



# Guidelines No. 9565 of 28 June 2021 on the Processing of Applications for Visas for Denmark (Visa Guidelines)

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# **1. Introduction**

## **1.1. Amendments in Relation to Guidelines No. 9528 of 28 June 2021 and Guidelines No. 9398 of 27 May 2021**

These Guidelines replace Guidelines No. 9528 of 28 June 2021 and Guidelines No. 9398 of 27 May 2021 on the Processing of Applications for Visas for Denmark.

References to applicable law have been updated, and a number of editorial changes have been made as a consequence of Act No. 1192 of 8 June 2021 amending the Aliens Act, the Act on Danish Nationality, the Integration Act, and the Return Act (Introduction of general access to appeal in the field of visas, penalty periods in certain visa cases, obtaining authorisation to issue long-term visas for diplomats, etc., various adjustments of rules concerning employment, private accommodation, accommodation in self-financed dwellings for asylum seekers, clarification of the authorisation to introduce separate accommodation for married couples or cohabiting under-age aliens, enforcement of decisions on placement in institutional care of unaccompanied minors and reintroduction of declaration access for former Danish nationals, etc.) and Executive Order No. 1287 of 14 June 2021 on aliens' access to Denmark on the basis of a visa (as amended) (the Executive Order on Visas) which entered into force on 1 July 2021.

## **1.2. Schengen Cooperation**

Denmark entered the Schengen cooperation in March 2001. The starting point for the Schengen cooperation was an abolition of checks on persons at common borders within the Schengen Area supplemented by common rules for crossing the external borders of the Schengen Area and common rules for visas for third-country nationals.

Denmark is participating fully in EU cooperation on the determination of the third countries whose nationals are required to hold a visa when crossing EU's external borders and in the cooperation on a uniform format for visas.

Denmark's reservation in relation to EU's cooperation in the field of justice and home affairs entails that Denmark does not participate in the adoption of legal instruments regarding the Schengen Area. However, it is stipulated in the protocol on the position of Denmark that Denmark may unilaterally decide to implement legal instruments which build upon the Schengen acquis following which Denmark will be subject to an obligation under international law.

The Schengen Area currently covers the following 26 European countries: Austria, Belgium, Czechia, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

Bulgaria, Cyprus, Croatia and Romania are currently only participating in the cooperation on visas as regards the determination of the third countries whose nationals are required to hold a visa when crossing the external borders and in the cooperation on a uniform format for visas.

## 1.3. Legal Framework

### 1.3.1. Common Rules for the Schengen Countries Common Rules for the Schengen States

Denmark's participation in the Schengen cooperation means that a number of common European rules regarding visas apply in Denmark. These rules determine the overall framework for the Danish visa practice.

The question of who is required to obtain a visa to enter Denmark is governed by Council Regulation (EC) No. 539/2001 (as amended) listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (the Visa Regulation). Please refer to paragraph 2.5 below.

The overall conditions and procedures for the processing of applications for visas are laid down in Regulation (EC) No. 810/2009 of the European Parliament and of the Council establishing a Community Code on Visas (the Visa Code) which entered into force on 5 April 2010. The Visa Code was implemented into Danish law by Act No. 1511 of 27 December 2009 amending the Aliens Act (implementation of the Regulation establishing a Community Code on Visas (the Visa Code), etc.) as amended.

The Visa Code includes rules on the lodging of applications, processing times and decisions in visa cases, including the overall criteria for when an application for a visa must be refused.

The Visa Code is supplemented by the Commission Decision of 19 March 2010 establishing the Handbook for the processing of visa applications and the modification of issued visas (as amended) (the Visa Handbook)<sup>1</sup>. This handbook contains guidelines for the practical application of the Visa Code. The handbook is not binding on the authorities, but it provides significant aid towards the proper interpretation and uniform application of the rules.

The administration of visa cases is carried out in electronic case administration systems, and the individual Schengen countries' visa systems are linked to a common European Visa Information System (VIS). The rules on the VIS are laid down in Regulation (EC) No. 767/2008 of the European Parliament and of the Council (as amended) concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (the VIS Regulation). This Regulation was implemented into Danish law by Act No. 431 of 1 June 2008 amending the Aliens Act (implementation of regulation concerning the Visa Information System, etc.).

The VIS allows the Schengen countries to take and register a visa applicant's biometric data (photograph and fingerprints), and the system also allows the Schengen countries to see if a visa applicant has previously applied for a visa in another Schengen country and, if appropriate, the result of this application. The launch of the VIS was commenced on 11 October 2011 in North Africa, etc., and the roll-out of the system was completed throughout the world for all Schengen countries in February 2016.

In addition to the visa rules mentioned, the Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (as amended) (Schengen Borders Code)<sup>2</sup> contains a number of rules on border crossing and border

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<sup>1</sup> Most recently amended by the Commission Implementing Decision – C(2020) 395 final of 28.1.2020.

<sup>2</sup> Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (as amended) (Schengen Borders Code) is a codification of Regulation (EC) 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of

control which apply to aliens who are required to obtain visas as well as to aliens who are exempt from the visa requirement. The Schengen Borders Code lays down a number of basic conditions for entry which an alien must meet in order to enter and stay in a Schengen country for up to 90 days within a period of 180 days.

Finally, Directive 2004/38/EC of 29 April 2004 on the right of Union citizens and their family members to move and reside freely within the territory of the Member States (the Directive on the right to move and reside freely) contains individual provisions on visas for Union citizens and their family members<sup>3</sup>.

### **1.3.2. National Rules**

The overall national rules on aliens' entry into and stay in Denmark are set out in the Aliens Act, i.e. Consolidated Act No. 1513 of 22 October 2020, as amended.

The Aliens Act contains a number of basic provisions regarding visa exemption and visa requirement (sections 1-3a), various types of visa (sections 4-4b), imposition of penalty periods as a consequence of misuse of the visa system (section 4c) and the division of competences in the field of visas (sections 46-47b).

Executive Order No. 1287 of 14 June 2021 on aliens' access to Denmark on the basis of a visa (as amended) (the Executive Order on Visas) contains a number of more detailed rules, including specifying provisions regarding the visa requirement and visa exemption, lodging of visa applications, conditions for issuing visas, basic considerations in the processing of visa applications and the division of cases between the authorities concerned.

## **2. Visa Requirement and Visa Exemption**

Aliens must have their passport or other travel document endorsed with a visa before entering Denmark unless they are exempt from the visa requirement, see section 1 of the Executive Order on Visas, read with section 3 of the Aliens Act, read with section 39(2) of the Act.

### **2.1. Nordic Nationals and Aliens with Residence in the Nordic Countries**

Nationals of Finland, Iceland, Norway and Sweden may enter Denmark and stay here without obtaining a visa, see section 1 of the Aliens Act.

Young people under the age of 18 with permanent residence in Finland, Iceland, Norway or Sweden who are not nationals of any of these countries are also exempt from the visa requirement, if they travel in a group of Nordic young people in connection with school excursions, sports events and the like of a duration of a maximum of one month, and if the entry and departure with the group is made directly from and to Finland, Iceland, Norway or Sweden, respectively, see section 2(8) of the Executive Order on Visas, read with section 39(2) of the Aliens Act.

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persons across borders (as amended). References to the Schengen Borders Code in these Guidelines should therefore be seen in relation to the codified 2016 Regulation. The codification meant that most articles were given new numbers. At the time of issue of these Guidelines, this renumbering has not yet been implemented in for example the Visa Code. Please refer to the correlation table in Annex X of the codified 2016 Regulation.

<sup>3</sup> OJ 2004, no. 1, p. 35

## **2.2. Nationals of EU or EEA Member States and Switzerland**

Aliens who are nationals of a country which has acceded to the European Union (EU) or is covered by the Agreement on the European Economic Area (EEA) or nationals of Switzerland may enter and stay in Denmark for up to three months without a visa, see section 2(1) and (5) of the Aliens Act.

A list of EU Member States and countries covered by the EEA Agreement may be found at the website of the immigration authorities, [www.newtodenmark.dk](http://www.newtodenmark.dk).

It should be noted that the United Kingdom withdrew from the EU on 31 January 2020 with a withdrawal agreement determining a limited transition period which applies until 31 December 2020 with the possibility of an extension for 1-2 years.

During the transition period, Union law (i.e. the EU rules on the right of free movement) still applies. Nationals of the United Kingdom may thus enter and stay in Denmark as before for up to three months without a visa, see section 2(1) and (5) of the Aliens Act, just as they will be permitted to take up permanent residence in Denmark during the transition period under the EU rules on free movement.

It should be noted in this connection that nationals of the United Kingdom entering Denmark after the end of the transition period, who are not covered by the withdrawal agreement, are also exempt from the visa requirement.<sup>4</sup>

## **2.3. Third-Country Nationals with a Residence Permit Issued by a Schengen Country**

Aliens holding a residence permit or long-term visa issued by another Schengen country have a right to enter and stay in Denmark without a visa for a maximum of 90 days within a period of 180 days, see section 2b(1) and (3) of the Aliens Act.

Annex 2 of the Visa Handbook contains a list of the various types of residence permit.<sup>5</sup>

## **2.4. Third-Country Nationals Holding an EU Residence Card**

Article 5(2) of the Directive on the right to move and reside freely stipulates that third-country family members of Union citizens, who are subject to a visa requirement under Regulation (EC) No. 539/2001 (now Regulation (EU) 2018/1806) or national law, are exempt from the visa requirement if they hold a valid residence card, see Article 10 of the Directive on the right to move and reside freely.

Third-country family members are also exempt from the visa requirement if they have a permanent EU residence card under Article 20 of the Directive.

This means that aliens holding an EU residence card issued by another Schengen country have a right to enter and stay in Denmark without a visa for a maximum of 90 days within a period of 180 days, see section 2, para. (3), of the Executive Order on Visas, read with section 2(4) of the Aliens Act.

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<sup>4</sup>Council Regulation (EC) No. 2018/1806 of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

<sup>5</sup> The Visa Handbook is available at the website of the immigration authorities: [www.newtodenmark.dk](http://www.newtodenmark.dk).

For example, this entails that a third-country national who is married to a French national and staying in Germany on an EU residence card may enter Denmark without obtaining a visa.

Aliens holding an EU residence card issued by a country outside the Schengen Area<sup>6</sup> due to family relations with a Union citizen also have a right to enter and stay in Denmark without obtaining a visa for a maximum of 90 days within a period of 180 days if they accompany or join the Union citizen, see section 2, para. (4), of the Executive Order on Visas, read with section 2(4) of the Aliens Act.

For example, a third-country national, who is married to a German national and staying in Ireland or Romania on an EU residence card, may accompany their spouse on a journey to Denmark without obtaining a visa. The third-country national may also enter Denmark alone on the basis of an EU residence card to join a Union citizen who is in Denmark. However, the third-country national is not exempt from the visa requirement if the person in question travels to Denmark alone while the spouse stays in Ireland or Romania.

In situations where a Danish national has taken up permanent residence in another EU or EEA Member State or in Switzerland, for example as a worker, and the Danish national's family members who are subject to a visa requirement wish to travel to Denmark for a tourist or family visit with the Danish national but where the family member who is subject to a visa requirement has not been issued with a residence card or has a residence permit in another Schengen country, that family member is entitled to have their visa application examined in accordance with the EU rules.

See paragraph 11 for an elaboration on the visa rules under Union law.

## **2.5. Other Third-Country Nationals**

The Visa Regulation,<sup>7</sup> Council Regulation (EC) No. 539/2001 as amended, contains a list of the third countries whose nationals must be in possession of visas when crossing the external borders of the Schengen countries and a list of those whose nationals are exempt from the visa requirement.

The list of countries whose nationals are subject to the visa requirement and those whose nationals are exempt from the visa requirement is included in Annex 1 of the Visa Handbook.

### **2.5.1. National Exceptions from the Common Lists Regarding Visa Requirement and Visa Exemption**

Under Article 6 of the Visa Regulation, the individual Schengen countries may implement exceptions from the common rules on visa requirement and visa exemption in relation to specific groups of persons.

By virtue of the provisions mentioned above, Denmark has introduced a visa exemption for certain crew members on aircraft, certain crew members on ships and holders of specific travel documents, including certain diplomatic passports and biometric passports.

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<sup>6</sup> I.e. Romania, Bulgaria, Cyprus, Croatia, Ireland, which do not participate fully in the cooperation.

<sup>7</sup> Council Regulation (EC) No. 539/2001 most recently codified in Regulation of the European Parliament and of the Council (EU) No. 2018/1806 of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

Annex 5 of the Visa Handbook contains a list of Denmark's as well as the other Schengen countries' national derogations from the common rules.

Updates are regularly published on the website of the immigration authorities, [www.newtodenmark.dk](http://www.newtodenmark.dk).

### **2.5.2. Visa Exemption for Turkish Service Providers, etc.**

Turkish nationals are generally subject to a visa requirement upon entry into the Schengen countries under the rules described in paragraph 2.5.

However, Turkish nationals who live and work in Turkey and may be characterised as service providers may enter Denmark without obtaining a visa, provided that the purpose of the stay is to provide services in Denmark of short duration.

In connection with the Danish border control, a Turkish national must be able to document that he is entering Denmark for the purpose of providing services in Denmark or for the purpose of temporary occupation as an employee in the areas mentioned above.

A Turkish national who is exempt from the visa requirement as a consequence of the rules above may stay in Denmark for a maximum of 90 days within a period of 180 days.

## **2.6. Bilateral Visa Exemption Agreements**

Aliens who are nationals of countries with which Denmark had entered into a bilateral agreement on visa exemption prior to the entry into force of the Schengen Convention have a right to enter and stay in Denmark in accordance with the provisions of that agreement, see section 3(2) of the Aliens Act.

Denmark has entered into such agreements with the following countries whose nationals are exempt from the requirement to obtain a visa: Australia, Canada, Chile, Israel, Japan, Malaysia, New Zealand, Singapore, South Korea and the United States (USA).

The right to enter and stay in Denmark under the bilateral visa exemption agreements constitutes a supplement to the general right of the nationalities in question to stay in the Schengen countries without obtaining a visa.

Nationals of *Australia, Canada, Israel, Japan* and *Singapore* may stay in Denmark for up to three months reckoned from the date of their first entry into Denmark or another Nordic country. The time the alien has stayed in Denmark or another Nordic country within six months preceding any such entry must be deducted from the mentioned three months.

Nationals of *Malaysia* may stay in Denmark for up to three months reckoned from the date of their first entry into Denmark or another Nordic country (not including Iceland). The time the alien has stayed in Denmark or another Nordic country (not including Iceland) within six months preceding any such entry must be deducted from the mentioned three months.

Nationals of *the United States of America (USA)* and *New Zealand* may stay in Denmark for up to three months reckoned from the date of their first entry into Denmark. The time the alien has stayed in Denmark within six months preceding any such entry must be deducted from the mentioned three months.

Nationals of *Chile* may stay in Denmark for up to 90 days reckoned from the date of their first entry into Denmark or another Nordic country. The time the alien has stayed in Denmark or another Nordic country within 180 days preceding any such entry must be deducted from the mentioned 90 days.

Nationals of *South Korea* may stay in Denmark for up to 90 days reckoned from the date of their first entry into Denmark or another Nordic country. The time the alien has stayed in Denmark or another Nordic country within six months preceding any such entry must be deducted from the mentioned 90 days.

## **2.7. Visa Requirement for Aliens Who Are Subject to an Entry Prohibition**

Under section 3a of the Aliens Act, all aliens who are subject to an entry prohibition in Denmark must obtain a visa to enter and stay in Denmark.

This applies irrespective of the nationality of the alien and irrespective of whether the alien is in possession of a Schengen visa issued by another Schengen country.<sup>8</sup>

See paragraph 5.6.1 on the practice in relation to issuing visas to persons who are subject to an entry prohibition.

# **3. Definition of the Term "Visa"**

## **3.1. Schengen Visa**

A Schengen visa – also termed a uniform visa – is a permit which aliens who are subject to a visa requirement must obtain prior to their entry into Denmark or another Schengen country with a view to a short-term stay.

Being in possession of a Schengen visa does not in itself entitle the holder to enter the Schengen Area. It is a further requirement that, at the time of entry, the alien meets a number of basic entry conditions which are set out in the Schengen Borders Code.<sup>9</sup>

A Schengen visa is issued so that it is valid for a stay of a maximum of 90 days and for one, two or multiple entries within a specified period, subject however to the condition that the duration of a continuous stay or the combined duration of several successive stays in the Schengen countries must not exceed 90 days within a period of 180 days, which entails considering the 180-day period preceding each day of stay, see section 4 of the Aliens Act.

The time the applicant has stayed in Denmark or another Schengen country within the 180-day period will be deducted from the 90 days. However, if the applicant has stayed in a Schengen country other than Denmark on the basis of a residence permit or a long-term visa limited to that Schengen country, this period will not be deducted, see section 4(2) of the Aliens Act.

A Schengen visa is valid for entry into and stays in all Schengen countries unless otherwise stated, see section 4 of the Aliens Act.

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<sup>8</sup> This was expressly noted in the legislative history of section 3a of the Aliens Act, see Bill No. L 264 of 30 March 2000.

<sup>9</sup> See paragraph 5 for further details.

A visa does not entitle the holder to work in Denmark unless the visa holder is exempt from the requirement to obtain a work permit under the rules set out in section 24 of the Aliens Order or is covered by the unpaid voluntary work regime. Read more about the unpaid voluntary work regime in paragraph 5.6.4.4.

### **3.2. Airport Transit Visa**

An airport transit visa is a permission to transit through the international transit areas of the airports of one or more Schengen countries, see Article 2, para. (5), of the Visa Code.

An airport transit visa only entitles the holder to transit through the international transit areas of the airports in the Schengen countries in connection with a stopover, but not to enter the Schengen countries, see section 4, para. (2), of the Executive Order on Visas.

Only certain specifically listed nationalities or specific groups of persons are required to obtain an airport transit visa to stop over in the Schengen countries. Annex 7a of the Visa Handbook contains an overview of the nationalities and groups of persons who are required to hold an airport transit visa on transit in any Schengen country airport. Annex 7b of the Visa Handbook also contains an overview of the nationalities and groups of persons who are required to hold an airport transit visa on transit in certain Schengen country airports.

### **3.3. Visas with Limited Territorial Validity (VLTV)**

If an applicant does not meet the requirements for obtaining a Schengen visa, the Danish authorities may, in exceptional cases, issue a visa which is only valid for staying in Denmark or in one or more Schengen country(-ies), see section 4a of the Aliens Act and Article 25 of the Visa Code<sup>10</sup>.

