



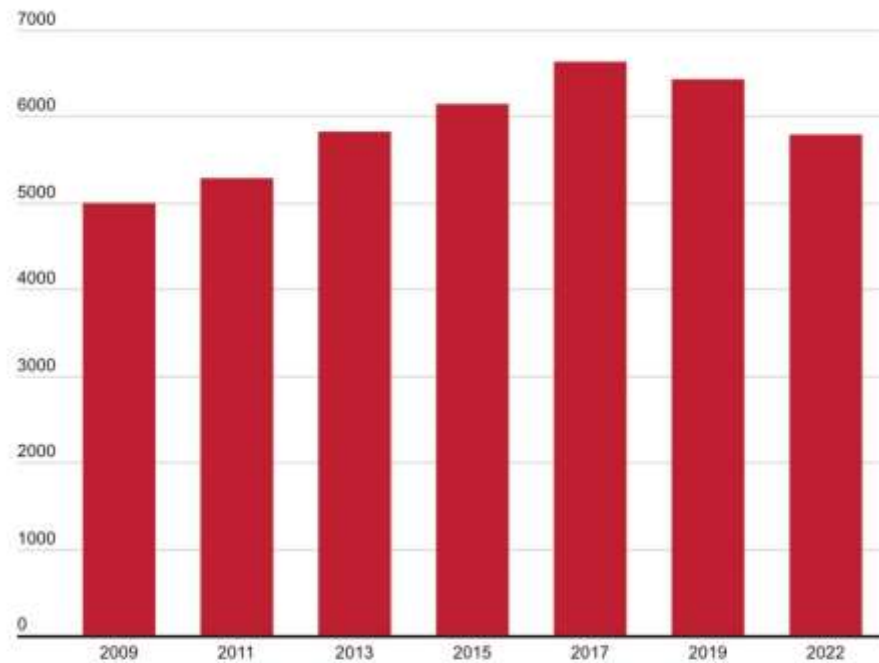
AALBORG UNIVERSITY
DENMARK

Begging in Denmark - Criminalization and its Discriminatory Effect

- EOH Conference in Bergamo – 22 September 2022
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Current situation in Denmark – National count of homelessness (February 2022)

Number of people in homelessness (undocumented migrants not included):



Kilde: VIVE-rapport. L. Benjaminsen, *Hjemløshed i Danmark 2022. National kortlægning*

Number of people sleeping rough (undocumented migrants not included):

