.

Denmark also has a compulsory social insurance scheme on defined-contributions covering employees and recipients of social security, i.e. the ATP scheme. All employed persons as well as residents on social transfer will pay into the ATP scheme. For employed persons, the monthly contribution is paid by the employed and the employer. For residents on social transfer, the contribution is deducted from the monthly allowance. However, this ATP scheme is a rather minor additional pension in comparison with the public pension (*folkepension*).

In addition to these public pensions, many employees have labour market pensions agreed between the social partners and regulated by collective agreements. Furthermore, individuals set up private pension savings schemes with their bank or a pension fund. Thus, the pension replacement rates in Denmark differ considerably between individuals.

The bilateral social security agreements with the first three non-EU destination countries for Danes abroad cover old-age pension. This pension is also covered by the bilateral social security agreements with the first three main non-EU countries of origin of foreigners residing in Denmark.

8.2.4 Family Benefits

Family benefits in Denmark cover parental and child benefits. Concerning parental benefits, this is a universal protection scheme for employees and self-employed with earnings-related benefits. Employees will have to have worked at least 13 weeks before parental leave to be entitled. Self-employed shall have been self-employed at least six months within the last 12 months to be entitled. Unemployed with unemployment insurance will be entitled to unemployment benefits. Non-insured unemployed will be entitled to social assistance during their leave. Parents get 52 weeks of paid parental leave in total. The general rule is that the mother has the right to four weeks of leave directly before the planned birth and then to a further 14 weeks of leave after birth. The father is entitled to take two weeks of leave during the first 14 weeks after the birth of the child. Then 32 weeks follow where the mother and father can freely share leave between them. They can choose to be on parental leave at the same time or in periods one after the other. While on parental leave, the beneficiary does not have to reside in Denmark.

Child benefits are a tax-financed universal scheme covering all residents. Benefits are granted depending on the age of the child and the income of the family. There are two types of family benefits; the universal child benefit and the child allowance (*børnetilskud*), which is means-tested and granted to residents with extra needs. All residents with at least six months of residency or employment in Denmark in the previous 10 years prior to each instalment are entitled to the universal child benefit. To be eligible for the child allowance, one has to be a national resident or a foreign resident with one-three years of prior residence in Denmark.

EU and non-EU nationals' access and exportability of the universal child benefit has been a quite salient topic in Danish politics and the public debate. When

negotiating the budget act in autumn 2010, the Danish Peoples Party (DPP) demanded that in order to support the Government's budget proposal, restrictions on EU citizens' right to child benefits should be adopted. The Government thus initiated a reform process, mandating the executive to find a solution between EU obligations and domestic politics. At first, DPP required a residence clause of 15 years (Tynell 2014, 215), but the Government noted that this would go against EU law. In the end, the Danish Parliament adopted a two years residence or work requirement in Denmark for residents to be entitled to full Danish child benefits. After half a year, one would be entitled to 25% of the full amount. After one year, to 50% of the full amount, whereas 1.5 years would grant 75% of the full amount. The restriction became effective from 1st of January 2012. However, for EU citizens, the residence clause did not continue for long. In July 2012, a German worker in Denmark complained about his unequal right to Danish child benefits and an EU pilot case was sent to the Commission. The Commission sent an opening letter to the Government, and as from 18th of June 2013, the Ministry of Taxation announced that Regulation 883/2004's principle of aggregation now would apply to EU citizens. This means that the periods where an EU citizen has earned rights to child benefits in another Member State is aggregated to the periods having worked or resided in Denmark. For non-EU nationals, the two years residence clause, however, still applies.

The bilateral social security agreements, which have been adopted with the first three non-EU countries of destination for Danes abroad do not cover family benefits. When it comes to bilateral social security agreements with the first three main non-EU countries of origin of foreigners residing in Denmark, these state that nationals of these countries will be treated equally with Danish citizens concerning family benefits.

8.2.5 *Guaranteed Minimum Resources*

Guaranteed minimum resources are tax-financed non-contributory benefits in Denmark. The benefit is divided into three types: social assistance (*kontanthjælp*), educational assistance (*uddannelseshjælp*) and integration allowance (*integrationssydelse*). Social assistance grants a higher amount, whereas educational assistance and integration allowance are lower amounts. The benefits are means tested and offered when a person is, due to particular circumstances (e.g. sickness, unemployment or the like), for a shorter or longer period without sufficient means to meet his/her requirements or those of his/her family. Personal circumstances are relatively frequently reassessed. The benefit is granted until the end of need or as long as the requirements are met.

Nationals and foreigners will have to have resided seven out of the last eight years in Denmark to be eligible for social assistance and educational allowance unless they according to EU law are entitled to the benefit. This basically means if they have worker status according to EU law. If not eligible for social assistance and

educational allowance, the person will be granted integration allowance, which is a lower amount. The grant of minimum benefit is subject to acceptance of an appropriate offer to participate in an activation measure. Payment of social assistance is suspended, if the beneficiary or his/her partner refuses without reason to participate in an activation measure or repeatedly fails to report to a job opportunity in the framework of the activation.

Concerning EU workers' right to social assistance, the entitlement and duration of their benefit is tightly linked to whether or not they retain worker status when losing their job. The involuntarily unemployed retain the status of worker if: a) they have worked more than one year and are registered as jobseekers (in this case, the person has a right to social assistance for more than six months) or; b) they have worked less than one year and registered as a jobseeker, although in this case, the status of worker and the right to receive social assistance is retained for no less than six months. If an EU citizen receives social assistance before having acquired permanent residence, this may negatively affect the right to permanent residence. Bilateral conventions do typically not include minimum guaranteed resources.

8.3 Conclusions

Over time, the Danish immigration policy has underwent considerable changes. From a focus on labor immigration and securing the rights of refugees, Denmark has since adopted a much stricter immigration policy, aiming to limit immigrants and refugees access to the country. At the same time, foreigners' access to Danish welfare has been a thorny political issue and considerable change has been implemented.

Denmark has moved from organizing its welfare state on national citizenship and territoriality, into organizing it along the lines of residence. These changes occurred at first when Denmark became member of the EC. Over time, labour market participation has come to matter more for the social protection provided. Furthermore, migrants' access to welfare in Denmark increasingly depend on citizenship and EU related worker status. Residence clauses have been adopted for guaranteed minimum benefits and family benefits. Eligibility depends on years resided in Denmark, unless the applicant qualifies as a worker according to EU law and therefore can aggregate periods of residence from one or several other EU Member States. In sum, social protection in Denmark has become more multi-tiered and more EU commodified.

Immigrants with the right to reside in Denmark have access to the social protection schemes of the Danish welfare state, i.e. the various cash benefits provided; unemployment benefits, guaranteed minimum benefits and family benefits among other types of benefits, as well as the benefits in kind offered by a large public service sector; long term care, healthcare, child care, education among other welfare services. The different eligibility conditions for selected benefits have been detailed above.

The sustainability of the Danish welfare state and migration has been a recurrent theme in the Danish political debate, in particularly portraying the welfare model as vulnerable given that there is no direct link between contributions to the welfare budget via tax and entitlements. In the wake of the 2004 and 2007 EU enlargements, concerns about ‘welfare tourism’ have been raised across the political spectrum. It has, however, been demonstrated that EU citizens have had a positive fiscal impact on the Danish welfare budget over the years (Martinsen and Pons Rotger 2017). Whereas the debate on ‘welfare tourism’ seems to have eased off, the exportability of child benefits for EU citizens remains topical. Thus, currently, the Danish Government works for an indexation of child benefits in relation to Regulation 883/2004.

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