## **4. Application for a Visa**

### **4.1. Place of Application**

An application for a Schengen visa for Denmark or a country represented by Denmark will generally be considered by a Danish embassy or a Danish consulate general. The application must be submitted digitally through the electronic platform ApplyVisa, and it must, as a rule, be submitted through a private visa application centre located in the country where the applicant has their legal residence. If the applicant is staying legally in a country other than the country of residence, the application may, however, also be lodged in that country if the Danish diplomatic mission or consular post finds that lodging the application there is justified, see Article 6(2) of the Visa Code.

If the applicant wishes to visit several Schengen countries, or if multiple individual journeys are made within a period of two months, the visa application must, as a rule, be lodged with a diplomatic mission or consular post representing the Schengen country which is the main destination of the journey(s) as regards duration or – if the main destination cannot be determined – to a diplomatic mission or consular post representing the country whose external borders the applicant plans to pass when entering the Schengen Area, see Article 5(1) of the Visa Code.

If the diplomatic mission or consular post in the country where the application has been lodged is not competent to examine the application, the application must be returned, the visa fee reimbursed and the

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<sup>10</sup> The rules on territorially limited visas are described in further detail in paragraphs 13 below.

diplomatic mission or consular post must indicate which diplomatic mission or consular post is competent to examine the case, see Article 18 of the Visa Code.

#### **4.1.1. Danish Diplomatic Missions or Consular Posts**

Under section 47(3), first sentence, of the Aliens Act, Danish diplomatic and consular missions abroad may be authorised to make decisions in visa cases.<sup>11</sup>

When Denmark is the competent state, an application for a visa may be lodged through a private visa application centre which will receive the case and forward it to a Danish diplomatic mission or consular post which is authorised to examine visa applications under the rules mentioned above, see section 6 of the Executive Order on Visas. Such a private application centre may receive and register visa applications and handle tasks in connection with the recording of fingerprints, but it is not authorised to make decisions on visa applications, see section 47(4) of the Aliens Act and section 6(3) of the Executive Order on Visas.

Information about where applications may be submitted abroad may be found at the website of the Ministry of Foreign Affairs of Denmark, <https://um.dk/en/travel-and-residence/where-to-apply/>.

In countries where Denmark has established travel agency and tourist arrangements,<sup>12</sup> a visa application may also be submitted through an accredited travel agency. A travel agency may only receive visa applications and forward them to a Danish mission through a private application centre, see section 6(4) of the Executive Order on Visas. If applicants need to have their biometrics taken in connection with the application, they will therefore have to show up at a private visa application centre.

Finally, a visa application may, in special circumstances, be submitted to the Danish Immigration Service or the police in connection with a visa application at the border, see section 6(5) of the Executive Order on Visas. Please refer to paragraph 9 below for further information about this.

#### **4.1.2. Foreign Diplomatic Missions and Consular Posts (Representation Arrangements)**

Denmark does not have a diplomatic mission or consular post authorised to handle visa applications in all countries but has chosen to enter into representation arrangements with other Schengen countries in accordance with the rules set out in Article 8 of the Visa Code, see section 47(3), third sentence, of the Aliens Act.

A visa application must thus be submitted to a diplomatic mission or consular post representing another Schengen country in the applicant's country of residence if a representation arrangement has been agreed, see section 6(2) of the Executive Order on Visas.

When Denmark has entered into an agreement with another Schengen country about being represented by that country, this means that the diplomatic mission or consular post of the Schengen country in question is authorised to examine and decide on visa applications on behalf of Denmark.

When a visa application is examined on behalf of Denmark by another Schengen country, the representing Schengen country will decide on the visa application in accordance with the rules set out in the Visa Code and its national rules and practice. An appeal against a refusal of a visa notified by the representing Schengen country must also be submitted to the representing country's relevant appeals body. It follows

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<sup>11</sup> Authority is granted upon agreement between the Minister for Immigration and Integration and the Minister for Foreign Affairs.

<sup>12</sup> See paragraph 11.5 for further details.

from the rules set out in the Visa Code and the refusal annex (Annex 6 of the Visa Code) that decisions on refusal of a visa must be accompanied by information regarding the procedure to be followed in the event of an appeal, including information on which competent authority in the country where the refusal was decided the appeal must be lodged with and the time limit for doing so.

If the applicant is staying legally in a country other than the country of residence, the application may, however, also be lodged in that country if the Danish diplomatic mission or consular post finds that lodging the application there is justified, see Article 6(2) of the Visa Code.

Information about Denmark's representation arrangements with other Schengen countries may be found at the website of the Ministry of Foreign Affairs of Denmark, [www.um.dk](http://www.um.dk).

## **4.2. Requirements for the Application**

Article 10(1) of the Visa Code stipulates that, as a rule, applicants must appear in person when lodging a visa application to have their fingerprints collected. Applicants must lodge their applications electronically through the electronic system ApplyVisa and subsequently submit a print of the application as well as various documents to a private application centre.

Applicants must always appear in person when lodging their first visa application as their fingerprints must be collected, see Article 13 of the Visa Code and section 7(6) of the Executive Order on Visas for further details.

It is further stipulated in Article 10(3) of the Visa Code that a visa applicant must present an application form, travel document and photograph when lodging the application and that the applicant must allow the collection of their fingerprints. The applicant must also pay the visa fee, present relevant documentation and, if relevant, proof of possession of adequate and valid travel medical insurance unless the applicant is exempt from this requirement under Article 15 of the Visa Code. This is also laid down in sections 7 and 8 of the Executive Order on Visas.

Some of these requirements must be met before the application can be accepted for processing. These requirements are described in paragraph 4.3 below.

The applicant may satisfy the remaining requirements after the processing of the application has commenced. These requirements are described in paragraph 5 below.

## **4.3. Admissibility**

Article 19 of the Visa Code and section 7 of the Executive Order on Visas set out a number of conditions for the admissibility of a visa application. This means that, as a rule, the application can only be processed if these conditions are satisfied.

These conditions are as follows:

- The application may not be submitted until six months before the start of the expected trip and, as a general rule, not later than 15 days before the start of the expected trip. In connection with the performance of their job, seafarers may, however, submit a visa application up to nine months before the start of the expected trip.
- The applicant must submit a manually or electronically filled in and signed application form.
- The applicant must present a valid passport or other valid travel document.

- The applicant must have their photograph and fingerprints taken.
- The applicant must pay a visa fee.

If one or more of the above conditions are not satisfied, the application will be deemed inadmissible, see Article 19(3) of the Visa Code and section 7(1) of the Executive Order on Visas for further details.

In exceptional circumstances, however, an application may be processed for humanitarian reasons or reasons of national interests or due to international obligations, see Article 19(4) of the Visa Code and section 7(9) of the Executive Order on Visas.

A diplomatic mission or consular post's refusal of a visa application due to the inadmissibility of the application cannot be appealed.

#### **4.3.1. Time of Application**

Under Article 9(1) of the Visa Code and section 7(2) of the Executive Order on Visas, an application may be lodged no more than six months before the start of the intended trip and, as a general rule, not later than 15 days before the start of the expected trip.

Seafarers who need to travel in connection with the performance of their job may lodge their application up to nine months before the start of the expected trip.

In justified individual cases of urgency, the Danish diplomatic mission or consular post or the central authorities may examine applications submitted later than 15 calendar days before the start of the intended visit.

If a visa has previously been issued, and if it has not expired, an application may not be submitted until after the expiry the previously issued visa unless the visa in question has been used in full.

A holder of a visa which is valid for multiple entries and for more than six months may lodge an application for a new visa before the first visa expires. However, the validity of the new visa must complement the current visa, i.e. a person cannot hold two valid visas for the same period in time.

Please otherwise refer to Part II, sections 1.3 and 2.1, of the Visa Handbook.

#### **4.3.2. Application Form**

Under Article 11 of the Visa Code and section 7(3) of the Executive Order on Visas, a visa applicant must submit a manually or electronically filled in application form of the type included as Annex 1 of the Visa Code. The application form must be signed. It may be signed manually or, where electronic signature is recognised by the Member State competent for examining and deciding on an application, electronically.

In practice, it is only possible to lodge an application electronically via ApplyVisa. If an application is unable to apply electronically via ApplyVisa, it is possible to appear in person at a private visa application centre and fill in the application in ApplyVisa on a PC provided by the private visa application centre. The private visa application centre may also assist in the completion online.

### **4.3.3. Travel Document**

Under Article 12 of the Visa Code and section 7(4) of the Executive Order on Visas, a visa applicant must present a valid travel document satisfying the following criteria:

1. Its validity must extend at least three months after the intended date of departure from the territory of the Member States or, in the case of several visits, after the last intended date of departure from the territory of the Member States. However, in a justified case of emergency, this obligation may be waived.
2. It must contain at least two blank pages.
3. It must have been issued within the previous 10 years.

### **4.3.4. Photograph and Fingerprints**

Under Article 13 of the Visa Code and section 7(5) and (6) of the Executive Order on Visas, the authorities must collect biometric identifiers of the applicant comprising a photograph and 10 fingerprints.

However, some groups of persons are exempt from the requirement for collection of fingerprints, etc., see Article 13(7) of the Visa Code.

For further information about the requirements for photographs and fingerprints, please refer to Part II, paragraph 4 of the Visa Handbook.

### **4.3.5. Fees and Service Fees**

Under Article 16 of the Visa Code, a visa applicant must, as a rule, pay a visa fee of EUR 80, and children between the ages of 6 and 11 must, as a rule, pay a visa fee of EUR 40.<sup>13</sup> However, some groups of persons pay a lower fee, while other groups of persons are exempt from paying a fee.

For further information about fees and exemption from payment of fees, please refer to Part II, paragraph 3.4, of the Visa Handbook.

In addition to the visa fee, external service providers (private visa application centres) may charge an additional service fee, see Article 17 of the Visa Code.

## **5. Assessment of a Visa Application**

Article 21 of the Visa Code stipulates, amongst other things, that the authorities must check if the applicant fulfils the basic conditions for entry laid down in Article 6(1)(a), (c), (d) and (e) of the Schengen Borders Code, i.e.:

- The applicant must have a valid travel document (para. (a)).
- The applicant must justify the purpose and conditions of the stay and prove to have sufficient means of subsistence, both for the duration of the intended stay and for the return (para. (c)).
- The applicant must not have an alert entered against them in the Schengen Information System (SIS II) for the purpose of refusing entry on the same grounds (para. (d)).

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<sup>13</sup> This amount is stated in 2020 figures.

- The applicant must not be considered to be a threat to public policy, international relations or national security of the Schengen countries (para. (e)).

In addition, the authorities must check that the applicant's travel document is genuine, that the applicant has adequate and valid travel medical insurance, and that the applicant's potential stay in the Schengen Area will not exceed the maximum of 90 days within a period of 180 days which a visa may be granted for.

Article 21 of the Visa Code should be seen in conjunction with the rules on refusal set out in Article 32, Annex VI, and section 8(2) of the Executive Order on Visas, as the purpose of the checks under Article 21 is to determine whether a visa can be granted or if there is a reason to refuse the application.

Against this background, the processing of a visa case should include the following:

- Investigation of the authenticity of the travel document
- Assessment of the applicant's account of the purpose and conditions of the stay or for the planned airport transit
- Verification of sufficient means of subsistence
- Verification of the duration of the stay
- Consultation of the Schengen Information System (SIS II)
- Check if the applicant is considered to be a threat to public policy, internal security, public health or international relations of the Schengen countries, in particular where an alert has been issued in the Schengen countries' national databases for the purpose of refusing entry on the same grounds
- Verification of travel medical insurance
- Assessment of the reliability of the information and documents presented
- Assessment of the applicant's intention to leave the Schengen Area before the expiry of the visa applied for

### **5.1. Investigation of the Authenticity of the Travel Document**

Under Article 21(3)(a) of the Visa Code, the authorities must verify that the travel document presented is not false, counterfeit or forged.

This provision is applicable if the applicant presents a travel document which is not issued by the issuer stated, if the applicant presents a genuine travel document in which unauthorised changes have been made, and if the applicant makes use of a genuine document belonging to another person.

As a rule, the assessment of whether a travel document is genuine is made by the authorities issuing the visa. In cases of doubt, the travel document should be brought before persons with special expertise in this field.

Please refer to section 10.1 below for information about refusal of visa.

### **5.2. Assessment of the Applicant's Account of the Purpose and Conditions of the Stay.**

Under Article 21(3)(b) of the Visa Code, the authorities must check the applicant's account of the purpose and conditions of the intended stay.

Article 14 of the Visa Code and section 10 to 13 of the Executive Order on Visas further stipulate that a visa applicant must provide documentation relating to the purpose of the journey and documentation enabling an assessment of the applicant's intention to leave the territory of the Schengen Area before the expiry of the visa applied for.

Annex II of the Visa Code contains a non-exhaustive list of the documentation which authorities may require, see Article 14(3).

Within local Schengen cooperation, the diplomatic missions and consular posts assess the implementation of the conditions laid down in Article 14(1) on taking account of local circumstances, and of migratory and security risks, see Article 14(5).

Where necessary in order to take account of local circumstances, the European Commission will by means of implementing acts adopt a harmonised list of supporting documents to be used in each jurisdiction, see Article 14(5) of the Visa Code.

To the extent that such local harmonised documentation lists have been prepared and approved by the Member States, the Schengen countries may not make general derogations from the requirements on those lists. However, the diplomatic or consular missions may waive one or more of the requirements in the case of an applicant known to them for their integrity and reliability, in particular the lawful use of previous visas if there is no doubt that he will fulfil the basic entry requirements laid out in Article 6(1) of the Schengen Borders Code, see Article 14(6) of the Visa Code.

In the assessment of whether an applicant has justified the purpose of the intended stay, the authorities will consider among other things whether the applicant has submitted relevant documentation, including the supplementary documents listed in the implementing decisions from the EU Commission establishing the lists of supporting documents, see section 10(1) of the Executive Order on Visas.

Beyond this, it depends on a specific assessment which information and supplementary documents should be collected in the individual case.

Paragraphs 5.2.1-5.2.5 below describe the requirements which should usually be made in connection with different types of visa visits. Please otherwise refer to section 10.2 below for information about refusal of visa.

The authorities may derogate from the guidelines described if the purpose of the stay has been sufficiently proved in another manner or if the applicant is known to the authorities for their integrity and reliability, for example because of previous problem-free visits. Please otherwise refer to paragraph 5.9.1 on visas based on a specific assessment (*bona fide*).

In the assessment of whether an applicant satisfies the terms of the purpose of the stay, the authorities will consider among other things whether the applicant's travel document meets a number of conditions, see section 13 of the Executive Order on Visas. Please refer to paragraph 5.2.6 below.

### **5.2.1. Documentation in Cases Concerning Tourist Visits and Private Visits**

The practice for granting visas for the purpose of tourist and private visits varies depending on the degree of risk that persons from the applicant's home country will remain illegally in Denmark or other Schengen countries.

The countries whose nationals are subject to visa requirements have been divided into five main groups<sup>14</sup> on the basis of information about the general situation in the home country and known immigration patterns. In main groups which are generally characterised by a low immigration risk, visas are usually granted to a wider circle of people than in main groups characterised by a high risk of immigration.

The question of which supplementary documents should be obtained in a visa case concerning tourist or private visits depends on the conditions which the applicant is required to meet to obtain a visa and thus depends, to some extent, on which main group the applicant belongs to unless the applicant is otherwise deemed to be *bona fide*.

If the practice is to grant visas for visits of a purely tourist nature, the documentation requirements should be limited and in accordance with the harmonised EU Schengen documentation list, as it only needs to be proven that the applicant actually wishes to visit Denmark as a tourist. The authorities will often be able to determine this already when reviewing the application and the documentation submitted, such as if there is a credible description of the journey planned or through an interview with the applicant. According to the circumstances, the authorities may obtain further information or documentation. However, documentation in the form of an airline ticket booking or hotel reservation should only be required in exceptional circumstances if there is a specific reason to doubt that the purpose of the stay is visit to Denmark as a tourist.<sup>15</sup>

If it is common practice to only grant visas if there is a family relation between the applicant and a host in Denmark, the authorities should obtain relevant documentary evidence of the family relationship, for example in the form of birth certificates, family certificates, marriage certificates, etc.

Similarly, the authorities should obtain relevant information about the applicant's background and situation in the home country if practice shows that those matters are of importance to whether the applicant may be granted a visa.

If the visa application refers to extraordinary circumstances in the form of a close family member's serious illness, the authorities should require documentary evidence of the illness by means of a declaration from a medically trained person as well as proof of the relation between the applicant and the host, including proof that there is a particularly close and long-standing relationship.

The authorities should not request unnecessary documentation. For example, the authorities should not request a marriage certificate if it would be common practice to grant a visa to the applicant for the purpose of visiting a romantic partner. This applies irrespective of whether the applicant has stated that they are going to visit a spouse.<sup>16</sup>

Where a visa application has been submitted with a view to visiting a host living in Denmark, the authorities should check if the visit is expected by the host, and if the host has confirmed the purpose of the stay, for example in an invitation.

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<sup>14</sup>Please refer to paragraph 5.9.7 for further details on the main groups.

<sup>15</sup> If airline tickets or hotel reservations are actually presented, it may, however, be relevant to verify them, for example by contacting the airline or hotel, as documentation of prepayment of the journey and accommodation will be of importance in the assessment of whether the alien has sufficient means of subsistence, see paragraph 5.3 below.

<sup>16</sup>However, under the circumstances, there may be reason to look further into the matter if the alien's information seen in relation with the lack of documentation gives rise to doubts as to whether the application was actually submitted for the stated purpose, see paragraph 5.8 below for further details about this.

As a rule, it is a condition for inviting applicants to Denmark for a visit that the host has habitual residence and is legally residing in Denmark. Therefore, the authorities should also check these requirements in relevant registers. The condition of habitual residence should normally be regarded as fulfilled, if the host is registered with an address in Denmark in the Danish Civil Registration System (CPR). If the immigration authorities are, for example, informed by other authorities that the host is not actually resident in Denmark even though the person concerned is registered as such in the Civil Registration System, the requirement concerning permanent residence in Denmark will not be regarded as having been met. The condition of legal stay will be fulfilled, if the host is a Danish citizen or holds a residence permit in Denmark, which is valid for the period of the intended visit. Danish citizenship may normally be determined by looking it up in the CPR register. Information about the host's Danish residence permit, if any, may – if documentation has not already been submitted in connection with the application – be checked through a query in the immigration authorities' case administration systems, or by going through any physical immigration cases. In situations where it is relevant to make such searches in the case administration systems, the Danish diplomatic mission or consular post will bring the case before the Danish Immigration Service.