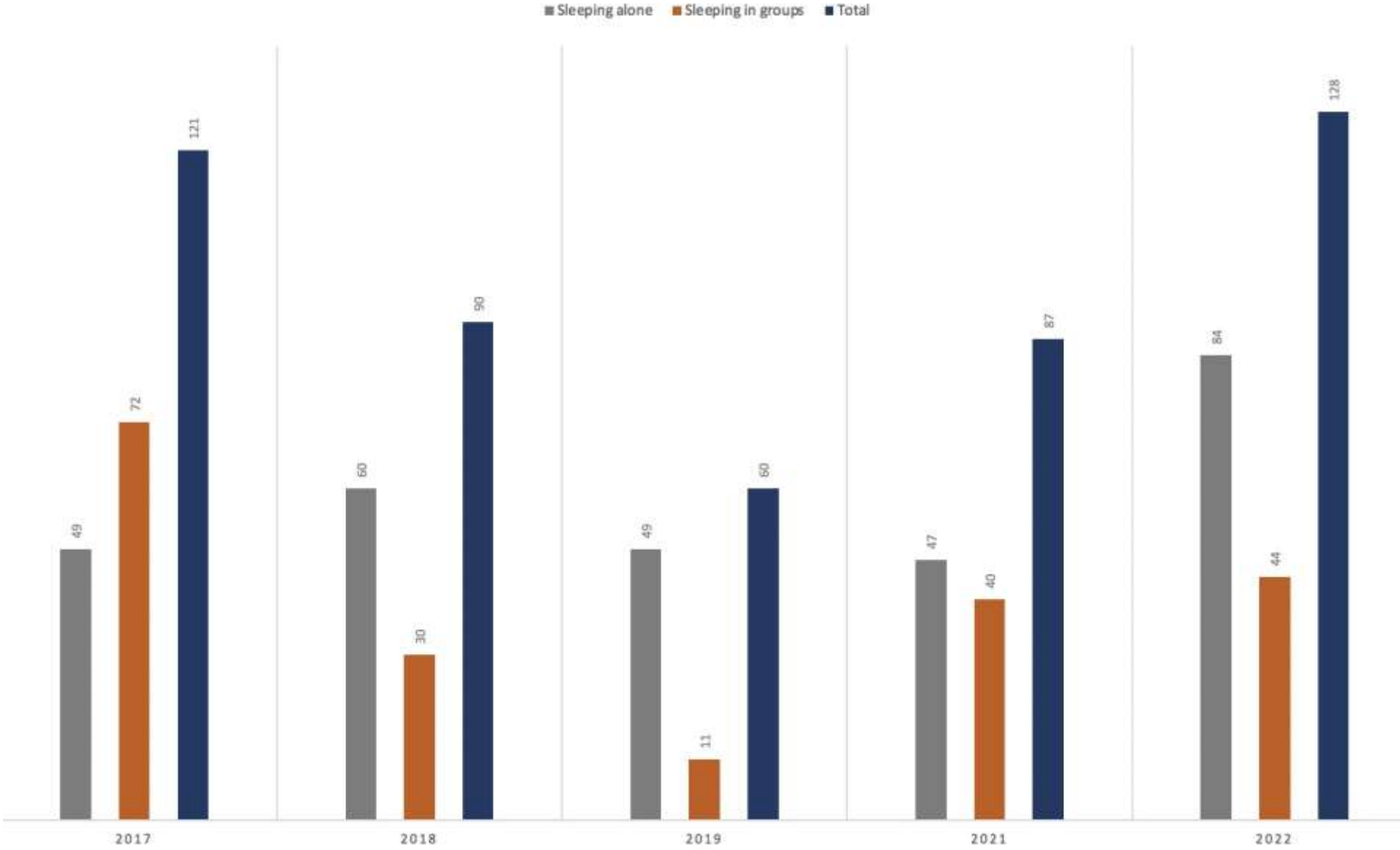
- 535 individuals sleeping rough (23 % has no income at all)
 - last count in 2019 had 732 individuals sleeping rough

Number of homeless undocumented migrants:

- 322 homeless undocumented migrants (85 % come from other EU countries)
 - last count in 2019 had 519 homeless migrants
- 115 homeless migrants sleeping rough
 - last count in 2019 had 205 homeless migrants sleeping rough

Lars Benjaminsen, Hjemløshed i Danmark 2022, VIVE

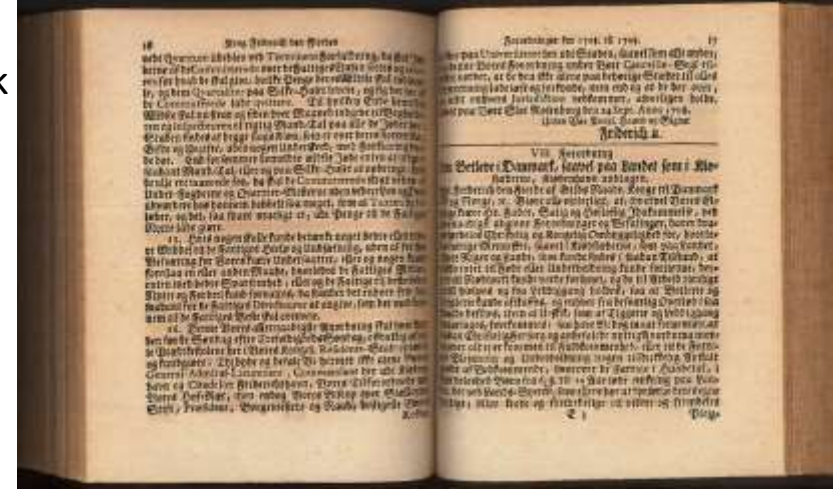
Annual Night Count in Copenhagen Aug/Sep



Source: Projekt Udenfor (2022)

Begging History

- Frederik IV was a young king at the beginning of the 18th century and wanted a beautiful Copenhagen
- Poverty law from 1708 criminalized all begging. In 2017 the begging ban was tightened up



“The political debate of recent years emphasizes that today's poor beggar migrants from Eastern Europe are the modern-day equivalent of the unworthy and foreign beggars of the 18th century.”

