

Agreement on digital-ready legislation

The legislation contains many exceptions and vague concepts that make it difficult for citizens to comprehend which rules apply and also result in long case processing times and hinder effective digital administration. There are several examples of public IT projects that have become significantly more expensive and delayed because the legislation is worded without the necessary consideration for the subsequent implementation.

A more simple and clear legislation which is digital-ready may create the basis for a more modern and cohesive public administration. Legislation must support the application of resources where they create the greatest possible value for citizens and where they contribute to a more user-friendly, easily accessible and transparent public sector, which supports the legal rights of the individual.

The government (Denmark's Liberal Party, Liberal Alliance and Conservative People's Party) and the Social Democrats, the Danish People's Party, the Red-Green Alliance, The Alternative, the Danish Social Liberal Party and the Socialist People's Party agree that public bureaucracy needs to be downsized in order to free time and resources for citizen service.

The government (Denmark's Liberal Party, Liberal Alliance and Conservative People's Party) and the Social Democrats, the Danish People's Party, the Red-Green Alliance, The Alternative, the Danish Social Liberal Party and the Socialist People's Party have therefore concluded an agreement on digital-ready legislation, which will weed out unnecessary and complex rules and ensure that new rules are easy to understand and translate into secure and user-friendly digital solutions.

In the agreement, the parties have attached particular importance to the following:

- Digital-ready legislation must contribute to making life easier for citizens and businesses and ensure a more effective public sector that handles data in a safe and secure manner. In other words, the legislation must support citizens in the digital society that Denmark has become.
- IT and new technology must be a means for providing citizens and businesses with better public service of a high quality. The use of IT and new technology is not an objective in itself.
- The digitisation of the public sector and the work with digital-ready legislation must respect the legal rights of citizens. This means, for example, that digitisation must contribute to creating more transparency, better accessibility for citizens and businesses and more uniform case processing. At the same time, it must be ensured that the digitisation respects citizens' rights in national legislation.

- The legislation must be written in easily comprehensible language and must be easy to understand for citizens and businesses and easy to administer for public employees.
- Objective rules should only be applied when it makes sense and when no professional discretion is required. Increased use of objective rules may enable the specialists to spend more time on the more complex types of cases with a great need for professional discretion, for example cases concerning the welfare of a child and support for particularly marginalised citizens.
- Citizens who are not digital must be cared for, for example through assistance and guidance or alternative communication channels.
- Digital solutions must also be available for citizens with functional impairment and must follow the international guidelines for web accessibility.
- Public authorities must be in control of citizens' data and ensure that they are handled safely and securely.
- In the preparatory legislative work and in political agreements, which subsequently have to be incorporated into the legislation, focus must be on the subsequent implementation and easy, digital administration of new rules.
- The legislation must be prepared systematically with a clear political stand on criteria, concepts and exceptions so that it supports an effective use of resources and a public service, which puts the citizen in the centre. All members of the Danish parliament (Folketinget) must assume responsibility for making the legislation simple and clear so that it supports the legal rights of individual citizens and is easy to administer - also digitally.
- In the legal work, it is vital that the public officers have focus on wording rules that are simple, clear and capable of digital administration.

Digital-ready legislation has the potential to become one of the most important contributions to the de-bureaucratisation of the public sector.

The parties behind the agreement therefore agree on the following measures to ensure digital-ready legislation:

New legislation must be digital by default from 1 July 2018

The parties agree that new legislation must be digital by default from 1 July 2018. In order to fulfil this goal, the parties agree on the seven principles below, which must be followed in new legislation and in connection with the conclusion of political agreements. This must ensure that implementation impacts are identified as early as possible in the political decision-making process.

1) Simple, clear rules

The legislation must be simple and clear so that it is easy to understand for citizens as well as businesses. Simple and clear rules are easy to administer and contribute to more uniform administration and digital support. At the same time, it creates clarity

on the rights of the individual and may increase the legal certainty. If the legislation is unclear or complex with many exceptions, requirements, schemes or discretion it may be difficult to administer - also digitally.

2) Digital communication

The legislation must support digital communication with citizens and businesses. For citizens who cannot use digital solutions, other solutions must still be offered.

3) Possibility of automated case processing

The legislation must support complete or partial digital administration of the legislation with due consideration for the legal rights of citizens and businesses.

One of the preconditions for this is that, as a general rule, the legislation is worded so that objective criteria are applied, clear and unambiguous concepts and common concepts rather than special concepts. Objective rules should only be applied when it makes sense and when no professional discretion is required. Increased use of objective rules may enable the specialists to spend more time on the more complex types of cases with a great need for professional discretion, for example cases concerning the welfare of a child or support for particularly marginalised citizens.

The goal is to enable automation by using objective criteria when it makes sense and to ensure that it is still possible to exercise discretion in cases where it is professionally relevant.

As a general rule, the legislation must be technology-neutral in order to ensure that it does not regulate the use of technology which will subsequently become obsolete.

In addition, the legislation must support the use of existing public data sources and standardised processes in accordance with the joint IT architecture, which is developed as part of the joint digital strategy and which will create a joint framework for the creation and sharing of good data.

4) Consistency across authorities - uniform concepts and reuse of data

Concepts and data must be reused across authorities. This must take place, while at the same time ensuring that data security is maintained in a safe and responsible manner. If data already exists that supports the concepts of the legislation it should be reworded so as to allow the use of these data. Alternatively, it should be considered whether other similar concepts may be used for which data is already available so that it becomes possible to use this in case processing.