Even though the host's residence permit may have expired, a visa may be granted if the residence permit was granted with a possibility of permanent residence, and an application has been submitted for extension of the permit. If however a time-limited residence permit has been granted for the purpose of temporary residence, for example for studies or work, a visa may generally not be granted before the residence permit has been extended.

Notwithstanding that the host may not have their habitual residence in Denmark, a visa may according to practice be granted to a spouse, a live-in partner, a romantic partner or minor children of a Danish national who has settled down permanently abroad if the Danish national wishes to spend a vacation in Denmark with their immediate family. In this context, settling down permanently abroad means that the Danish national has given up their Danish address and taken up long-term residence abroad. In this connection, it must be proved that the Danish national has a permanent address or a residence permit in the country in question, for example in the form of a certificate of address from that country's address registration authority.

Shorter stays abroad which can only be regarded as being holiday stays do not mean that the Danish national can be deemed to have taken up permanent residence abroad. It should be noted that this is merely an exception to the requirement that the host of the visit must have their permanent residence in Denmark, and that this exception does not otherwise affect the assessment of whether granting a visa to the Danish national's permanent live-in partner, romantic partner or children involves a specific immigration risk.

### **5.2.2. Documentation in Cases of Business Visits**

Applicants who wish to travel to Denmark for a business visit may be granted a visa if the business visit is genuine.

As a rule, this requires presentation of documentation that for purposes relating to their trade, the applicant wishes to come to Denmark to trade, conclude agreements, inspect products, etc. with a business relation in Denmark, that the applicant is a business operator, and that the stay in Denmark is related to the business operated by the applicant in their home country.

Documentation should also be required to show that, prior to the applicant's entry into Denmark, an agreement has been made or a contact established with the inviting enterprise in Denmark.

Moreover, it should be required that a representative of the enterprise has acknowledged that the visit is expected and that the person in question has confirmed the purpose of the visit. If such confirmation is not presented along with the application, or if there are doubts as to the authenticity or reliability of the supplementary documents, an invitation form should be sent to the inviting business relation, requesting responses to some elaborating questions with a view to clarification of the parties' prior business-related knowledge of each other, if any, how the contact was established and the purpose of the visit.

In addition, the authorities should check that the enterprise in Denmark is registered in the central business register (CVR). Furthermore, it may be relevant to obtain information about the enterprise's field of activity, for example by checking their website or works of reference or through direct contact with the enterprise.

As a rule, a visa may also be granted to a spouse accompanying an alien who has obtained a visa to Denmark for a business visit. In this connection, it is generally a condition that the spouses submit their visa applications simultaneously and that it is documented that they intend to travel together.

### **5.2.3. Documentation in Cases Concerning Visits in Connection with Participation in Cultural or Scientific Events.**

Applicants who wish to travel to Denmark with a view to participation in a cultural or scientific event may, as a rule, be granted a visa for this purpose.

In this connection, it must be documented that the event is organised by Danish authorities, educational institutions, research institutions or organisations, that the applicant has an educational background or special knowledge warranting participation in the event in question, and that the purpose of the participation in the event is confirmed by the host.

Cultural and scientific events include, for example, conferences, sports events, folk high school stays and the like, and the documentation requirements depend on the type of stay.

In relation to visa applications for folk high school stays, it may, for example, be relevant to require documentary evidence of the applicant's educational background and language qualifications for participating in the educational programme.

In relation to visa applications for participation in a sports event, the authorities may, for example, require documentary evidence showing that the applicant has the required knowledge of the sport in question and has been involved in the sport at a certain professional level prior to the wish to enter Denmark, for example in the form of proof of membership of a professional sports club or the like.

### **5.2.4. Documentation in Cases Concerning Visa Applications with a View to Receiving Medical Treatment**

According to practice, a visa may be granted to applicants who wish to receive medical treatment in a private hospital or clinic in Denmark.

In addition to the general conditions for granting a visa, it is required *that* there is a written, prior agreement with the private hospital or clinic in Denmark which is going to treat the person in question, stating specifically and exactly the expected treatment, *that* the application is accompanied by documentation of complete advance payment for the entire stay at the place of treatment, including costs

of preliminary examination, operation/treatment and postoperative care/rehabilitation/recuperation, and *that* the entire treatment can be completed within the maximum of 90 days for which a visa can be granted.

It is not an absolute requirement that the treatment is not available in the home country. If there are not deemed to be reasonable grounds for the treatment to take place in Denmark, it may also be part of the assessment of whether the visa application was actually lodged for this purpose.<sup>17</sup>

In certain situations, it will also be necessary to provide medical science information to the effect that the treatment in question can be performed without posing a risk to public health.

### **5.2.5. Documentation in Cases Concerning Visa Applications in Connection with Participation in Court Cases**

Under section 303 of the Danish Administration of Justice Act, any party to civil legal proceedings may present themselves and demand to give a statement in person. The circumstance that a visa applicant states that he wishes to give evidence in court proceedings before a Danish court does not in itself warrant the issue of a visa.

Thus, the immigration authorities will assess in each case if there is a risk that the applicant will misuse a visa, for example to apply for asylum or another long-term stay, or if the visa application was submitted with a view to bypass the rules governing residence permits.

In the assessment of the asylum and immigration risk, the authorities take into account both the visa applicant's individual situation and the general asylum or immigration risk associated with applicants from the country in question. It is also taken into account if, for example, the applicant has stated that he does not intend to leave after expiry of the visa, or if the applicant has previously displayed a behaviour which indicates that he does not only wish to stay in Denmark for a short period, for example if the applicant did not leave Denmark in accordance with a previous visa.

In the assessment of whether the visa application was lodged with a view to bypassing the rules on residence permits, considerable importance will be attached to a situation where the applicant has previously been refused family reunification with a spouse living in Denmark with reference to the rules governing forced marriages or marriages of convenience, or where the immigration authorities have previously refused to examine an application for a residence permit lodged by the person in question and in that connection stated as a reason that the application was deemed primarily to have been lodged with a view to obtaining a procedural stay, for example, if it was manifest that the alien did not meet the conditions for a residence permit, or if an identical application by the alien has already been refused.

If the immigration authorities consider that there is a risk that the applicant will misuse a visa, the immigration authorities will weigh this risk against the applicant's interest in participating in the pending court proceedings. In this connection, importance is attached to the significance of the court proceedings for the applicant and to the possibility that the applicant's personal participation in the proceedings may affect the outcome of the proceedings.

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<sup>17</sup> If it is deemed doubtful that the purpose of the stay is actually to receive medical treatment, the application may be refused under the circumstances with reference to lack of proof of the purpose of the stay (see Article 32(1)(a)(2) of the Visa Code) in combination with doubts about the alien's intention to leave the Schengen area before the expiry of the visa applied for (see Article 32(1)(b) of the Visa Code).

If the immigration authorities consider that the applicant's interest in participating in the court proceedings in Denmark is greater than the consideration for the prevention of misuse of the visa system, a visa will usually be granted. In such situations, the validity of the visa will be limited to the period necessary for the applicant to be able to safeguard their interests in connection with the proceedings.

Conversely, if the authorities find that the consideration for the prevention of misuse of the visa system is greater than the applicant's interest in participating in the court proceedings, the application for a visa will be refused.

In that case, the applicant will have to request permission in connection with the court proceedings to give a statement by means of the taking of evidence abroad under section 342 of the Administration of Justice Act or to give a statement in the form of a written declaration in accordance with section 297 of the Administration of Justice Act.

If the court does not allow the applicant to give a statement by means of the taking of evidence abroad or in the form of a written declaration, the applicant may ask the immigration authorities to reopen the processing of the visa case with reference to the new information provided in the court order. In such situations, the immigration authorities will reconsider whether there are grounds for granting a visa in light of the new information. In that connection, a renewed assessment will be made as to the necessity of the applicant's statement in court, for example on the basis of the court's reason to refuse the possibilities mentioned above for giving a statement while abroad.

In cases where the court has summoned a party to appear in person based on a request made by the other party, see section 302(1) of the Administration of Justice Act, this will be taken as an expression that the court deems it necessary for that party to be present.

According to practice, a visa will therefore usually be granted with a view to participating in a court hearing if there is documentation that the person in question has been summoned to give evidence as a party before the court.

However, this may be derogated from if the immigration authorities find that the consideration for avoiding misuse of the visa system in the specific case is greater than the interests safeguarded by the applicant's presence during the court proceedings.

In civil proceedings as well as criminal proceedings where an applicant has been summoned as a witness, it is a condition for granting a visa that there is proof of a specific court hearing, including a summons of the applicant with a view to giving evidence as a witness.

The duty to give evidence set out in section 168 of the Administration of Justice Act only applies to persons living in Denmark. Persons who are living abroad usually cannot be ordered to give evidence before a Danish court. Thus, if such persons are summoned as witnesses, they will not be under an obligation to appear before the court and give evidence.

In relation to witnesses, certain situations may involve compelling consideration for the overall evidence in the proceedings, and a visa may be granted under such circumstances to a wider extent than to the parties of a court case.

### **5.2.6. Proof that the Conditions for the Stay are Satisfied**

When assessing whether an applicant meets the conditions for the intended stay, the authorities must, among other things, check that the applicant holds a passport or other travel document which is recognised by Denmark as valid travel identity documents, see section 13(1) of the Executive Order on Visas, read with section 39(1) of the Aliens Act.

In addition, the passport or travel document's validity must extend at least three months after the intended date of departure from the Schengen countries, be issued within the last ten years, contain two blank pages and be valid for a return journey to the country of issue, see section 13(2), read with section 7(4), of the Executive Order on Visas.<sup>18</sup>

The requirements as regards the temporal validity of the passport or other travel document may be waived by the authorities in cases of justified emergency if the validity of the passport or other travel document is longer than the validity of the visa and makes it possible for the applicant to return to the country of issue before the expiry of the travel document.

If the applicant's travel document was issued by another country than the home country, it must also be proved that the applicant has a re-entry permit for the country that issued the travel document, and that the re-entry permit is valid for at least three months after the intended date of departure from the Schengen countries, see section 13(3) of the Executive Order on Visas. The requirement for the validity of the re-entry permit may be derogated from in cases of justified emergency if the validity is longer than the validity of the visa and makes it possible for the applicant to re-enter the country of issue before the travel document expires.

If the applicant has their permanent residence in another country than the home country, it must also be proved that the applicant has a re-entry permit for the country of residence which is valid for at least three months after the intended date of departure from the Schengen countries, see section 13(4) of the Executive Order on Visas. The requirement for the validity of the re-entry permit may be derogated from in cases of justified emergency if the validity is longer than the validity of the visa and makes it possible for the applicant to re-enter the country of residence before the travel document expires, or if the authorities consider that there is no doubt that the applicant intends to leave the country in accordance with a visa, and the applicant is actually able to return to their home country after the visa stay.

As regards the other terms set out in Article 6 of the Schengen Borders Code, please see paragraph 4.3.3 above and paragraphs 5.3-5.7 below.

### **5.3. Verification of Sufficient Means of Subsistence**

Under Article 21(1) and (3)(b) of the Visa Code, authorities must check if the applicant has sufficient means of subsistence, both for the duration of the intended stay and for the return to their country of origin or residence, or for the transit to a third country into which he is certain to be admitted, or if the person in question is in a position to acquire such means lawfully.

The assessment of means of subsistence during the intended stay will be made based on the duration and purpose of the stay.

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<sup>18</sup> As a rule, if the conditions concerning the validity of the passport or travel document are not met, the visa application will be deemed inadmissible, see paragraph 4.3 above. Therefore, it is only relevant to refuse an application for this reason in situations where the case has been admitted for consideration, and it subsequently turned out that it was not a case of justified emergency.

Upon entry into Denmark, a visa holder must usually prove to be in possession of approximately DKK 500 per day in the event of a hotel stay, while approximately DKK 350 per day will be sufficient if the visa applicant is going to stay in a hostel or similar.

A smaller amount may be regarded as sufficient under the circumstances if the accommodation has already been paid for, or if the accommodation is private, and the host has accepted to be responsible for all expenses. The individual Schengen countries have set up different guidelines as to the size of the required amount. Annex 18 of the Visa Handbook contains an overview of the requirements made by the different Schengen countries.

Please refer to sections 10.3 and 10.4 below for information about refusal of visa.

#### **5.4. Verification of the Duration of the Stay**

Under Article 21(4) of the Visa Code, the authorities must ensure that the applicant has not exceeded the maximum allowed period of stay in the Schengen Area.

If the applicant has previously stayed in the Schengen Area on the basis of a visa, it must thus be ensured that the applicant will not stay in the Schengen Area on the basis of a visa for more than 90 days within any 180-day-period.

For further information about the reckoning of allowed stays, please refer to paragraph 3.1 above.

For further information about the possibilities of being granted a visa which is valid for a period shorter than what was applied for, please refer to paragraph 8.4 below.

Please refer to section 10.5 below for information about refusal of visa.

#### **5.5. Consultation of the Schengen Information System (SIS II)**

Under Article 21(1) and (3)(c) of the Visa Code, the authorities must check whether the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS II) for the purpose of refusing entry.

In connection with the registration of a visa application in the visa system, an inquiry is made in the SIS II.

If the applicant is a person for whom an alert has been issued in the SIS II, a consultation is automatically sent to the National Commissioner of Police's SIRENE Office which will then investigate the search result further and state whether it can be confirmed that the applicant is a person for whom an alert has been issued in the SIS II, or if it is a case of a false hit because of matching personal data or the like.

If the SIRENE Office confirms that an alert has been issued in the SIS II, information must also be collected about which country issued the alert, as the applicant must be informed about this.

Please refer to section 10.6 below for information about refusal of visa.

## **5.6. Investigation of Whether the Applicant Constitutes a Threat to Public Policy, Internal Security, Public Health or International Relations of the Schengen Countries**

Under Article 21(1) and (3)(d) of the Visa Code, authorities must check that the applicant is not considered to be a threat to public policy, internal security or public health of the Schengen countries as defined in Article 2, para. (21), of the Schengen Borders Code or to international relations, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.

This provision both means that the authorities are obliged to follow up on any specific information indicating that there may be a security risk, and that the authorities must check the applicant in a number of registers and, if relevant, consult other Schengen countries or the intelligence services.

This provision also entails that authorities must pay close attention to information from the World Health Organization, WHO, as well as information from local health authorities on outbreaks of infectious epidemics which may threaten the public health of the Schengen countries if nationals of affected countries or regions of affected countries are granted Schengen visas for Denmark or other Schengen countries. In situations where there is reason to believe that the applicant may constitute a threat to the public health of the Schengen countries, visa applications must be submitted to the Danish Immigration Service for it to make the decision as the first authority, see section 28(2)(4) of the Executive Order on Visas. Please refer to paragraph 6.2.4 below.

Please refer to paragraphs 10.7, 10.8 and 10.9 below for information about refusal of visa.

### **5.6.1. Entry Prohibitions**

When processing a visa case, the authorities will check if the applicant has been entered in the Central Criminal Register's list of entry prohibitions. Inquiries in the Central Criminal Register are made automatically along with the inquiry in SIS II when a visa application is set up in the system.

If the applicant is subject to an entry prohibition, a visa may generally not be granted in the time following their departure and until the end of the entry prohibition.

At all events, the processing of the visa application should take into account the expelled person's ties to Denmark as well as the duration of the entry prohibition, what has happened after the departure, the reason for the expulsion, etc. If the expelled person has violated the entry prohibition, the visa application will usually always be refused.

If the applicant was expelled by court order and made subject to a permanent ban on re-entry, a visa may only be granted in quite exceptional situations. Such applicants may not be granted a visa for the first two years following their departure unless the applicant's presence in Denmark is imperative, for example if the applicant must appear as a witness in court proceedings where the court finds that the presence of the applicant is of significant importance to the completion of the proceedings, or in the event of acute serious illness in a spouse or minor child living in Denmark, and where the consideration for the person living in Denmark is decisively in favour of issuing a visa to the applicant who has been expelled.

After the end of the first two years after departure, a visa may only be granted where very special grounds warrant it, for example serious illness or death in close family living in Denmark.

Prior to granting a visa to a person who has been expelled by court order and made subject to a permanent ban on re-entry, the immigration authorities must obtain information from the police as to the risk that the person in question will commit a crime again during a new stay in Denmark. If there is such a risk, this should be taken into account as a particularly weighty argument against issuing a visa. It should also be taken into account if the departure of the person in question was problematic.

If the applicant was expelled by court order and made subject to a ban on re-entry for 12, 6 or 4 years, respectively, a visa may only be granted during that period if there is a special reason to do so, such as serious illness or death in family living in Denmark.

If the applicant was expelled by administrative decision and made subject to a ban on re-entry for two or five years, including if the applicant is included on the list of foreign preachers, etc., who may be excluded from entry which is referred to in section 29c of the Aliens Act, it applies correspondingly that a visa may only be issued during that period if there is a special reason to do so, such as serious illness or death in close family living in Denmark.

In situations where there are grounds for issuing a visa even though the applicant is currently subject to an entry prohibition, the visa will always be issued with territorial limitations (VLTV).

### **5.6.2. Registration on the EU or UN's Sanction Lists**

When processing a visa case, the authorities will check if the applicant has been entered on the EU or UN's sanction lists. These lists are checked automatically along with the inquiry in SIS II when a visa application is set up in the system.

If the applicant is included on one of the above-mentioned lists, the person in question will also be the subject of an alert entered in SIS II for the purpose of refusing entry, and there will be a 'hit' there. If a hit is returned in a visa case, the Danish diplomatic mission or consular post will always be required to submit the case to the Danish Immigration Service. The Danish Immigration Service will then determine on which list and for what reason the applicant has been registered. If the applicant is included on the UN or EU sanction lists, the Danish Immigration Service will ask the Ministry of Foreign Affairs of Denmark to comment on the case before the Danish Immigration Service makes its decision.

### **5.6.3. Consultation of Other Schengen Countries or the Intelligence Services**

Under Article 22(1) of the Visa Code, a Schengen country may require the authorities of other Schengen countries to consult its central authorities during the examination of visa applications lodged by nationals of specific third countries or specific categories of such nationals.

In continuation of this, section 14(1) of the Executive Order on Visas stipulates that the processing of a visa case must include consultation of the authorities of other Schengen countries in accordance with the rules set out in the Visa Code.

A Schengen country may also decide that the country's own authorities responsible for issuing visas must consult the central authorities responsible for security. Under section 14(2) of the Executive Order on Visas, the Danish immigration authorities may consult the intelligence services in connection with their assessment of whether an applicant constitutes a security risk.