Interview Peter Wessel Hansen, Keeper of Archives, Copenhagen (31 March 2022)

C.W. Eckersberg,
1831, SMK Open

Toughened begging ban in 2017

- Heated public discussions in 2016 about homeless migrants sleeping in camps, collecting bottles, and begging in the larger cities
- The Penal Code was amended in 2017 to increase penalties for “intimidating begging”
- The toughened begging ban was part of a trend to restrict the use of public space:
 - Sleeping rough in “intimidating camps” was also criminalized
 - There has been a rise in dark and hostile design interventions in public spaces

Public discourse leading to the ban on “intimidating” begging

During negotiations of the begging ban in 2017, parliamentarians referred to so-called Roma camps at the Copenhagen Trinitatis Church:

"Church workers in Copenhagen need to be vaccinated against hepatitis because they have to start every morning cleaning up after homeless foreigners who use the street as a toilet."



Church workers put up pictograms at the Trinitatis Square

Public discourse

- Today, the pastor of the church, Erik Høegh-Andersen, underlines that it was not a big problem that people spent the night on the square:

"The problem was that the Roma people did not clear away their things. There were mattresses against the walls. There was rubbish and people relieved themselves in the corners of the church square."

Interview on 6 April 2022



Public square at Trinitatis Church
Photo: Pia Justesen

Majority wanted to target homeless Roma people and Eastern Europeans

- During the negotiations of the tightened begging ban, the word "Roma" was used 89 times from the the lectern of the Danish Parliament
- Politicians argued that the safety and security security in Danish cities was under pressure from foreign homeless people and groups of criminal Roma people

The then Minister of Justice, Søren Pape Poulsen, stated that the government clearly prioritized targeting foreign migrants:

"But this is not exactly described in the legislative text. Because then we would be discriminating."



Judisminister Søren Pape vil gerne løse den problematiske situation med tilvandede romer og østuropæere i samarbejde med EU. TV gengæld er der også behov for lov og ni tilbag, mener ministeren.
Foto: Ida Guldskov Andersen og Thomas Lohndorf