The same definitions of data, accruals etc. must be used as those that exist in public registers.

5) Safe and secure data handling

The Danes are one of the most digital peoples in the world. The high degree of digitisation requires a high prioritisation of data security. Information from public registers such as name and address in the Danish civil registration register (CPR register) may be used to offer citizens smooth and effective case processing. At the same time, it is a basic task to ensure safe and secure data handling in the public sector in connection with increased use of data.

Already during the preparatory legislative work, focus should therefore be on whether new legislation gives rise to special points of attention in relation to safe and secure handling of citizens' data. It is a prerequisite for this that technical solutions are designed so that all elements of the administration support safe and secure data handling and that transparency is ensured in public data handling.

In this connection, the Minister for Public Sector Innovation will initiate work on valid, secure, digital identities, i.e. how citizens may identify themselves digitally. The work will include an examination of the best possible interactive use of the registration of persons with the other security measures such as NemID, identification control etc. In this connection, reference is made to the recommendations on data security from the Legal Affairs Committee, see report no. 4 on data security of 15 January 2015 from the Legal Affairs Committee. When the area has been mapped and challenges and any proposed solutions have been identified, the parties in the Danish parliament (Folketinget) will be summoned for further discussions on valid, secure, digital identities in the parliament year 2018/2019.

6) Use of public infrastructure

Public authorities must use existing public IT infrastructure to ensure the largest degree of reuse and cohesion across authorities. The legislation must therefore take into consideration whether it is possible to use existing public infrastructure such as NemID, Digital Post, NemKonto and eIndkomst.

Recommendations regarding security-related questions, including the best way to ensure good management and control of the data processing — also when the task is carried out by external vendors — are described in the coming strategy for cyber and information security.

7) Prevention of fraud and errors

The legislation must be worded so as to permit effective IT application for control purposes. For example, by making it possible to verify whether case information is correct in relevant public registers. Processing of personal data for control purposes

must take place with due respect for the rights of citizens, including the right to privacy and protection of personal data.

Supportive measures for preparing digital-ready legislation

The parties have also agreed to initiate the following measures in order for the work with digital-ready legislation to be put into practice:

1) Mandatory assessment of implementation impacts in explanatory notes and in connection with political negotiations and settlements

Requirement for assessment and description of implementation impacts is introduced in bill, which will also be stated in Guidance on Law Quality (Lovkvalitetsvejledning) by the Ministry of Justice.

This effort should ensure that implementation related issues are clarified in detail in the entire decision chain - from the first proposal to the adoption of the final bill by the Danish parliament (Folketinget).

The assessment of implementation impacts includes the following:

- Principles for digital-ready legislation: Have the principles been followed and, if not, a detailed explanation of the derogation from these.
- Significance for citizens: What are the impacts of the proposed changes in relation to citizens? For areas where it is necessary to apply special considerations or exercise discretion in certain situations, it should be considered whether there is a need for special residual categories in connection with objective main categories to ensure, for example, the rights of marginalised citizens or whether there is a risk that automation will impair the case processing for citizens.
- Data protection etc.: When reusing and further processing citizens' data, it must be ensured that use of the data is in accordance with the legislation and that the rights of citizens with regard to their personal data are respected.
- IT management and risk: Impacts in relation to existing IT systems or development of new and significant risks, also in relation to the time schedule.
- Organisational conditions: Significant changes to, and risks in relation to organisation and competence sharing among authorities.

The assessment should, for example, ensure that an effort is made to allow the necessary time for implementation, including IT system adaptations etc.

Experience from public IT projects should be used so that the users as well as legal, IT technical and business competences are involved from the beginning - and continuously - in public digitisation projects.

The agreement does not specify how the specific IT systems should be developed, including technical choices regarding open source, cloud technology etc.

2) Central government unit for digital-ready legislation:

At the beginning of 2018, a central government unit was established for digital-ready legislation to monitor whether implementation impacts are sufficiently clarified and whether the legislation becomes digital by default.

The unit will perform screening of bills, assist the ministries with guidance on the new impact assessments and generally support the work on digital-ready legislation. To the relevant extent, the unit will involve external experts and communicate with the ombudsman on the development within the area.

3) Revision of existing legislation

The existing legislation must be reviewed and revised continuously in order to ensure that it is digital by default. In connection with amendments to the legislation, it is particularly important to ensure that an impractical additional layer of regulation is not created and to examine the possibilities for simplifying the law in its entirety and ensuring simple and easy administration.

New proposals for principal acts and amendment acts as well as delegated legislation, especially executive orders, must be digital by default. In the event of significant amendments to existing legislation, it should be considered whether a more fundamental revision of the principal legislation should be made to make it digital by default.

It is also important to communicate simplifications to the administrative level.

Cross-sectional legislative challenges for digitisation, for example in the Danish Public Administration Act (Forvaltningsloven), should also be reviewed. The Danish Public Administration Act (Forvaltningsloven) was introduced at a time when the entire, or large parts of the case processing was/were manual. The Danish Public Administration Act (Forvaltningsloven) does not take into account that a large part of the case processing is now supported digitally. Within the framework of the joint digital strategy, a standing committee has been appointed, which will prepare solution models that support digital administration, also in relation to consultation procedure, while at the same time protecting legal rights in a secure and appropriate manner.

Assessment of whether the legislation is sufficiently digital by default.

In 2020, the parties will assess whether the legislation is sufficiently digital by default and, if so, discuss further initiatives for supporting digital-ready legislation.