Consultation of other Schengen countries and/or the intelligence services is submitted automatically to the relevant authorities in connection with the opening of the visa application in the system.

A Schengen visa must not be granted until all authorities consulted have responded within seven calendar days after being consulted or after the time limit for responding has expired, see Article 22(2) of the Visa Code.<sup>19</sup>

Information about which countries' authorities must be consulted in connection with visa applications from specific nationalities or groups of persons is included in documents which are classified.

In the examination of a specific visa case in which the application is refused due to the intelligence services, etc. of other Member States having objected to the issuing of a visa through a consultation procedure, the applicant must be informed which Member State(s) objected, which specific reason the refusal was based on (threat to public policy or internal security, public health or international relations), or for what reasons the person concerned was regarded as constituting such a threat, see Article 32(2) and (3) of the Visa Code.<sup>20</sup>

Particular rules in relation to grounds for the notification and justification of a refusal of a visa application currently apply to family members of EU and Swiss citizens, see Part III of the Visa Handbook.

If an applicant requests information on the processing of their personal data in SIS and about their rights, the staff at the diplomatic mission or consular post must provide the person in question with contact details of the competent national authorities, including the data protection authorities, to which the person in question may direct their enquiry with a view to exercising their rights.

#### **5.6.4. Other Information About Matters of Significance to Public Policy, Internal Security, Public Health or International Relations**

The authorities should always investigate a case further if there is information indicating that the applicant may constitute a threat to public policy, internal security, public health or international relations of the Schengen countries.

Below are some examples where the consideration for public policy constitutes an argument against issuing a visa.

##### **5.6.4.1. Forced Marriages and Marriages of Convenience**

If an applicant has previously been refused family reunification with a spouse or a live-in partner in Denmark with reference to specific grounds for assuming that the decisive purpose of contracting the marriage or establishing the cohabitation is to obtain a residence permit (pro forma) or with reference to doubts as to whether the marriage was contracted in accordance with both parties' own wish (forced marriage), practice is that a Schengen visa cannot be issued with a view to visiting the spouse or live-in

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<sup>19</sup> However, there may be exceptional grounds for granting a visa with limited territorial validity before the expiry of the time limit, see paragraph 13.1 below for further details.

<sup>20</sup> The Judgment of the Court of Justice of the European Union of 24 November 2020 in the joined preliminary cases C-225/19 and C-226-19 held that Article 32(2) and (3) of the Visa Code, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that a Member State is required to indicate the identity of the Member State which raised the objection and the specific ground for refusal based on that objection, accompanied, where appropriate, by the essence of the reasons for that objection, and the authority which the visa applicant may contact in order to ascertain the remedies available in that other Member State.

partner living in Denmark, irrespective of which country the applicant comes from. This also applies even though the applicant may have previously been granted a visa with reference to the same or another host. In this connection, the authorities should also pay particular attention to whether it may be an attempt at circumvention if an applicant, who has previously been refused a residence permit or visa with reference to it being a marriage of convenience or a forced marriage, is now applying for a Schengen visa for Denmark stating another purpose.

In extraordinary situations, the authorities may also refuse an application for a visa if, in connection with the examination of the visa case, information appears, clearly indicating that it is a forced marriage or a marriage of convenience, even if the applicant has not previously had an application for family reunification with that spouse examined. In such situations, the applicant should be informed in connection with the refusal that the authorities have only considered whether, based on the information available, the marriage may form the basis of a visa stay, and that the matter will be examined further in connection with a possible case regarding family reunification.

Notwithstanding that it may be a forced marriage or a marriage of convenience, in very special situations where the applicant and the spouse or live-in partner living in Denmark have children of the relationship who are resident in Denmark, and where consideration for the child decisively warrant it, a visa may be issued with a view to visiting the child of the relationship. Such situations which may be decisively in favour of issuing a visa with a view to visiting the child of the relationship living in Denmark may be if the child suffers from a serious illness which makes it impossible for the child to travel abroad.

#### **5.6.4.2. Crime**

If, during their processing of a visa case, the authorities deem that there is reason to assume that the applicant will commit a crime during the visa stay, the visa application should be refused based on the consideration for the public policy of the Schengen countries.

#### **5.6.4.3. Illegal Work**

Section 13 of the Aliens Act stipulates that an alien must, as a rule, have been issued with a work permit to be allowed to take paid or unpaid employment, to pursue activity as a self-employed person or to provide services with or without remuneration in Denmark. However, some types of work are exempt from the requirement to obtain a work permit. This exemption applies, for example, to scientists and lectures, as concerns teaching or similar activities to which they have been invited, and artists, including musicians, performers, and the like, and associated staff if they are of major importance to an artistic event, see section 24(2) of the Aliens Order, read with section 14(3) of the Aliens Act.

Thus, it is only legal to work during a visa stay if the type of work in question is exempt from the requirement for a work permit under the provisions mentioned above.

Please refer to paragraph 5.6.4.4 below where the rules on unpaid voluntary work are described in further detail.

If, during their processing of a visa case, the authorities deem that there is reason to assume that the applicant will work during the visa stay without the required permission, the visa application should be refused based on the consideration for the public policy of the Schengen countries. In connection with such refusal, the applicant should be informed of the possibility of applying for a work permit.

#### **5.6.4.4. Unpaid voluntary work**

It follows from section 13(2) of the Aliens Act that an alien who is staying in Denmark legally under sections 2b-4b of the Aliens Act or a residence permit may perform unpaid voluntary work.

Aliens already in Denmark on a visa or a stay that is exempt from the visa requirement may thus perform unpaid voluntary work. The access to performing unpaid voluntary work is limited to persons who are already in Denmark for another reason on a visa or a stay that is exempt from the visa requirement. This means that the main purpose of the visa stay must not be to perform unpaid voluntary work, and an application for a visa for Denmark solely or primarily for the purpose of performing unpaid voluntary work will result in a refusal of the visa application.

It will always depend on a specific assessment if a visa can be granted, and the general conditions of obtaining a visa must be met, including when the applicant states when lodging the visa application that, in addition to visiting a family member, for example, the person in question would also like to perform unpaid voluntary work during a small part of the visa stay. The information provided about the main purpose of the visa stay, the duration of the stay and the nature and duration of the work which the applicant states that they intend to perform during the visa stay will thus be taken into account in the overall assessment of whether a visa can be granted.

In situations where the main purpose of the stay is, for example, a family visit, but where it is also stated that the visa applicant also wishes to perform unpaid voluntary work during part of the stay, it will be necessary – in addition to the examination of whether the general conditions for being granted a visa are satisfied – to also assess the stated unpaid voluntary work, including whether the unpaid voluntary work which the visa applicant states the intention of performing is usually also performed as unpaid voluntary work. If the work stated is not usually performed as unpaid voluntary work, it will be considered as normal work which – irrespective of whether it is unpaid or paid – cannot be performed on a visa but will require a work permit. This means that the visa application must be refused in situations where the type of unpaid voluntary work which the visa applicant states the intention of performing is not usually performed as unpaid voluntary work notwithstanding that the work is not the main purpose of the visa stay. Moreover, the visa application must be refused if the information provided about the purpose of the visa stay indicates that the purpose of the stay is mainly to perform unpaid voluntary work as this arrangement is limited to persons whose purpose is primarily another than performing unpaid voluntary work such as visiting a family member living here or participating in a cultural event.

Unpaid voluntary work is work, which is usually performed voluntarily and without remuneration and not-for-profit and which is performed for a formally organised organisation, association or the like. This means that aliens already in Denmark on a visa or a stay that is exempt from the visa requirement may work as volunteers for voluntary organisations and associations as well as public institutions. The alien must have an agreement with a formalised organisational unit to the effect that the person in question is going to perform unpaid voluntary work.

The unpaid voluntary work being required to be non-profit means that the work must not have a commercial or partially commercial aim.

The unpaid voluntary work being required to be unpaid means that the alien must not receive any remuneration for the workplace, neither in the form of pay nor in the form of other goods such as paid telephone, Internet connection, etc. However, the alien is permitted to receive minor benefits which other unpaid volunteers also receive, such as payment of transport expenses to the workplace, a festival entrance bracelet, free lunch, free fruit, Christmas present, etc.

The unpaid voluntary work must not replace paid labour, and it is a requirement that it is common that the work in question is performed unpaid and voluntarily.

Under this arrangement, an alien may perform unpaid voluntary work within areas like health, social affairs or sports and leisure. This may include unpaid voluntary work in a humanitarian aid organisation, a sports or scout association, abuse association, patients' association, visiting services, refugee association or a parish association.

If, during their processing of a visa case, the authorities deem that there is reason to assume that the applicant will work during the visa stay without the required permission or that the main purpose of the application is to perform unpaid voluntary work, the visa application should be refused. In connection with such refusal, the applicant may be informed of the possibility of applying for a work permit.

Please otherwise refer to L 46 for adjustments to the rules on unpaid voluntary work which was adopted on 15 December 2020 and entered into force on 1 January 2021 as Act No. 2191 of 29 December 2020.

#### **5.6.4.5. Radical Religious Preachers, etc.**

If, during their processing of a visa case, the authorities deem that there is reason to assume that the applicant will disseminate radical religious values and views contrary to fundamental democratic values, for example if the applicant is known to disseminate such values and views, the visa application should be refused based on the consideration for the public policy of the Schengen countries.

It is noted that such an applicant, despite holding a visa, must be refused entry into Denmark, see section 28(1)(7) of the Aliens Act, read with subsection (2) of the Act.

From 1 January 2017, a national sanction list was introduced which contains foreign religious preachers, etc. who may be excluded from entry into Denmark.

Section 29c(1) of the Aliens Act stipulates that an alien may be placed on the national sanction list if the alien acts as a religious preacher or in any other manner propagates a religion or faith, and considerations for public policy in Denmark warrant that the alien should not be allowed to stay in Denmark. Inclusion on the national sanction list is for a period of two years at a time and may be extended with two years at a time. An alien who is covered by the EU rules, see section 2(3), or has a residence permit in Denmark cannot be included on the national sanction list.

The national sanction list is public and may contain information about name, nationality, date of birth, country of residence and a facial photograph, see section 29c(4) of the Aliens Act. The list is published on [www.newtodenmark.dk](http://www.newtodenmark.dk).

Under section 32(10) of the Aliens Act, an alien who is on the national sanction list is banned from entry into Denmark and must not enter and stay in Denmark without permission for as long as they are on the list. This is stipulated by section 32(1), para. See paragraph 5.6.1 above for further details.

Reference is otherwise made to the explanatory notes to L 48 of 9 November 2016, particularly paragraphs 2.4.2, 2.4.3 and 2.7.

## **5.7. Verification of Travel Medical Insurance**

Under Article 21(1) and (3)(e) of the Visa Code, the authorities must check whether the applicant holds an adequate and valid travel medical insurance.

Article 15 of the Visa Code stipulates that persons applying for a uniform visa for one or two entries must prove that they have adequate and valid travel medical insurance which must cover any expenses which might arise in connection with repatriation for medical reasons or due to death, or in connection with urgent medical attention and emergency hospital treatment, during the alien's stay. The travel medical insurance must also cover all Schengen countries and cover the entire period of the intended stay or transit. The minimum coverage required is EUR 30,000.

If the visa application covers multiple entries into the Schengen countries, the travel medical insurance only needs to cover the first intended entry into and stay in the Schengen countries. In such cases the applicant must sign the statement in the visa application form, declaring that he is aware of the need to be in possession of travel medical insurance for future entries into and stays in Schengen countries.

Holders of diplomatic passports are exempt from the requirement for travel medical insurance, and certain groups of persons may be exempted from the requirement for travel medical insurance based on their employment or in connection with the issue of a visa at the borders. See paragraph 5.3.1 of the Visa Handbook for further details.

Please refer to section 15 of the Executive Order on Visas and Part II, paragraph 6.9, of the Visa Handbook.

Please otherwise refer to section 10.16 below for information about refusal of visa.

## **5.8. Assessment of the Reliability of the Information Presented**

Under Article 21(7) of the Visa Code, the examination of a visa application must be based notably on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant.

When there is information and documentation available about the purpose of the stay, the authorities must also assess the reliability of the documentation and the statements made.

Thus, the authorities should check these matters to the extent it is relevant. The assessment of which investigations are needed must be made on the basis of the circumstances in the specific case and in

consideration of local circumstances, including whether there are any major or minor problems with false representations in connection with visa applications.

It may, for example, be relevant to check the authenticity and reliability of documents by obtaining supplementary information from the applicant (for example by a personal interview), by contacting the stated issuer of the document or, if necessary, by making an actual verification of the document.

In some places in the world it is so difficult and time-consuming to verify documents that it is not practicable to determine whether the documents are genuine in connection with the processing of a visa case. In such situations, it must depend on a specific assessment if the documents can be taken into account in the consideration of the case. In this connection, it should be taken into account whether the documents appear genuine and whether there is other information to confirm or cast doubts as to the authenticity of the documents.

With a view to assessing the authenticity and reliability of the applicant's statements, it may also be relevant to obtain supplementary information from the applicant (for example by a personal interview), and it may be relevant to obtain supplementary information from a host with a view to discovering any inconsistencies in the statements.

In order to prevent misuse of the visa system, the Danish Immigration Service may, in certain cases, require that the host or a representative of the inviting enterprise appear in person and present identification proving their identity. The meeting will be held at the Danish Immigration Service.

Please refer to sections 10.10, 10.11 and 10.12 below for information about refusal of visa.

### **5.9. Assessment of the Applicant's Intention to Leave the Schengen Area Before the Expiry of the Visa Applied For**

Under Article 21(1) and (3)(e) of the Visa Code, authorities must, in their examination of an application for a visa, give particular consideration whether the applicant presents a risk of illegal immigration and whether the applicant intends to leave the territory of the Member States before the expiry of the visa applied for.

Section 16(1) of the Executive Order on Visas further stipulates that, in their assessment of whether an applicant intends to leave the Schengen countries before the expiry of the visa, the authorities must take into account the available information regarding the applicant's situation in the home country, any previous visits to Denmark or other Schengen countries, the purpose of the intended visit and any relations to persons living in Denmark.

The authorities must also take into account information about the general conditions in the applicant's home country and known immigration patterns.

In situations when several applicants, such as spouses, apply for Schengen visas with a view to travelling to Denmark together, the applications should generally be examined individually. However, as regards applications from minors applying for a Schengen visa with a view to travelling with their parents, the child will generally not be assessed individually, and the authorities will only evaluate whether the parents can be granted a Schengen visa. If a Schengen visa can be issued to the parents, the accompanying minor will usually also be granted a visa.

Please otherwise refer to section 10.13 below for information about refusal of visa in situations where it is the assessment of that the applicant does not intend to leave the Schengen Area before the expiry of the visa applied for.

### **5.9.1. Visa Based on a Specific Assessment (Bona Fide)**

Section 16(2) of the Executive Order on Visas stipulates that an applicant may be granted a visa if the authorities, based on an overall evaluation of the relevant circumstances (see section 16(1)), find that there are no doubts as to the applicant's intentions to depart the Schengen countries before the expiry of the visa.

In all cases where the decision is dependent on an assessment of whether the applicant intends to leave the country before the visa expires, the authorities are thus in a position to grant a visa if this is deemed unobjectionable after a specific assessment.<sup>21</sup>

This applies to the Danish diplomatic missions or consular posts as well as the Danish Immigration Service, but in practice it is most important to the diplomatic missions and consular posts, as cases submitted to the Immigration Service for their decision as the first authority are generally relatively complicated which is why there will typically be a certain degree of doubt as to the applicant's intentions.

In connection with their examination of a visa application, the authorities will thus always have to examine whether, based on an individual and specific assessment, it is unobjectionable to grant the applicant a visa. If the specific assessment shows that the applicant undoubtedly intends to leave the Schengen countries prior to the expiry of the visa, the authorities may grant the applicant a visa. However, if it cannot be deemed unobjectionable to grant the applicant a visa, for example because it must be regarded as doubtful that the applicant intends to return home prior to the expiry of the visa, the authorities must then examine the case in terms of which main group the applicant belongs to and refuse the application if the applicant does not belong to the group of persons who can generally be granted a Schengen visa according to the visa practice for the main group in question. It should be noted in this connection that the countries, whose nationals must have a visa for their entry into Denmark, are placed in the individual main groups on the basis of a general assessment of the risk that nationals of those countries are deemed to constitute an immigration risk in Denmark and the other Schengen countries.

### **5.9.2. The Significance of Previous Stays in Denmark or Other Schengen Countries**

Under section 16(3) of the Executive Order on Visas, information about an applicant's previous stays, if any, in Denmark or other Schengen countries within recent years prior to the present visa application must be taken into account in the assessment of whether the applicant intends to leave the Schengen countries before the visa expires.

Importance is attached to information of previous problem-free visits as well as information of previous misuse of the rules for entry and stay.

An applicant who, in connection with a previous stay in Denmark or other Schengen countries, complied with the rules governing entry into and stays in the Schengen countries will thus generally also be assumed to intend to comply with the rules in connection with a new stay.

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<sup>21</sup> I.e. if the alien is deemed to be *bona fide*.

Similarly, an applicant's previous misuse of the rules governing entry into and stays in the Schengen countries may be viewed as an indication that the applicant does not intend to leave the Schengen countries in accordance with a possible new visa. This could be situations where the applicant has been expelled and made subject to a ban on re-entry, where the applicant has acted in contravention of the rules on penalty periods set out in the Aliens Act, or where the applicant has otherwise acted in a way that indicates that he does not intend to comply with the rules in connection with a possible new stay.

In the processing of a visa application, the authorities should always make an enquiry in the visa system<sup>22</sup> to ascertain whether the applicant is known to have previous visa cases.

The authorities should also obtain information about the applicant's previous stays and/or applications for a residence permit in Denmark, if any, for example by making inquiries in the immigration authorities' other case administration systems, by inquiries in the Civil Registration System (CPR) and by looking through any physical immigration cases.

As the Danish diplomatic missions and consular posts only have limited access to the case administration systems, and as they do not have access to the physical immigration cases, they should follow up on all information about previous stays and/or applications for a residence permit by contacting the Danish Immigration Service.

In the missions' case administration system, it will sometimes be indicated if an applicant is known to have a case in the immigration authorities' case administration systems (with a red asterisk in the field "immigration case check"). However, it is possible that an applicant may be known to have previous cases about, for example, a residence permit without it being indicated in the visa case. Therefore, the missions should also follow up on any other information indicating that the applicant may have previously stayed in Denmark and/or applied for a residence permit.