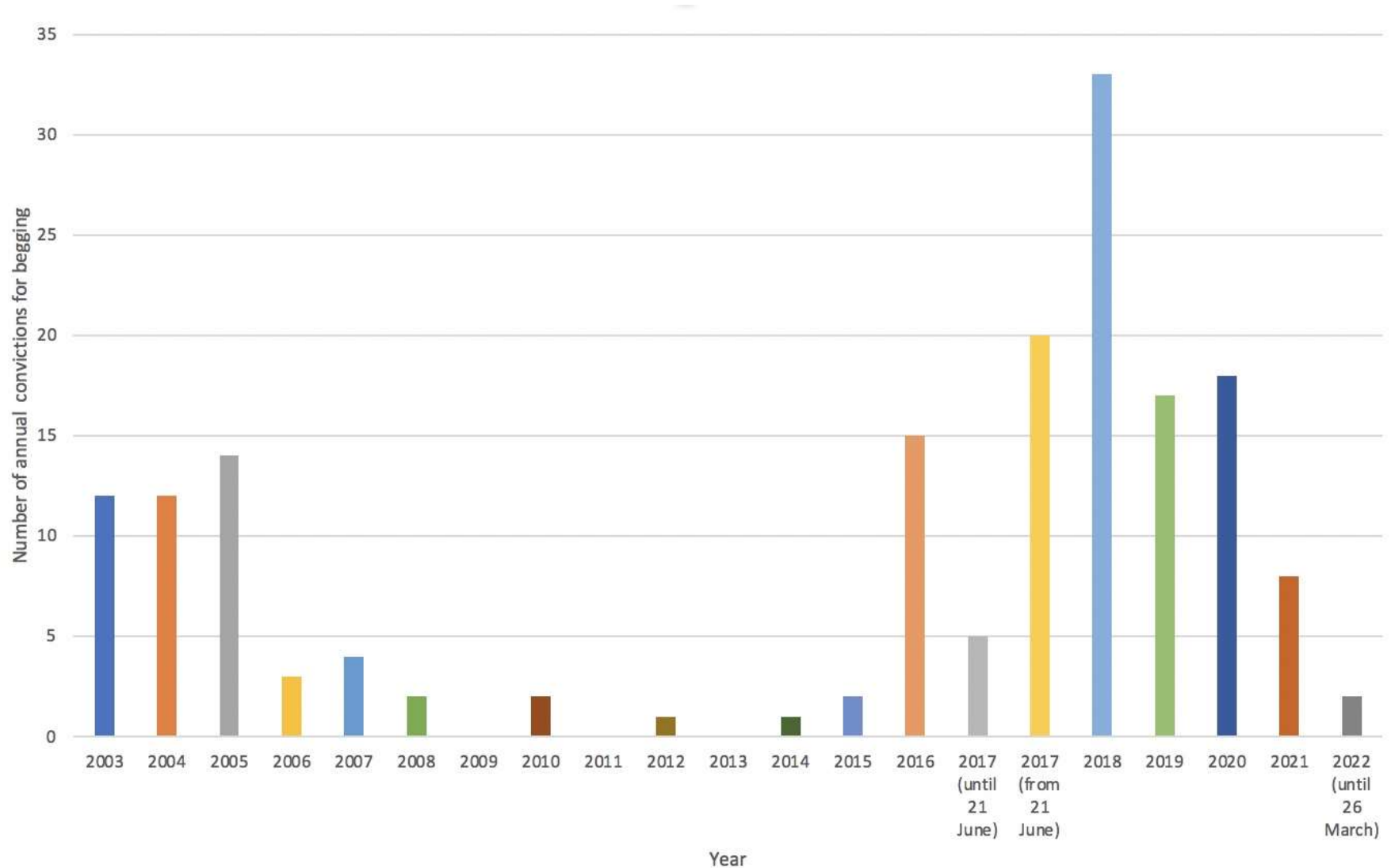
Then-Minister of Justice, Søren Pape Poulsen, Berlingske Newspaper, 31 May 2017

Criminalization of “intimidating” begging

- Criminalization of begging (current Section 197 of the Danish Penal Code):
 - All begging is criminalized
 - Begging taking place in a pedestrian street, at train- and busstations, in or at supermarkets, or in public transportation is defined to constitute “intimidating” begging (no matter whether the begging actually has created intimidation or not)
 - Punishment for “intimidating” begging is typically 14 days of unconditional prison
- Begging is not only about sitting with a sign telling that you are hungry: A 62-year old man got 14 days of prison for playing the accordion in front of a restaurant and passing his soft hat around to restaurant guests

Eastern High Court, 5 September 2018, S-2455-17

Statistics on convictions – Danish begging ban



Source: Director of Public Prosecutions (May 2022) – estimated numbers

Statistics on convictions – Danish begging ban

Period from June 2017 to May 2022:

- 98 convictions for begging
- 85 individuals have been convicted for begging (once or several times)
 - 1 individual from Denmark
 - 12 individuals from Bulgaria
 - 60 individuals from Rumænia
 - 12 individuals from other European countries

Source: Director of Public Prosecutions (May 2022) – estimated numbers

Human Rights – Criminalization of begging violates international human rights

- Right to life and right to human dignity
 - Article 3 and Article 22 of the Universal Declaration of Human Rights (UDHR)
 - Article 6 of the International Covenant on Civil and Political Rights (ICCPR)
- Right to freedom from cruel, inhuman and degrading treatment
 - Article 5 of the UDHR
 - Article 7 of the ICCPR
 - Article 16 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
 - Article 3 of the European Convention on Human Rights (ECHR)
- Right to security of person and freedom from arbitrary arrest and detention
 - Article 3 of the UDHR
 - Article 9 of the ICCPR
 - Article 5 of the ECHR
- Right to privacy and family life
 - Article 16 of the UDHR
 - Article 17 of the ICCPR
 - Article 8 of the ECHR