#### **5.9.2.1. Previous Problem-Free Stays**

To the extent that the decision is dependent on an assessment of whether the applicant intends to leave the country before the visa expires, a visa should generally be granted if the applicant was previously granted a visa for Denmark or another Schengen country<sup>23</sup> and made use of the visa issued in accordance with the rules governing entry into and stays in Denmark, including compliance with the time limit for departure, for the expiry of the visa and with the stated purpose of the visit. It is a condition for granting a visa that the applicant's situation and the situation in the applicant's home country have not changed significantly since the applicant was previously granted a visa.

A visa may generally be granted if the applicant has previously had a residence permit for Denmark and had an unproblematic stay in that connection. In this connection, it is also a condition that the applicant's personal situation and the situation in the applicant's home country have not changed significantly and in such a manner since the applicant left Denmark that, based on an individual assessment, it must be deemed unobjectionable to grant the applicant a visa. This may as an example also include foreigners who have repatriated with financial support allocated in accordance with the law on repatriation. However, previous problem-free stays may always be left out of consideration if the specific case involves a presumption that the applicant does not only want a brief stay in Denmark or the other Schengen countries. This will always

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<sup>22</sup> The Danish visa system is divided into UM-VIS, which the Danish diplomatic missions and consular posts have access to, and IVR-VIS, which the Danish Immigration Service and the Immigration Appeals Board have access to.

<sup>23</sup> Visa stays in the Schengen area as it is composed at any given time are taken into account. Visa stays in a current Schengen country prior to that country's accession to the practical Schengen cooperation should thus not be accorded the same weight.

depend on a specific and individual assessment of all the information available in the case, and an applicant's previous problem-free stays should only be accorded independent importance if the applicant's situation and the situation in the applicant's home country have not changed significantly since the previous stay.

As a rule, an applicant's previous visits are also, only accorded importance if they took place within a few years prior to the current visa application. As a rule, stays up to five years prior may be taken into account. However, based on a specific assessment and depending on the previous basis of stay, importance may also be attached to stays up to eight years prior if the applicant's situation and the situation in applicant's home country have not changed significantly. If, in connection with the current visa application, the applicant refers to a previous stay seven, eight or 10 years prior, the immigration authorities will have to take into account the information provided by the visa applicant and any documentation submitted in that connection and include that in the basis of its examination of the current visa application. In this connection, it should be noted that visa cases are generally deleted from the visa system after a period of five years, see Article 23(1) of the VIS Regulation, i.e. Regulation (EC) No. 767/2008 of the European Parliament and of the Council. For this reason, previous visa stays will only be able to be included in a current examination with this backwards-looking period. However, certain visa cases are kept for longer (up to eight years) and are not deleted automatically after five years. This includes cases where penalty periods may be relevant. However, it will not always be possible to search the visa system and verify the information provided by the applicant.

If a visa applicant has previously held a residence permit in Denmark, importance may be attached to stays up to ten years prior if the applicant's situation or the situation in applicant's home country have not changed significantly and as cases concerning residence permits are not subject to the same time limits for deletion as cases concerning visas. In this connection, it will be possible to take into account the applicant's marital status, family relations to children, for example, as well as the applicant's educational level and employment situation and the situation in the home country. In this connection, it may also be taken into account in the overall examination what kind of residence permit the applicant has previously had in Denmark. If the applicant has held a residence permit on the basis of employment and has since obtained permanent employment within the same or a similar professional field in the home country, this may be accorded positive importance in the examination of whether a visa can be granted. It may also be accorded positive importance if the applicant has previously held a residence permit for example as an au pair in Denmark but now has other permanent employment in the home country where the person in question must otherwise be regarded as being firmly settled. Information on the current purpose and the duration of the stay for which the visa is now applied may also be taken into account. It should be noted that it will always depend on a specific, individual assessment of the overall circumstances of the case whether the visa can be granted.

Previous stays while the applicant was a minor should normally only be granted limited importance as a case concerning a minor is usually not independently assessed if the child applies for a visa with a view to travelling with its parents. In such situations, the child will merely be granted a visa or be refused one as a consequence of the decision in the parents' case. If a now adult applicant has previously been granted a visa as a minor based on an independent assessment, that visa stay may be taken into account in connection with a new application for a visa.

### **5.9.2.2. Penalty Periods as a Consequence of Previous Contravention of the Rules Governing Entry into and Stays in Denmark**

Section 4c of the Aliens Act contains rules governing penalty periods for aliens who, in certain specified manners, use a visa stay for other purposes than the intended one. The penalty period is either three or five years, see below.

Section 4c of the Aliens Act applies in situations when actions warranting a penalty period were taken after entry on a Danish Schengen visa. In this connection, a Danish Schengen visa means a visa issued *bona fide* or after authorisation by the Danish Immigration Service by a Danish diplomatic mission or consular post, and visas issued by a Danish diplomatic mission or consular post on behalf of another Schengen country. A Danish Schengen visa also means a *bona fide* visa issued by another country's diplomatic mission or consular post on behalf of Denmark and where Denmark is the main destination.

Under section 4c(1) of the Aliens Act, an alien is generally not eligible for a visa for a period of three years if, after entry, the alien stays in Denmark or another Schengen country without the requisite permit for up to one month (30 days) beyond the period of validity of the visa. The period is five years if the stay lasts more than one month (30 days) beyond the period stated. The periods of three and five years, respectively, are reckoned from the date of the alien's departure from the Schengen Area. This means that the date of departure will be included when the penalty period is calculated.

However, the alien may be granted a visa if he proves that the transgression of the period stated was due to circumstances which cannot be blamed on the person in question or that there are very special reasons, for example where prevention of the alien's chances of obtaining a visa will constitute a clearly disproportionate reaction compared to the transgression of the validity of the visa, see section 4c(2) of the Aliens Act. This could be situations where the alien intended to leave prior to the expiry of the visa, but where it was not possible because of, for example, strikes, weather conditions or illness, or where the reason for the new visa application is a life-threatening illness, death or the like in a close family member living in Denmark.

In certain situations, a penalty period is not applied in connection with brief, first-time transgressions of the number of days for which a visa was issued. This applies in situations where an alien stays in Denmark or another Schengen country without the required permission for up to 15 days beyond the number of days for which the visa was issued, provided that the person in question leaves the Schengen Area within the expiry of the visa, and provided that the person in question, to a sufficient extent, can prove to have misunderstood the date of expiry of the visa and is able to refer to other matters which support the belief that he was in good faith. This could be the case if it must be taken into account that the person in question received incorrect or insufficient information about the expiry of the visa.<sup>24</sup>

Under section 4c(3)(1) of the Aliens Act, an alien is not eligible for a visa for a period of five years if, after entry into Denmark, the alien is expelled by court order or by administrative decision under Part 4 of the Aliens Act. The period of five years is reckoned from the time of the voluntary or involuntary departure from the Schengen Area. This means that the date of departure will be included when the penalty period is calculated.

Section 4c(3)(2) of the Aliens Act further stipulates that an alien is not eligible for a visa for a period of five years if, after entry into Denmark, the alien submits an application for asylum in Denmark or another Schengen country. The period of five years is reckoned from the time of the voluntary or involuntary

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<sup>24</sup> This practice was determined in the explanatory notes to Bill No. L 10 of 8 October 2008, particularly in paragraph 3.2.2.3.

departure from the Schengen Area. This means that the date of departure will be included when the penalty period is calculated.

However, the alien is not subject to a penalty period if the person in question contributes to the elucidation of the asylum case and, after refusal or withdrawal of the application, departs or contributes to the departure without undue delay, see section 4c(6) of the Aliens Act.

In addition, section 4c(3)(3) of the Aliens Act stipulates that an alien is not eligible for a visa for a period of five years if, after entry into Denmark, the alien submits an application for a residence permit on another basis than asylum. The period of five years is reckoned from the date of the submission of the application for a residence permit. If the alien submits more than one application for a residence permit, the period will be reckoned from the most recently submitted application.

However, the alien will not be subject to a penalty period if the application in question is an application for family reunification with a spouse, family reunification with a permanent live-in partner, family reunification where the applicant is a minor under the age of 15, an application for a residence permit with a view to study or to attain a PhD, a residence permit on the basis of the International Cities of Refuge Network, a residence permit on the basis of employment or independent business activity, a residence permit as an employee or PhD student at the European Spallation Source in Sweden, or a residence permit granted with reference to international obligations. The alien will not be made subject to a further penalty period if the application is from an alien who is retired from an international organisation or the alien's accompanying family. Thus, the alien will not be subject to a waiting period if, after submission of the application for a residence permit, the alien leaves the Schengen countries in accordance with the validity of the visa, or if considerations of a humanitarian nature make it conclusively inappropriate, see section 4c(4) of the Aliens Act.<sup>25</sup>

However, this does not apply if there are definite reasons for assuming that the decisive purpose of the application for a residence permit is to extend the stay in Denmark and it is manifest that the application cannot lead to the issue of a residence permit, see section 4c(5) of the Aliens Act.

Finally, section 4c(7) of the Aliens Act stipulates that an alien is not eligible for a visa for a period of three years if, after entry into Denmark, the person in question gives birth to a child in Denmark without having entered into an agreement with a private maternity clinic about the birth prior to entering Denmark. The period of three years is reckoned from the time of the alien's voluntary or involuntary departure from the Schengen Area. The date of departure is included in the determination of the penalty period.

The rule concerning penalty periods in section 4c(7) of the Aliens Act applies irrespective of whether the alien departs in accordance with their visa or makes use of a possible opportunity to have the time limit for departure postponed and thus have the stay in Denmark extended. What is decisive under this provision is whether the alien has withheld information from the Danish authorities and whether, prior to the alien's entry into Denmark on a visa, an agreement has been made with a private maternity clinic about the birth and also about payment for this. Thus, aliens will be subject to penalty periods even though they depart in accordance with the validity of the visa when they give birth during their stay in Denmark without having a prior agreement with a private maternity clinic.

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<sup>25</sup> The decisive criterion is thus whether the application may result in a residence permit being granted under one of the provisions mentioned in section 4c(4) of the Aliens Act. For example, an application for a residence permit as a trainee or as a herdsman or operations manager in the field of agriculture will not result in a penalty period as such residence permits are granted under section 9a(2), paras. (5) and (8), respectively, of the Aliens Act. Conversely, an application for a residence permit as an au pair or intern will result in a penalty period as such residence permits are granted under section 9j(1) and section 9k(1), respectively, of the Aliens Act.

However, the alien may be granted a visa if the alien proves that the birth in Denmark was due to circumstances which cannot be blamed on the alien or that there are very special reasons, for example where prevention of the alien's chances of obtaining a visa will constitute a clearly disproportionate reaction, see in this connection section 4c(8) of the Aliens Act, and if considerations of proportionality constitute a strong argument against making the alien subject to a penalty period.

This could be the case where the alien intended to leave before giving birth but was unable to do so due to external circumstances such as premature birth, a flight delay or cancellation, strikes, weather conditions, serious illness, etc. In such situations, the alien will, despite having given birth in Denmark, not be prevented from being granted a visa in the future under the usual practice applicable to visa applicants of the same nationality.

That the circumstances which meant that the alien gave birth in Denmark during a previous visa stay cannot be blamed on the alien may, for example, be proved by means of a doctor's statement from the hospital or maternity clinic where the birth took place which indicates that the person in question during said previous stay gave birth prematurely or that the person in question could not depart prior to giving birth – seen in relation to the person in question's visa stay and return originally having been planned to take place in due time before the expected time of birth. In addition, it may be proved by means of attestation from the airline or by presentation of a doctor's statement showing that the alien was unable to return home before the time of birth due to serious illness which meant that the birth took place in Denmark.

Very special grounds may exist – as with the other rules on penalty periods – for example if the host living in Denmark whom the alien wishes to visit has a life-threatening illness or in the event of a death, funeral or the like in the applicant's close family living in Denmark. The alien's ties to the host living in Denmark and any children living in Denmark are an important aspect of the assessment of whether a visa may be granted in such a situation.

Very special grounds may also be if considerations of proportionality constitute a strong argument against making the alien subject to a penalty period. Thus, the authorities will not have to impose a penalty period if, based on a specific assessment, a preclusion of the alien's chances of being granted a visa for a period of three years must be regarded as a clearly disproportionate reaction to the circumstance that the alien gave birth to a child during a previous visa stay in Denmark without having a prior agreement with a private maternity clinic.

Moreover, very special grounds will exist if a refusal of visa will constitute a violation of Denmark's international obligations. This could be the case, for example, if a refusal of visa with a penalty period of three years would make it impossible for a couple to meet because the visa applicant's spouse or partner living in Denmark is unable to travel due to very serious illness, a disability or the like.

The assessment of whether very special grounds exist may include as an element whether the alien who gave birth during the previous visa stay in Denmark is able to prove that they subsequently paid for the birth. In this connection, importance may be accorded to whether the payment for the birth was made in close proximity to the birth or not until several months or years after the actual birth took place in Denmark, for example in connection with the alien applying for a visa for Denmark again.

According to the usual practice and with reference to very special grounds, it will also be possible to derogate from the rule on penalty periods under section 4c(8) of the Aliens Act if the alien's presence in Denmark is quite necessary, for example if the person in question is to witness in legal proceedings.

It is a condition for refusing a visa with a three-year penalty period that the birth as well as the visa application took place and was submitted on 1 July 2021 or later.

However, aliens who have lied to the authorities – prior to 1 July 2021 – about a pregnancy and has given birth to a child in Denmark on the basis of specific, individual assessment may be refused a visa under Article 32(1)(b) of the Visa Code, see section 8(2)(13) of the Executive Order on Visas, with reference to there being – on the basis of the alien's behaviour during the previous stay – a presumption that the person in question may not return home or that the person in question may not otherwise be expected to comply with the conditions for any visa granted.

Finally, it should be noted that an alien who gives birth in Denmark after having entered the country on a visa may still be made subject to a penalty period under the provision set out in section 4c(1) of the Aliens Act, according to which the alien will be subject to a three-year penalty period if their stay in Denmark or another Schengen country lasts up to a month beyond the period provided in the visa and a five-year penalty period if the stay lasts more than a month beyond the period provided in the visa.

Please refer to paragraph 5.9.3 below.

### **5.9.3. The Applicant's Previous Behaviour in General<sup>26</sup>**

A visa application should normally be refused if the applicant has previously displayed a behaviour which indicates that the person in question does not only wish to stay legally for a short period.

This could be the case if the applicant has previously applied for asylum. However, the visa applicant previously having applied for asylum in Denmark is not in itself always sufficient reason to refuse the visa application. The time passed since the application for asylum will be included as an important aspect of the discretionary assessment.

A visa application may also be refused with reference to previous misuse if the applicant has previously been expelled from Denmark as a consequence of an illegal stay, if the applicant failed to depart in accordance with a visa issued by another Schengen country, or if the applicant failed to depart in accordance with a deadline for departure set in connection with a refusal of an application for a residence permit.

If the applicant has had a previously granted residence permit for Denmark revoked, or if in some other way the applicant has had a problematic stay in connection with a previously granted residence permit for Denmark, this should also be included in the assessment of the immigration risk. However, the visa applicant previously having applied for a residence or work permit (except asylum) in Denmark is not in itself regarded as misuse of the visa system.

It may also be included in the assessment if, in connection with a previous case, the applicant submitted documents which were false, counterfeit or forged. This applies irrespective of whether the documents were submitted with a visa application or, for example, an application for a residence permit.

In addition, it may be included as an aspect of the assessment if there is information to the effect that the applicant has previously applied for a visa for another Schengen country, despite the main destination being Denmark, for the purpose of bypassing Danish visa practices.

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<sup>26</sup> This paragraph deals with situations where the rules on penalty periods do not apply, for example because the previous misuse of the visa system did not take place after entry on a Danish visa as defined in paragraph 5.9.2.2 above.

#### **5.9.4. Conduct of the Host**

In the processing of a visa application, the authorities should make an inquiry in the visa system to investigate whether the host has displayed a behaviour indicating that the visa system is being misused. In this connection, it should be checked if the host has invited a large number of visa applicants to visits without a justifiable cause or if there have been problems where previous visitors used their visas for anything other than the stated purpose.

This applies irrespective of whether the visit was for private, business or cultural purposes and thus also irrespective of whether the host is a private individual, an enterprise or an organisation or similar.

#### **5.9.5. Declarations**

If an applicant directly or indirectly states that they do not intend to leave Denmark in accordance with a visa, the main rule is that the visa application should be refused.

#### **5.9.6. Pending Application for a Residence Permit**

If an applicant has a pending application for a residence permit with a view to study or work in Denmark, a visa may, as a rule, be granted to the applicant, if the applicant does otherwise meet the conditions applicable. Thus, a pending application for a residence permit with a view to study or work in Denmark does not in itself preclude an applicant from obtaining a visa in order to, for example, make tourist or private visits. However, a visa must not be granted if there are specific grounds for assuming that the applicant will begin working in Denmark without the required permission after entry into Denmark on a visa. This applies to all cases examined by the Danish Agency for International Recruitment and Integration.

If the applicant has a pending application for a residence permit based on the rules governing family reunification, a visa may, as a general rule, not be granted to the applicant. This applies to all the types of applications examined by the Danish Immigration Service.<sup>27</sup>

However, a visa may be issued if the application for a residence permit is concerned with family reunification with a spouse and if, based on a review of the case, the Danish Immigration Service specifically deems that it will be reasonable to grant a visa while the case concerning family reunification with a spouse is pending. In this connection, it will be a condition that the processing of the case concerning family reunification with a spouse is at such an advanced stage that the Danish Immigration Service has an actual basis for assessing whether it will be reasonable to grant a visa. The processing of the case concerning family reunification with a spouse must, as a minimum, be at such an advanced stage that it can be ruled out that the visa application was submitted with a view to bypassing the rules governing residence permits, and it must also be possible to rule out that the marriage is a forced marriage or a marriage of convenience.

If the information in the case concerning family reunification with a spouse makes it unreasonable to grant a visa, or if the case is not at a sufficiently advanced stage for the authorities to make an assessment of it, a visa will normally be refused.

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<sup>27</sup>A pending application for a residence permit in a country which Denmark represents in connection with reception and processing of visa applications will be considered in accordance with Danish visa practice, so a pending residence case in Norway will be placed on an equal footing with a pending case in Denmark.

A visa application will not be refused as a consequence of a pending application for a residence permit in situations where the applicant has lodged an appeal against a refusal of a residence permit to the Immigration Appeals Board or has brought the decision made by the Immigration Appeals Board before the courts or the Parliamentary Ombudsman. However, this does not apply if the applicant has previously had an application for family reunification with a spouse or family reunification with a permanent live-in partner refused in Denmark with reference to specific grounds for assuming that the decisive purpose of contracting the marriage or establishing the cohabitation relationship is to obtain a residence permit (marriage or relationship of convenience) or with reference to doubts as to whether the marriage was contracted or the cohabitation relationship established in accordance with both parties' own wish (forced marriage or relationship), see paragraph 5.6.4.1 for further details.

A visa must always be granted if a refusal would constitute a violation of Denmark's international obligations, see paragraph 12 below for further details.

Moreover, a Schengen visa may be granted if warranted by extraordinary circumstances, for example in the event of life-threatening illness of a host living in Denmark or the death or burial of a close family member living in Denmark.

In connection with adoption cases where a minor submits a visa application with a view to travelling to Denmark alone or with their future adoptive parents in order to be in Denmark while waiting for the approval of the adoption by the country of origin and/or the Danish authorities, the child should, as a rule, be refused a visa. This is due to the wish to avoid situations where a minor is granted a visa for Denmark while the adoption case is still pending and where the adoption is subsequently not approved by the authorities in the country of origin or Denmark.

### **5.9.7. Assessment of the Applicant's Intentions in General**

In their examination of a visa case, the authorities must take into account information about the applicant's situation in the home country, the purpose of the stay, the circumstances of any previous stays, any relations to persons living in Denmark, the general conditions in the applicant's home country and known immigration patterns, see section 16(1) of the Executive Order on Visas.

If the evaluation of the information shows that there are no doubts as to the alien's intentions to depart the Schengen countries before the expiry of the visa, the general rule is that a visa should be granted, see section 16(2) of the Executive Order on Visas.

If the evaluation does not provide a clear answer as to whether the applicant intends to leave before the visa expires, the case should be considered in further detail, taking into account matters such as the general situation in the applicant's home country and known immigration patterns. In this connection, the authorities must take into account which main group of countries subject to a visa requirement the applicant belongs to, see section 16(4) of the Executive Order on Visas.

Annex 2 of the Executive Order on Visas thus contains a list of the countries whose nationals are required to obtain a visa, and these countries are listed in five indicative main groups based on a general assessment of the risk that applicants from the listed countries or regions will remain in the Schengen Area after expiry of a visa.

The following paragraphs 5.9.7.1-5.9.7.5 describe some guidelines for the processing of visa applications submitted by persons from the different main groups.

Paragraphs 5.9.7.6-5.9.7.9 contain descriptions of situations where there is generally a basis for derogating from the main groups.

### **5.9.7.1. Main Group 1**

Main group 1 includes countries and regions, whose nationals are generally considered as posing a very limited risk of immigration into Denmark or the other Schengen countries.

In this main group, the clear starting point is that visas may be granted with a view to tourist and private visits, business visits as well as cultural visits, see also paragraph 5.9.7.

However, the authorities should generally refuse visa applications where it is assessed that there is a high risk that the applicant, without a legal basis, intends to take up permanent or long-term residence in Denmark or the other Schengen countries. This could be the case if the applicant states that they do not intend to leave after the visa expires, or if the applicant has previously displayed a behaviour which indicates that they do not only wish to stay in Denmark for a short period, or if the information in the case otherwise gives rise to reasonable doubts as to the alien's intention to leave the Schengen countries before the visa applied for expires.

#### **5.9.7.1.1. Tourist Visits and Private Visits**

Applicants from countries in main group 1 may, as a rule, be granted a Schengen visa with a view to any kind of private visit as well as visits which can only be characterised as tourist visits – this also applies even if they have not been invited by a host living in Denmark.

#### **5.9.7.1.2. Business Visits**

Applicants from countries in main group 1 may, as a rule, be granted a Schengen visa with a view to a genuine business visit.

According to common practice, a genuine business visit will usually be when an applicant, for purposes relating to their trade, wishes to come to Denmark to trade, conclude agreements, inspect products, etc. with a business relation in Denmark when the applicant is a business operator, and when the stay in Denmark is related to the business operated by the applicant in their home country.

It is a condition that the business visit is documented and that the stated purpose is confirmed by the business host, see paragraph 5.2.2 above for further details.

#### **5.9.7.1.3. Cultural and Scientific Visits**

Applicants from countries in main group 1 may, as a rule, be granted a Schengen visa with a view to participation in a cultural or scientific event, including participation in conferences, sports events, folk high school stays or similar which are organised by Danish authorities, educational institutions, research institutions or organisations.

A more detailed assessment of the purpose of the participation in the event and the applicant's basis for participating will be made, and a Schengen visa must only be granted if the stated purpose is confirmed, see paragraph 5.2.3 above for further details.

### **5.9.7.2. Main Group 2**

Main group 2 includes countries and regions, whose nationals are generally considered as posing a certain risk of immigration in Denmark or the other Schengen countries.

In this main group, the starting point is that visas may be granted with a view to private visits with persons living in Denmark as well as business visits and cultural visits, see also paragraph 5.9.7.

However, the authorities should generally refuse visa applications where it is assessed that there is a high risk that the applicant, without a legal basis, intends to take up permanent or long-term residence in Denmark or the other Schengen countries. This could be the case if the applicant states that they do not intend to leave after the visa expires, or if the applicant has previously displayed a behaviour which indicates that they do not only wish to stay in Denmark for a short period, or if the information in the case otherwise gives rise to reasonable doubts as to the alien's intention to leave the Schengen countries before the visa applied for expires. This assessment based on presumptions must be made in relation to all applicants irrespective of the relationship between the applicant and the host living in Denmark.

Moreover, authorities should refuse applications in certain situations where the applicant has limited ties to their home country.

#### **5.9.7.2.1. Private Visits**

Applicants from countries in main group 2 may, as a rule, be granted a Schengen visa irrespective of whom they wish to visit, including friends and acquaintances. However, it is usually a condition that the applicant has been invited to Denmark by a host living here.

As regards visa applications lodged by persons other than spouses, live-in partners, minor children and parents, the authorities should also assess whether the applicant's ties to the home country or the country of residence is strong enough that it is sufficiently probable that the person in question will return after the visa stay. In this connection, it may be taken into account how settled the applicant is in the home country, including whether the person in question has a job, if he is married and has children and if the family, if any, also wishes to obtain a visa for Denmark. In particular, attention should be directed at persons in special risk categories, including unemployed persons and persons who cannot prove a steady income. However, the visa applicant being unemployed is not always in itself sufficient reason to refuse the visa application.

It cannot be generally assumed that the applicant has the required ties to the home country if the applicant is not staying in the country where the applicant is a national but is staying in a third country. However, in such situations it may be considered of a certain importance if the applicant has had for a number of years, and still has, a permanent residence permit in that third country and if the applicant is firmly settled in that country by means of employment, real property, etc.

In connection with the assessment, the authorities must take into account which kind of long-term stay may become relevant. Thus, a risk that the applicant may potentially seek to stay longer by applying for one of the types of residence permit which do not entail a penalty period under section 4c(4) of the Aliens Act should not result in a refusal of the visa application. This includes, for example, family reunification under section 9(1)(1) or (2) of the Aliens Act or residence permit based on employment under section 9a(2)(1) to (11) and (13). This means that, for example, romantic partners may be granted visas despite weak ties to their home country, as the risk that the applicant will apply for a residence permit is linked to the rules on family reunification in such situations.

In order to grant a Schengen visa to romantic partners, authorities should usually require that the couple has had normal prior personal knowledge of each other in the form of a steady relationship. In this connection, it is a condition that the couple know each other and have met each other in person. Thus, it is not sufficient that the couple have merely had telephone and/or written contact, for example via the Internet. Even if the couple has met each other personally, an application should generally be refused if the couple does not have any greater knowledge of each other's personal situation or if the personal contact is not of a recent date.

The same requirement for personal knowledge applies irrespective of whether the applicant wishes to enter Denmark with a view to contracting marriage. A visa should not be granted with a view to visiting a romantic partner if the applicant and/or the host are registered as married to another person as the romantic relationship between the applicant and the host cannot be regarded as documented in such a situation. However, a visa may be granted if the applicant presents documentation that the marriage has ended by final divorce.

#### **5.9.7.2.2. Business Visits**

Applicants from countries in main group 2 may, as a rule, be granted a Schengen visa with a view to a genuine business visit.

According to common practice, a genuine business visit will usually be when an applicant, for purposes relating to their trade, wishes to come to Denmark to trade, conclude agreements, inspect products, etc. with a business relation in Denmark when the applicant is a business operator, and when the stay in Denmark is related to the business operated by the applicant in their home country.

#### **5.9.7.2.3. Cultural and Scientific Visits**

Applicants from countries in main group 2 may, as a rule, be granted a Schengen visa with a view to participation in a cultural or scientific event, including participation in conferences, sports events, folk high school stays or similar which are organised by Danish authorities, educational institutions, research institutions or organisations.

The authorities should carry out a more detailed assessment of the purpose of the participation in the event and the applicant's basis for participating, and a Schengen visa must only be granted if the stated purpose is confirmed, see paragraph 5.2.3 above for further details.

#### **5.9.7.3. Main Group 3**

Main group 3 includes countries and regions, whose nationals are generally considered as posing a significant risk of immigration in Denmark or the other Schengen countries.

In this main group, the starting point is that visas may be granted with a view to private visits with relatively close family members as well as business visits and cultural visits, see also paragraph 5.9.7.

However, the authorities should generally refuse visa applications where it is assessed that there is a high risk that the applicant, without a legal basis, intends to take up permanent or long-term residence in Denmark or the other Schengen countries. This could be the case if the applicant states that they do not intend to leave after the visa expires, or if the applicant has previously displayed a behaviour which indicates that they do not only wish to stay in Denmark for a short period, or if the information in the case otherwise gives rise to reasonable doubts as to the alien's intention to leave the Schengen countries before

the visa applied for expires. This assessment based on presumptions must be made in relation to all applicants irrespective of the relationship between the applicant and the host living in Denmark.

Moreover, authorities should refuse applications in certain situations where the applicant has limited ties to their home country.

#### **5.9.7.3.1. Private Visits**

Applicants from countries in main group 3 may, as a rule, be granted a Schengen visa if they have a relatively close relation to a host living in Denmark.

The following groups of persons may, as a rule, be granted a visa:

- the host's spouse or live-in partner
- the host's romantic partner or fiancé(e)
- the host's children and their accompanying spouses, if relevant
- the host's parents and their accompanying spouses (i.e. stepparents), if relevant
- the host's siblings irrespective of their age and their accompanying spouses, if relevant

In addition, visas are generally granted to under-age nieces, nephews and grandchildren if they wish to travel to Denmark with a view to a holiday stay without being accompanied by an adult.

Schengen visas may also be granted to close acquaintances of Danes who have previously been posted abroad, under-age sponsor children and applicants who are going to accompany an elderly, weak family member.

In order to grant a Schengen visa to romantic partners, authorities should usually require that the couple has had normal prior personal knowledge of each other in the form of a steady relationship. In this connection, it is a condition that the couple know each other and have met each other in person. Thus, it is not sufficient that the couple have merely had telephone and/or written contact, for example via the Internet. Even if the couple has met each other personally, an application should generally be refused if the couple does not have any greater knowledge of each other's personal situation or if the personal contact is not of a recent date. The same requirement for personal knowledge applies irrespective of whether the applicant wishes to enter Denmark with a view to contracting marriage. A visa should not be granted with a view to visiting a romantic partner if the applicant and/or the host are registered as married to another person as the romantic relationship between the applicant and the host cannot be regarded as documented in such a situation. However, a visa may be granted if the applicant presents documentation that the marriage has ended by final divorce.

With regard to the assessment of whether a Schengen visa can be granted for under-age sponsor children, the authorities should take into account the country the sponsor child comes from and the nature and scope of the support the sponsor has given to the child in question. Thus, a visa may usually be granted if the decision can be based on the aspect that, due to the support to the child and/or its family, the sponsor has helped secure the child's school attendance and education, the child's health so that illnesses and malnutrition are avoided, or that the sponsor has otherwise contributed to an improvement of the child's living conditions.

In connection with visas to close acquaintances of Danes who have previously been posted abroad, it is generally a requirement that the posting lasted at least six consecutive months and that the posting was part of an employment relationship with a public authority or a Danish or foreign private company with

business premises in Denmark as well as abroad. A posting for a major emergency relief organisation which is registered in Denmark, but which works abroad may in some situations be placed on an equal footing. In addition, authorities should take into account the ties of the host living in Denmark to the applicant, including the nature of the continued contact after the end of the posting. Moreover, importance is attached to the individual applicant's interest in visiting the host living in Denmark as well as the host's interest in receiving the visit.

In the examination of visa applications lodged by persons other than spouses, live-in partners, minor children and parents,<sup>28</sup> the authorities should also examine whether the applicant's ties to the home country or the country of residence are strong enough that it is sufficiently probable that the person in question will return after the visa stay, or if the applicant will take up long-term residence in Denmark or the other Schengen countries. In this connection, it may be taken into account how settled the applicant is in the home country, including whether the person in question has a job, if he is married and has children and if the family, if any, also wishes to obtain a visa for Denmark. In particular, attention should be directed at persons in special risk categories, including unemployed persons and persons who cannot prove a steady income. However, the visa applicant being unemployed is not always in itself sufficient reason to refuse the visa application.

It cannot be generally assumed that the applicant has the required ties to the home country if the applicant is not staying in the country where the applicant is a national but is staying in a third country. However, in such situations it may be considered of a certain importance if the applicant has had for a number of years, and still has, a permanent residence permit in that third country and if the applicant is firmly settled in that country by means of employment, real property, etc.

In connection with the assessment, the authorities must take into account which kind of long-term stay may become relevant. Thus, a risk that the applicant may potentially seek to stay longer by applying for one of the types of residence permit which do not entail a penalty period under section 4c(4) of the Aliens Act should not result in a refusal of the visa application. This includes, for example, family reunification under section 9(1)(1) or (2) of the Aliens Act or residence permit based on employment under section 9a(2)(1) to (11) and (13). This means that, for example, romantic partners may be granted visas despite weak ties to their home country, as the risk that the applicant will apply for a residence permit is linked to the rules on family reunification in such situations.<sup>29</sup>

### **5.9.7.3.2. Business Visits**

Applicants from countries in main group 3 may, as a rule, be granted a Schengen visa with a view to a genuine business visit.

According to common practice, a genuine business visit will usually be when an applicant, for purposes relating to their trade, wishes to come to Denmark to trade, conclude agreements, inspect products, etc. with a business relation in Denmark when the applicant is a business operator, and when the stay in Denmark is related to the business operated by the applicant in their home country.

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<sup>28</sup> I.e. applications lodged by romantic partners, fiancé(e)s, children over the age of 18 and their accompanying spouses, if relevant, parents (and their accompanying spouses, if relevant), siblings and their accompanying spouses, if relevant, under-age nieces, nephews and grandchildren, close acquaintances of Danes who have previously been posted abroad, under-age sponsor children and applicants who are going to accompany an elderly, weak family member.

<sup>29</sup> However, in order to be regarded as romantic partners in this connection, it is a condition that it is a romantic relationship of a permanent nature building on a normal prior personal knowledge.

It is a condition that the business visit is documented and that the stated purpose is confirmed by the business host, see paragraph 5.2.2 above for further details.

#### **5.9.7.3.3. Cultural and Scientific Visits**

Applicants from countries in main group 3 may, as a rule, be granted a Schengen visa with a view to participation in a cultural or scientific event, including participation in conferences, sports events, folk high school stays or similar which are organised by Danish authorities, educational institutions, research institutions or organisations.

The authorities should carry out a more detailed assessment of the purpose of the participation in the event and the applicant's basis for participating, and a Schengen visa must only be granted if the stated purpose is confirmed, see paragraph 5.2.3 above for further details.

#### **5.9.7.4. Main Group 4**

Main group 4 includes countries and regions, whose nationals are generally considered as posing a high risk of immigration in Denmark or the other Schengen countries.

In this main group, the starting point is that visas may be granted with a view to private visits with the closest family members as well as business visits and cultural visits, see also paragraph 5.9.7.

Taking into consideration the purpose of the stay, the authorities should assess whether the applicant, without a legal basis, intends to take up permanent or long-term residence in Denmark or the other Schengen countries.

For example, the application should be refused if the applicant states that they do not intend to leave after the visa expires, or if the applicant has previously displayed a behaviour which indicates that they do not only wish to stay in Denmark for a short period, or if the information in the case otherwise gives rise to reasonable doubts as to the alien's intention to leave the Schengen countries before the visa applied for expires. This assessment based on presumptions must be made in relation to all applicants irrespective of the relationship between the applicant and the host living in Denmark.

Moreover, authorities should refuse applications in certain situations where the applicant has limited ties to their home country.

##### **5.9.7.4.1. Private Visits**

In main group 4, the following groups of persons may, as a rule, be granted a Schengen visa:

- the host's spouse or live-in partner
- the host's under-age children
- the host's parents

Cohabiting partners are defined as persons, who have lived together in a more permanent cohabitation relationship at the same address for at least one and a half to two years.

Authorities should generally refuse applications for a Schengen visa where there is reason to believe that the applicant intends to use a visa, without a legal basis, to take up permanent or long-term residence in

Denmark or the other Schengen countries. As mentioned, this could be the case if the applicant states that they do not intend to leave after the visa expires, or if the applicant has previously displayed a behaviour which indicates that they do not only wish to stay in Denmark for a short period, or if the information in the case otherwise gives rise to reasonable doubts as to the alien's intention to leave the Schengen countries before the visa applied for expires. This assessment based on presumptions must be made in relation to all applicants irrespective of the relationship between the applicant and the host living in Denmark.

It may also be part of the assessment if several of the applicant's family members have previously been granted visas for Denmark and have not departed before the visa expired, but rather have taken up permanent or long-term residence in Denmark, and where it therefore cannot be ruled out that the applicant will also use a Schengen visa to take up long-term residence in Denmark or in one of the other Schengen countries.

As regards parents applying for a Schengen visa to visit their children living in Denmark, an application for a visa should also be refused if the immigration authorities consider that the applicant's ties to the home country or the country of residence is not strong enough that it is rendered sufficiently probable that the person in question will return after the visa stay. In this connection, it may be taken into account whether the persons in question have a job, if they are married, if they have other children in their home country, and if the family, if any, also wishes to obtain a visa for Denmark. For example, it cannot be assumed that the applicant has the required ties to the home country if all or most of the applicant's children or other family are in Denmark or in other countries than the home country or the country where the applicant has their habitual residence. It also cannot be generally assumed that the applicant has the required ties to the home country if the applicant is not staying in the country where the applicant is a national but is staying in a third country. However, in such situations it may be considered of a certain importance if the applicant has had for a number of years, and still has, a permanent residence permit in that third country and if the applicant is firmly settled in that country by means of employment, real property, etc.