Human Rights protect against Discrimination

- Discrimination is both a cause and a consequence of poverty
- People living in poverty tend to experience intersecting forms of discrimination, including on account of their gender, ethnic origin, disability, and economic status
- International and European human rights law provide protection against discrimination because of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, including socio-economic status

Discriminatory effects of Danish begging ban

- Three elements indicate that homeless migrants in Denmark experience discrimination based on their nationality and/or ethnic origin:



Photo: Pia Justesen

- The preparatory works to the begging ban show that it was initiated to target homeless migrants from Eastern Europe and Roma people
- The enforcement of the begging-ban in Copenhagen (where most cases are prosecuted) is organized in a special Foreigner Control Section of the Copenhagen Police
- Most individuals convicted for begging come from Eastern Europe (12 individuals from Bulgaria and 60 individuals from Romania out of 85 convicted individuals)

European Court of Human Rights – Case of Lăcătuș (January 2021)

- Lăcătuș v. Switzerland, application no. 14065/15 (19 January 2021)
- The Court observed that the applicant, who belonged to the Roma community was illiterate and came from an extremely poor family, had no work and was not in receipt of social benefits. Begging constituted a means of survival for her. Being in a clearly vulnerable situation, the applicant had the right, inherent in human dignity, to attempt to meet her basic needs by begging
- The Court found that the penalty had infringed Lăcătuș' human dignity
- The Court found a violation of Article 8 (right to respect for private and family life) of the ECHR

Danish Supreme Court - Begging at railway station (February 2022)

- A Lithuanian man stood at the entrance to central railway station in Copenhagen on January 14, 2020. When people passed by, he handed them a white cup with coins rattling loudly
- A police officer observed the Lithuanian man from 9:30 to 9:35 in the morning and concluded that the man was begging. At the police station, the man explained that he had been in Denmark for two months. He was homeless and spent the night at the Men's Home. He said he used heroin every day and begged for money for drugs. Whenever possible, he also bought food. When he was arrested, he had earned DKK 100
- The case ended up in the Danish Supreme Court (Case No. 91/2020). Nine judges ruled on 2 February 2022 that a sentence of 60 days in prison was not a violation of the Lithuanian man's human rights
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Danish Supreme Court - Begging at the railway station (February 2022)

- The Court said that the situation was different from the Lăcătuș-ruling. That in contrast to Switzerland, Denmark has a welfare system with a social safety net. According to the Court, Danes and foreigners have access to public assistance if they cannot meet their basic needs in other ways
- The Court stated that there was no discrimination. The Ministry of Justice had previously emphasized to the police that there should be no discrimination. The Court therefore argued that the reason for the over-representation of foreigners among convicted individuals was that predominantly foreigners were begging
- In conclusion the 60-day prison sentence was not a violation of the Lithuanian man's human rights

“The begging ban has been a succes”

According to Peter Skaarup – member of Danish Parliament:

"I don't think it's a problem that the law discriminates. It is quite clear that it is the homeless migrants and the Roma people, who don't know how to behave properly. They are the ones taking up space in large groups in the street scene. They are the ones who beg and commit crimes.”

Interview on 10 June 2022



Photo: Pia Justesen

Conclusion

- There will probably always be situations where people who are homeless need to beg. They may have given up on the official systems, have psychosocial challenges, be undocumented migrants etc.
- Criminalization of begging is a violation of international human rights and it continues to cause marginalization
- The Danish state attempts to eliminate homelessness by making homeless people invisible, rather than meeting their needs. The reality is that many people experiencing homelessness are pushed around and feel unsafe
- Recommendation:
 - Criminalization of begging should be repealed
 - Discrimination within the police force should be explicitly prohibited

Thank you

Please get in touch with suggestions, comments, or questions

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