In view of the immigration risk – for example where there are no children in the home country, and where the spouses constitute each other's tie to the home country – the authorities may make a visa conditional upon one of the spouses remaining in the home country. This possibility may be applied in situations where the alternative would be to refuse both spouses' applications for a visa.

#### **5.9.7.4.2. Business Visits**

Applicants from countries in main group 4 may, as a rule, be granted a Schengen visa with a view to a genuine business visit.

According to common practice, a genuine business visit will usually be when an applicant, for purposes relating to their trade, wishes to come to Denmark to trade, conclude agreements, inspect products, etc. with a business relation in Denmark when the applicant is a business operator, and when the stay in Denmark is related to the business operated by the applicant in their home country.

It is a condition that the business visit is documented and that the stated purpose is confirmed by the business host, see paragraph 5.2.2 above for further details.

Authorities should refuse an application for a business visa if they find that there is a high risk that the applicant intends to take up permanent or long-term residence in Denmark or the other Schengen countries.

### **5.9.7.4.3. Cultural and Scientific Visits**

Applicants from countries in main group 4 may, as a rule, be granted a Schengen visa with a view to participation in a cultural or scientific event, including participation in conferences, sports events, folk high school stays or similar which are organised by Danish authorities, educational institutions, research institutions or organisations.

The authorities should carry out a more detailed assessment of the purpose of the participation in the event and the applicant's basis for participating, and a Schengen visa must only be granted if the stated purpose is confirmed, see paragraph 5.2.3 above for further details.

Authorities should refuse an application for a visa with a view to participation in a cultural or scientific event if they find that there is a high risk that the applicant intends to take up permanent or long-term residence in Denmark or the other Schengen countries.

### **5.9.7.5. Main Group 5**

Main group 5 includes countries and regions, whose nationals are considered as posing a particularly high risk of immigration into Denmark or the other Schengen countries, and where there may be difficulties in connection with repatriation of the nationals.

In this main group, Schengen visas should generally only be granted in extraordinary situations, if the individual evaluation does not provide a clear answer as to whether the applicant intends to leave before the visa expires, see also paragraph 5.9.7.

#### **5.9.7.5.1. Private Visits**

If the individual evaluation does not provide a clear answer as to whether the applicant intends to leave before the visa expires, applicants from countries in main group 5 should, as a rule, be refused a visa.

However, a visa should be granted if warranted by extraordinary circumstances, for example in the event of life-threatening illness or death of a close family member living in Denmark.<sup>30</sup>

In addition, a visa should, in certain situations, be granted to applicants who wish to visit a spouse with whom the applicant has previously applied for family reunification on the basis of their marriage. In this connection, it is a condition that – prior to lodging the visa application – the applicant has submitted an application for family reunification with the spouse living in Denmark and had the application considered on its merits, and that, in connection with the examination of the application for family reunification, it was deemed that the married couple meets the conditions for family reunification with the exception of the requirement that the applicant must have had at least one legal stay in Denmark (the visit requirement). This includes the condition for granting a visa that it has been ascertained that there is a legally valid marriage or a family life which is otherwise worthy of protection (see Article 8 of the European Convention on Human Rights) and that the other conditions for family reunification with a spouse (housing requirement, self-support requirement, etc.) are met. The requirement to provide security will only have to be documented in connection with a renewed application for family reunification with a spouse when the visit requirement has been satisfied.

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<sup>30</sup> The visa in question may be territorially limited if the applicant does not meet the basic conditions for a Schengen visa, for example if the applicant's travel document is not recognised by Denmark. See paragraph 13 for further details.

In connection with the processing of a visa application from a spouse, the Danish Immigration Service will review the applicant's previous family reunification case to investigate whether the other conditions for granting a residence permit are met.

If the documentation for having met the ongoing conditions is of an older date, or if in connection with the family reunification case, it was not considered if, for example, the housing requirement or the self-support requirement was met, it must be documented in connection with the processing of the visa application that these requirements are met. However, it will not always be possible for the Danish Immigration Service to obtain and assess the new documentation within the time limits for the case processing set out in the Visa Code which means that in some situations it will be necessary to refuse an application with reference to the lack of documentation. In such situations, it will be possible to have the case reopened if the supporting documents are submitted at a later time.

#### **5.9.7.5.2. Business Visits**

If the individual evaluation does not provide a clear answer as to whether the applicant intends to leave before the visa expires, applicants from countries in main group 5 should, as a rule, be refused a visa for a business visit.<sup>31</sup>

#### **5.9.7.5.3. Cultural and Scientific Visits**

If the individual evaluation does not provide a clear answer as to whether the applicant intends to leave before the visa expires, applicants from countries in main group 5 should, as a rule, be refused a visa with a view to participation in a cultural or scientific event.<sup>32</sup>

#### **5.9.7.6. Derogation from the Main Groups Because of Regional Differences**

It is stipulated in section 16(4) of the Executive Order on Visas that the authorities should not only attach importance to the division into main groups of the countries whose nationals are required to obtain a visa, but that they may also take into account any regional differences with regard to the risk of immigration.

To the extent that information about such regional differences is available, the authorities may thus take this into account when assessing a visa application.

In this connection, it is a condition that it can be ascertained with the required degree of certainty that the applicant has their permanent residence in the region in question.

#### **5.9.7.7. Derogation from the Main Groups for Applicants Residing in Another Country Than the Country of Nationality**

Section 16(5) of the Executive Order on Visas stipulates that the authorities may derogate from the main groups in relation to an applicant who has had permanent, legal residence for a number of years in a third country other than the country of nationality.

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<sup>31</sup> This general rule should be considered in connection with the guiding nature of the main groups, see paragraph 5.9.7. Thus, in specifically justified situations, a visa may be granted with a view to a business visit, irrespective of the fact that the applicant comes from a country which is placed in main group 5.

<sup>32</sup> This general rule should be considered in connection with the guiding nature of the main groups, see paragraph 5.9.7. Thus, in specifically justified situations, a visa may be granted with a view to participation in a cultural or scientific event, irrespective of the fact that the applicant comes from a country which is placed in main group 5.

In such situations, the application may be examined based on a specific assessment in accordance with the practice for nationals from the country of residence.

It is a condition that the applicant is able to return to the country of residence after the visa stay. The person in question must thus be in possession of a residence permit in the country in question which is valid beyond the time of the end of the planned visa stay.

#### **5.9.7.8. Derogation from the Main Groups Because of Quite Extraordinary Circumstances**

Section 16(6) of the Executive Order on Visas stipulates that, irrespective of the rules set out in subsections (3) to (5), a visa may be granted if warranted by quite extraordinary circumstances concerning the applicant or a close family member living in Denmark.

If there are quite extraordinary circumstances, the authorities may thus grant a visa to an applicant even though the person in question is not covered by the group of persons who are generally granted visas in the relevant main group.

For example, a visa may be granted on the basis of quite extraordinary circumstances if the visa application has been lodged with a view to a visit with a close family member who suffers from a life-threatening illness, or if the applicant is going to attend the funeral of a close family member.

The applicant's ties to the host living in Denmark should thus be an important aspect of the assessment of whether a Schengen visa may be granted. It will thus be possible to grant a Schengen visa if the applicant and the host living in Denmark have a particularly close and long-standing relation which can be documented. In situations where the host living in Denmark suffers from a life-threatening illness, this must be proved by a declaration from a medically trained person. In this connection, it is not a requirement that the life-threatening illness is in the terminal stage, but the illness must be of a currently life-threatening nature based on a medical assessment.

#### **5.9.7.9. Derogation from the Main Groups for Applications Covered by a Travel Agency or Tourist Arrangement**

Section 17 of the Executive Order on Visas stipulates that, for visa applicants applying in connection with the purchase of a package tour through a travel agency that has been accredited under a travel agency arrangement or a tourist arrangement, a visa may be granted for a stay of up to 30 days, irrespective of the rules set out in section 16(4) of the Executive Order, i.e. irrespective of which main group the applicant belongs to.

The established travel agency arrangements and tourist arrangements are described in Annex 1 of the Executive Order on Visas.

## **6. Division of Cases Between the Danish Diplomatic and Consular Missions and the Danish Immigration Service**

Decisions in visa cases are made by Danish missions abroad that are authorised to do so under section 47(3), first sentence, of the Aliens Act, or by the Danish Immigration Service, see section 46(1) of the Aliens Act.

It was indicated in the legislative history of the Aliens Act<sup>33</sup> that the Danish diplomatic missions and consular posts are to be assigned with the competence to make decisions – including refusals – in visa cases which can be sufficiently elucidated locally.

Cases where there is a need for further investigations should, however, be submitted to the Danish Immigration Service so that the cases may be sufficiently elucidated before a decision is made.

Maintaining the system of submission in cases requiring further investigations is intended to ensure, on the one hand, that the applicant does not receive a negative decision made on an incomplete basis, and on the other hand, that the authorities are able to safeguard immigration and security concerns.

The reason that some cases should be investigated further by the Danish Immigration Service is that the Danish Immigration Service has access to more information than the missions do – partly because of the location in Denmark and partly because of greater access to IT systems and physical cases. This may include information about the host or the enterprise in Denmark, information about the applicant's previous residence cases, if any, information from the other offices of the Danish Immigration Service about pending cases, information from the Danish Agency for International Recruitment and Integration, or information from the police or the intelligence services.

Under section 39(2), second sentence, of the Aliens Act, the Minister for Immigration and Integration may lay down more detailed rules on the division of visa cases between the Danish Immigration Service and the Danish diplomatic missions and consular posts abroad and about the fundamental considerations to be taken in the processing of and decision regarding the visa case.

Pursuant to this provision, section 28 of the Executive Order on Visas contains more detailed rules as to which cases the diplomatic missions and consular posts are authorised to finalise locally and which cases must be submitted to the Danish Immigration Service.

### **6.1. Decisions Made by the Diplomatic Missions and Consular Posts**

The decision in a visa case is usually made by the diplomatic mission or consular post to which the application was lodged, see section 28(1) of the Executive Order on Visas.

### **6.2. Submission of Cases to the Danish Immigration Service**

Section 28(2) to (5) of the Executive Order on Visas contains a list of situations in which visa cases must be submitted to the Danish Immigration Service which will then make a decision as the first authority.

In the listed situations, submission to the Danish Immigration Service is mandatory, i.e. the missions are required to submit a case if one (or more) reason(s) for submission exist(s) as set out in section 28(2) to (5) of the Executive Order on Visas. However, some of the provisions allow the missions a certain discretionary power when assessing whether submission is required.

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<sup>33</sup> See the comments on Bill No. L 6 of 2 October 2013, particularly paragraphs 4.1-4.3.

### **6.2.1. Doubts about the Purpose of the Stay**

Under section 28(2)(1) of the Executive Order on Visas a case must be submitted to the Danish Immigration Service if there is a need for further examination of persons, companies or organisations in this country with a view to establishing the purpose of the stay.

This may, for example, be relevant *if* there are doubts as to whether the host is legally present in Denmark, *if* there is otherwise a need for further examination of the host, or *if* there are doubts as to whether the visit is expected, and this cannot be immediately ascertained by the mission.

### **6.2.2. Travel Documents Not Recognised by Denmark**

Under section 28(2)(2) of the Executive Order on Visas a case must be submitted to the Danish Immigration Service if the applicant's travel document is not recognised by Denmark.

In such situations, it will only be possible in exceptional circumstances to issue a visa, and this will be a visa with limited territorial validity, see section 20(2) of the Executive Order on Visas. There will also be a need to issue a travel document in the form of a laissez-passer.

### **6.2.3. Alert in the Schengen Information System (SIS II)**

Under section 28(2)(3) of the Executive Order on Visas a case must be submitted to the Danish Immigration Service if the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS II) for the purpose of refusing entry.

An alert issued in SIS II will be shown in the applicant's case in the visa register.

### **6.2.4. Threat to Public Policy, Internal Security, Public Health or International Relations of the Schengen Countries**

Under section 28(2)(4) of the Executive Order on Visas, a case must be submitted to the Danish Immigration Service if there are grounds for believing that the applicant constitutes a threat to the Schengen countries' public policy, internal security, public health or international relations, including *if* there is a suspicion that the applicant will commit a crime, work without the requisite permits or disseminate extreme religious values and views during the stay, *if* an objection has been made against issuing a visa in connection with a consultation in accordance with section 14 of the Executive Order, or *if* the applicant is registered on the EU or UN's sanction lists or the Central Criminal Register's list of entry prohibitions or is included on the list of foreign preachers, etc., who may be excluded from entry which is referred to in section 29c of the Aliens Act.

This reason for submission covers all situations in which the Danish diplomatic missions and consular posts find reason to believe that the applicant constitutes a threat to public policy, internal security, public health or international relations of the Schengen countries.

This will always be the case if an objection has been made against issuing a visa for the applicant in connection with consultation of the authorities of other Schengen countries and/or the intelligence services under section 14 of the Executive Order on Visas, or if the applicant is registered on the EU or UN's sanction lists or the Central Criminal Register's list of entry prohibitions or is included on the list of foreign preachers, etc., who may be excluded from entry which is referred to in section 29c of the Aliens Act.

Information about objections, registration on a sanction list or about an entry prohibition will be shown in the applicant's case in the visa register.

Moreover, this will always be the case in situations where the World Health Organization, WHO, for example, or the local health authorities in a country have provided information or sent out alerts to the effect that a pandemic has broken out or there is an epidemic of very infectious diseases such as Ebola, SARS, COVID-19/Coronavirus, as such illnesses may constitute a threat to the public health of all Schengen countries if applicants from affected countries are granted a visa.

The diplomatic missions and consular posts must therefore submit such visa applications to the Danish Immigration Service. In cases of doubt, the diplomatic missions and consular posts may contact the Ministry of Refugee, Immigration and Integration Affairs through the Ministry of Foreign Affairs which will then, to the extent necessary, get the health authorities involved.

In addition, a case must be submitted to the Danish Immigration Service if the mission specifically considers that the applicant constitutes a threat to public policy, internal security, public health or international relations of the Schengen countries.

#### **6.2.5. Doubts about the Reliability of Information or Supporting Documents**

Under section 28(2)(5) of the Executive Order on Visas, a case must be submitted to the Danish Immigration Service if there is a need for further examination of persons, companies or organisations in Denmark with a view to establishing the reliability of the information or documentation submitted in support of the application.

This may, for example, be relevant *if* there are doubts as to the applicant's relation to a person living in Denmark, *if* there are doubts about the authenticity of an invitation, or *if* the applicant and the host have provided conflicting information about the purpose of the stay, and these doubts cannot be immediately resolved by the mission.

#### **6.2.6. Previous Misuse**

Under section 28(2)(6) of the Executive Order on Visas, a case must be submitted to the Danish Immigration Service if the applicant has previously been to Denmark, and there is a need for further investigation to establish whether the applicant has violated the rules regarding entry and stay, including whether there are grounds for using the rules regarding penalty periods.

Information about previous applications and stays will normally appear from the applicant's visa case and/or the applicant's travel document.

If there is information that the applicant has previously exceeded the validity of a visa or a residence permit or that the person in question failed to depart in accordance with an imposed deadline for departure the case should, as a main rule, be submitted for further examination.

However, there is no need for submission if the stay exceeding the stipulated deadline for departure was of a brief duration within the validity period of the visa, including if the transgression of a previously granted visa was, without doubt, due to circumstances which cannot be held against the alien. For example, the missions may grant a visa without submitting the case if the applicant's departure was postponed as a consequence of traffic delays, airline strikes, etc.

### **6.2.7. Pending Cases Regarding Residence Permits**

Under section 28(2)(7) of the Executive Order on Visas, a case must be submitted to the Danish Immigration Service if the applicant has submitted an application for a residence permit in Denmark, and this case is still pending.

In some situations, it will appear from the applicant's visa case that the person in question has a case in the immigration authorities' case administration systems. However, this is not always the case. The missions should therefore generally follow up on any information indicating that the applicant may have a pending case regarding a residence permit in Denmark. Information about this may be obtained through the Danish Immigration Service, for example via telephone.<sup>34</sup>

### **6.2.8. Forced Marriages and Marriages of Convenience**

Under section 28(2)(8) of the Executive Order on Visas, a case must be submitted to the Danish Immigration Service if the applicant has previously applied for family reunification with a spouse in Denmark, and this application was refused based on a suspicion that it was a case of forced marriage or a marriage of convenience.

As mentioned above, it will not always appear from an applicant's visa case that the person in question has a case in the immigration authorities' case administration systems. It is therefore important that the Danish diplomatic missions and consular posts obtain further details from the Danish Immigration Service in all cases where there is information indicating that the applicant may previously have applied for a residence permit in Denmark.

### **6.2.9. Minors**

Under section 28(2)(9) of the Executive Order on Visas, a case must be submitted to the Danish Immigration Service if the applicant is a minor unless the issuing of a visa is considered unobjectionable.

Cases concerning minors should thus, as a rule, be submitted to the Danish Immigration Service, for the reason among others that there may be basis for examining such cases further, both in relation to the risk of immigration and in relation to the risk of child abduction.

However, cases concerning minors should not generally be submitted if the mission deems that the issuing of a visa is unobjectionable, i.e. if the mission based on a specific assessment of the case finds that there is no risk of immigration or child abduction.

For example, it might be unobjectionable to issue a visa to a minor who is residing with their parents abroad and wishes to accompany one or both parents on the journey to Denmark or to a minor who is residing with one of the parents abroad and wishes to accompany that parent on a journey with a view to visiting the other parent in Denmark. Other people with parental custody of the child should normally be ranked equally with the parents.

### **6.2.10. Specific Need for Examination**

Under section 28(2)(10) of the Executive Order on Visas, a case must be submitted to the Danish Immigration Service if there is otherwise a need for further examination of the case, and the Danish

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<sup>34</sup> See paragraph 5.9.2 above for further details.

Immigration Service is in a better position to carry out these investigations than the mission where the application was lodged.

This provision allows the Danish diplomatic missions and consular posts to submit cases to the Danish Immigration Service in situations other than those explicitly listed if they deem in the specific case that the Danish Immigration Service will be better able than the mission to conduct the necessary investigations. This may be the case, for example, if an applicant who is a national of a country which is placed in main group 5 and who has not previously visited Denmark, but who has previously had an application for family reunification with a spouse living in Denmark considered and where the applicant only needs to meet the visit requirement.

#### **6.2.11. Visas with Limited Territorial Validity (VLTV)**

Under section 28(3) of the Executive Order on Visas, the Danish Immigration Service makes decisions as the first authority in cases where there might be grounds for granting a visa with limited territorial validity, except in the situations mentioned in sections 19 and 20(3) of the Executive Order.

A case must therefore be submitted to the Danish Immigration Service where the applicant does not meet the conditions for being granted a Schengen visa, but where there is information about matters which may justify issuing a visa with limited territorial validity. This could be where the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS II) for the purpose of refusing entry, but where there is information about serious illness in the applicant's family in Denmark. In such a situation, the case must be submitted to the Danish Immigration Service with a view to further examination of whether there is a basis for issuing a visa with limited territorial validity.

If an applicant cannot be granted a visa applicable to all Schengen countries solely because one or more other Schengen countries do not accept the applicant's travel document, this does not mean, however, that the case must be submitted to the Danish Immigration Service. In such situations, the mission may issue a visa whose validity is limited to the Schengen country(s) which do(es) accept the travel document in question, see section 19 of the Executive Order on Visas.

If an applicant cannot be granted a Schengen visa solely because he has already stayed in Denmark or another Schengen country for 90 days within the last 180 days on the basis of a visa, this does not in itself mean that the case must be submitted to the Danish Immigration Service. In such situations, and if the mission finds good reason to do so, it may issue a visa whose validity is limited so that it only allows entry into and stay in Denmark, see section 20(3) of the Executive Order on Visas.

#### **6.2.12. Refusal of Visa Applications from Aliens Covered by the EU Rules**

Under section 28(4) of the Executive Order on Visas, the Danish Immigration Service also makes decisions as the first authority where there might be grounds for refusing a visa application submitted by an applicant who is covered by the EU rules or who claims to be covered by these rules, see section 9 of the Executive Order on Visas.

#### **6.2.13. Annulment and Revocation**

Under section 28(5) of the Executive Order on Visas, the Danish Immigration Service may make decisions as the first authority in cases about revocation and annulment of a visa if this is deemed appropriate. This could be in situations where the alien has already entered Denmark on the basis of the issued visa, and where the Danish Immigration Service receives information about matters which may warrant revocation

or annulment of the visa. In such situations, the Danish Immigration Service will often be better able to investigate the case than the missions, and the Danish Immigration Service will also be better able to contact the applicant in Denmark.

## **7. Case Processing Time**

### **7.1. Maximum Case Processing Time**

Article 23 of the Visa Code contains rules on the maximum processing time in visa cases.

Under Article 23(1), the main rule is that visa applications must be decided on within 15 calendar days of the date of the lodging of an application which is admissible in accordance with Article 19.<sup>35</sup>

This time limit may be extended up to a maximum of 45 calendar days in individual cases, notably if further scrutiny of the application is needed, see Article 23(2).

Applications will be decided on without delay in justified individual cases of urgency, see Article 23(2a).

As described in further detail in paragraph 6 above, the Danish visa system is structured so that the Danish diplomatic missions and consular posts make decisions in cases which can be sufficiently elucidated on site, while the Danish Immigration Service makes decisions in cases which require further examination of matters in Denmark. In practice, this means that cases which can be finalised locally by the missions are generally decided within 15 calendar days, while cases which are submitted to the Danish Immigration Service for further examination must generally be decided within 45 calendar days.

Article 9(2) of the Visa Code stipulates that applicants may be required to obtain an appointment for the lodging of an application. The appointment must, as a rule, take place within a period of two weeks from the date when the appointment was requested. The case processing time will be reckoned from the date when the application is actually received at the diplomatic mission or consular post and is deemed admissible in accordance with the Visa Code.

In justified cases of emergency, applicants may be allowed to lodge their applications either without appointment or with an immediate appointment being agreed, see Article 9(3). It is for the diplomatic mission or consular post to decide whether it is a justified case of emergency.

### **7.2. Decisions in Cases Which Cannot Be Fully Elucidated Within the Maximum Processing Times**

The rules set out in the Visa Code on the maximum processing time cannot be derogated from.

As the authorities are thus always required to make a decision in a visa case within the upper time limit of 45 days, in certain situations, it may be necessary to make a decision on an application before the case is fully elucidated. In such situations, the decision in the case will be made as matters stand, which – in some situations – will mean that the application is refused.

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<sup>35</sup> The conditions for the admissibility of a visa application are described in paragraph 4.3 above.

In such situations, the case may be reopened in accordance with the general principles of administrative law if, at a later time, information appears which the authority was not aware of at the time of the original decision, and regarding which it must be assumed that it would have led to a significantly different assessment of the case.<sup>36</sup>

In order to comply with the statutory time limit for the case processing, it may also be necessary in isolated cases to derogate from the rules on consultation of the parties (questioning) if it is not possible to obtain the applicant's comments and finalise a case within the 45 days. If the applicant or the host subsequently presents such information which would otherwise have appeared in connection with involved questioning, the case should be reopened, irrespective of whether the conditions for reopening are not otherwise met.

If, at the time of the decision, it is apparent that a visa may be granted if certain specific conditions are met, such as if supporting documents are submitted to prove a valid marriage, the authorities should notify the applicant in the decision that the case will be reopened if the applicant presents the relevant information.

In special cases where the elucidation of the case depends on the authorities, and where it is not possible to elucidate the case fully within the 45 days, the authorities should acknowledge to the applicant in connection with their refusal of the visa application that the case will be reopened by the authorities when the information required becomes available. This may be in situations where there is a need for verification of the authenticity of documents submitted by the applicant, and where this verification of authenticity cannot be completed within the 45 days, for example because the authorities of the applicant's home country have to be involved.

## **8. Issuing of Visas**

When deciding a visa case, the general is that the authorities will grant the visa.

Thus, the authorities will grant a Schengen visa unless there are grounds for refusing the application in accordance with the rules of the Visa Code, see section 8(1) of the Executive Order on Visas.

### **8.1. Visa Sticker**

In practice, a visa is issued by placing a visa sticker in the passport to indicate the permission.

Guidelines for filling in a visa sticker and examples of filled-in visa stickers can be found in Annex VII of the Visa Code and Annexes 19-21 of the Visa Handbook.

### **8.2. The Temporal Validity of a Visa**

A Schengen visa may be issued for a maximum period of 90 days within a period of 180 days, which entails considering the 180-day period preceding each day of stay, see section 4 of the Aliens Act.<sup>37</sup>

The validity of the visa is determined by indicating a number of days (the duration of the stay permitted), a number of entries and a validity period, see Article 24 of the Visa Code for further details.

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<sup>36</sup> In this connection, reference is made to Jens Garde et al., *Forvaltningsret – Sagsbehandling* (Administrative Law – Case Processing), 7th edition, p. 126.

<sup>37</sup> See paragraph 3.1 above for further details.

The number of days is set in consideration of the purpose of the stay, see section 18(1) of the Executive Order on Visas. Unless the specific purpose warrants a limitation in the duration of the stay, the number of days should generally be set in accordance with the application, provided that the applicant meets the conditions for being granted a visa for that entire period.<sup>38</sup>

The number of entries may be one, two or multiple entries. The number of entries should generally be set in accordance with the application unless the purpose of the stay warrants a limitation of the permission to one or two entries only.

The validity period will appear from the visa sticker by indication of the earliest allowed date of entry and the latest allowed date of departure. The period of validity must not exceed five years.

As a rule, the date of entry should be set to the date when the applicant wishes to enter if it is possible to issue the visa prior to that date. When a visa is issued for one, two or more entries into the country with a validity of less than 90 days, the date of departure should usually be set to the date which is 15 days after expiry of the number of days granted, see Article 24(1) of the Visa Code.

The alien is obliged to comply with both the number of days granted and the validity period set. The extension of the validity period by 15 days (a so-called 'period of grace') does not mean that the alien is allowed to stay in Denmark longer than the number of days granted, but it allows for the possibility that the stay may be postponed for a few days, for example in the event of illness, without it resulting in a shortening of the visa stay as such. A period of grace will not be set where the visa is issued for multiple entries (with a period of validity of between six months and five years) as such a visa already secures the necessary flexibility for the holder of the visa.

When calculating the duration of the stay, both the date of entry and the date of departure are included, irrespective of the time of day the journeys are made.

Please refer to Part II, paragraph 8.3, of the Visa Handbook for further guidelines as to reduction of the validity of the visa.

### **8.3. Visa with Longer Validity**

Under Article 24(1) of the Visa Code, visas may be issued for one, two or more entries into the country and with a period of validity of no more than five years.

Under Article 24(2) of the Visa Code, a visa may be issued for multiple entries and with a period of validity of up to five years if the applicant has a need for this or has justified the intention to travel frequently or regularly provided that the applicant proves their integrity and reliability, particularly by means of previous problem-free visa stays; their financial situation in the home country; and their intention to leave the territory of the Member States prior to the expiry of the visa applied for.

If a visa is issued for 90 days and with a validity period of more than six months, this means that the alien is entitled to 90 days' stay within a period of 180 days, see Annex VII, paragraph 4, of the Visa Code.

Part II, paragraph 8.4.3, of the Visa Handbook contains further guidelines as to when a visa may be granted for multiple entries and with an extended validity period.

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<sup>38</sup> See paragraph 8.4 above for further details.

### 8.3.1. Issuing of Visas for Multiple Entries and With Long Validity Based on the Cascade System

Article 24(2) of the Visa Code lays down the circumstances under which a visa for multiple entries must be issued, as a rule, also called the cascade system.

At all events, it is a condition for issuing a visa under the cascade system that the applicant meets the entry conditions set out in Article 6(1) of the Schengen Borders Code, including that the travel document must, as the predominant rule, be valid for three months after the intended date of departure from the territory of the Member States. Therefore, the travel document should also be valid three months beyond the validity of the visa. Moreover, it is a condition that the applicant does not constitute an immigration risk. Please refer to Article 24(1), read with Article 21, of the Visa Code. Thus, it should be noted that sudden changes in a country, such as a natural disaster, famine, civil war or other circumstances that change in the country, may justify a derogation from the principles of the cascade system and result in a refusal of the visa based on an individual assessment.

The purpose of the cascade system is, based on objectively determined common criteria, to facilitate travel for frequent or regular travellers with a view to issuing multiple-entry visas with a long period of validity to applicants fulfilling the entry conditions during the entire period of validity of the issued visa, and these visas should not be limited to specific travel purposes or categories of applicants. Particular attention should be paid to persons travelling as part of their occupation, such as business people, seafarers, artists and athletes.

Provided that the applicant fulfils the entry conditions set out in Article 6(1) of the Schengen Borders Code and does not constitute an immigration risk, multiple-entry visas with a long validity will be issued for the following validity periods unless the validity of the visa would exceed that of the travel document:

- a) for a validity period of one year, provided that the applicant has obtained and lawfully used three visas within the previous two years;
- b) for a validity period of two years, provided that the applicant has obtained and lawfully used a previous multiple-entry visa valid for one year within the previous two years;
- c) for a validity period of five years, provided that the applicant has obtained and lawfully used a previously issued multiple-entry visa valid for two years within the previous three years.

Thus, it follows from the principles of the cascade system that, as a general rule and to the extent that this is permitted by the validity of the applicant's passport, a Schengen visa for **multiple entries and with a validity of one year** must be issued for applicants who have previously obtained and complied with the conditions of three Schengen visas within the last two years (reckoned from the date of submission of the fourth visa application). If, in the previously mentioned period, the applicant has been granted a visa with limited territorial validity due to one or more countries' lack of approval of the applicant's travel document, such visa with limited territorial validity must however also be taken into account. Conversely, airport transit visas and visas with limited territorial validity issued in accordance with Article 25(1) of the Visa Code will not be taken into account for the issuing of multiple-entry visas.

If, within the past two years (reckoned from the date of submission of the current visa application), the applicant has obtained and complied with the conditions of a Schengen visa for multiple entries and with a validity of one year, as a general rule, a Schengen visa for **multiple entries and with a validity of two years** must be issued to the extent that this is permitted by the validity of the applicant's passport. If, within the last two years, the applicant has been granted a visa with limited territorial validity due to one or more countries' lack of approval of the applicant's travel document, such visa with limited territorial

validity must also be taken into account, however. Conversely, airport transit visas and visas with limited territorial validity issued in accordance with Article 25(1) of the Visa Code will not be taken into account for the issuing of multiple-entry visas.

If, within the past three years (reckoned from the date of submission of the current visa application), the applicant has obtained and complied with the conditions of a Schengen visa for multiple entries and with a validity of two years, as a general rule, a Schengen visa for **multiple entries and with a validity of five years** must be issued to the extent that this is permitted by the validity of the applicant's passport. If, within the last two years, the applicant has been granted a visa with limited territorial validity due to one or more countries' lack of approval of the applicant's travel document, such visa with limited territorial validity must also be taken into account, however. Conversely, airport transit visas and visas with limited territorial validity issued in accordance with Article 25(1) of the Visa Code will not be taken into account for the issuing of multiple-entry visas.

The above-mentioned conditions (a)-(c) for the issuing of visas for multiple entries and with long validity are not cumulative. This means that an applicant, who has obtained and legally used a multiple-entry visa with a validity of one year within the last two years (condition b), must be granted a multiple-entry visa with a validity of two years even though the applicant has not been granted three visas within the last two years (condition a).

In situations where the applicant has not applied for a multiple-entry visa with a long validity, but where the applicant meets the conditions for such a visa as well as the general entry conditions, including not constituting an immigration risk, the authorities must themselves issue a multiple-entry visa with a long validity in accordance with the cascade system.

Independently of the cascade principles of Article 24(2), the period of validity of the visa may be shortened in specific circumstances where there is reasonable doubt as to whether the entry conditions will be satisfied for the entire period, see Article 24(2a) of the Visa Code. Reasonable doubt may arise where it is predictable that there will be (future) changes to the applicant's personal and/or financial situation.

It should also be noted that it follows from the Visa Handbook that, in connection with the implementation of the principles stated above, the diplomatic missions and consular posts of the Schengen countries must take into account any specific local circumstances that apply with a view to having more or less restrictive cascade systems locally for certain categories of applicants. Any changes making the rules stricter or more lenient beyond what is set out by Article 24(2) of the Visa Code must be approved by the member states of the Visa Committee, and the European Commission will then issue an implementing decision to make those changes enter into force. The decision on an adjustment of the cascade system is legally binding for the Member States and must be followed when issuing visas.

Part II, paragraph 8.4.3.1, of the Visa Handbook contains further guidelines as to the issuing of visas for multiple entries and with an extended period of validity in accordance with the principles of the cascade system

### **8.3.2. Issuing of Visas for Other Categories of Applicants Travelling Frequently or Regularly**

Multiple-entry visas with longer periods of validity may be issued for applicants who travel frequently or regularly, irrespective of the purpose of the journey and irrespective of the fact that they do not satisfy the conditions of being granted a multiple-entry visa with a longer period of validity according to the cascade principle as described in paragraph 8.3.1. It follows from Article 24(2)(c) of the Visa Code that a multiple-

entry visa valid for up to five years may be issued to applicants who prove the need or justify their intention to travel frequently or regularly, provided that they prove their integrity and reliability, in particular the lawful use of previous visas, their economic situation in the country of origin and their genuine intention to leave Denmark before the expiry of the visa for which they have applied.

In this connection, particular attention should be paid to applicants travelling as part of their occupation, such as business people, seafarers, artists, athletes, researchers, etc.

Part II, paragraph 8.4.3.2, of the Visa Handbook contains further guidelines as to the issuing of visas for multiple entries and with an extended period of validity for applicants who travel frequently or regularly.

#### **8.4. Visa with Shorter Validity**

As stated in paragraph 8.2 above, the validity of a visa should generally be set in accordance with the number of days the applicant has stated in the visa application (subject however to a maximum of 90 days).

The duration of the stay should, however, be limited to a period shorter than what is stated in the application if the number of days is not in accordance with the stated purpose(s) of the stay, see section 18(1) of the Executive Order on Visas.

This could be the situation if an alien applies for a visa for 90 days' stay with a view to participating in a brief course or to be present during a court hearing.

Moreover, the duration of the stay should be limited to a period shorter than what is applied for if the applicant only meets the conditions for obtaining a visa for a shorter period, see section 18(2) of the Executive Order on Visas.

It may, for example, be necessary to limit the validity of a visa if the applicant's travel document is not valid for a sufficient period, or if the host's residence permit in Denmark expires within the period when the applicant plans to visit the host.

##### **8.4.1. Special Information About the Validity of a Visa for a Pregnant Applicant**

If a visa applicant is pregnant when submitting the application, the visa issued to her will, as a main rule, be issued for a limited period so that departure from Denmark must take place at least 2½ months before the due date. This limitation in time applies because a visa is only intended for short-term stays in Denmark (or the other Schengen countries) and because a visa stay in Denmark close to the due date may entail a specific and very probable risk of delivery in Denmark and a consequential potentially long-term stay in Denmark. This limitation in time is specifically motivated by the aspect that most airlines do not accept passengers in the last two months prior to expected delivery until two months after delivery, and therefore the immigration authorities will normally not be able to order the visa applicant in question to leave Denmark during that period.

In connection with the processing of a pregnant visa applicant's application, the immigration authorities will obtain documentation of the due date of the visa applicant. This due date will then be applied as a cut-off date in relation to the assessment of when the applicant must leave Denmark at the latest.

However, it is always the responsibility of the visa holder to ensure that an intended visa visit can be completed within the visa period granted, so that departure can be effected in accordance with the visa. If

a visa holder – contrary to expectations – gives birth in Denmark, the Danish Immigration Service will normally postpone the deadline for departure to 60 days after delivery.

This practice on departure no later than 2½ months prior to the expected due date may, however, be derogated from in the following situations:

- The visa applicant is married to an expatriate Danish national or a person with a residence permit for Denmark granted with the possibility of permanent residence whose insurance covers the costs and expenses of the delivery in Denmark.
- The host living in Denmark proves that an agreement has been made with a hospital in Denmark about the delivery and that payment has been made for the delivery in Denmark. In this connection, it is not sufficient that the hospital declares that the visa applicant is entitled to free hospital treatment in connection with a child delivery notwithstanding that the person in question does not have habitual residence in Denmark, see section 5 of the Executive Order on the Right to Hospital Treatment, etc. (Executive Order No. 657 of 28 June 2019).

It should be pointed out that it is only the requirement for departure no later than 2½ months prior to the expected due date that may be derogated from. Thus, an applicant should not expect that – after her entry into Denmark – the visa in question may be extended beyond the visa period of a maximum of 90 days. In the situations mentioned, the visa applicant has full responsibility that entry and departure can be effected in accordance with the issued visa.

## 9. Issuing Visas at the Borders

Article 35 and 36 of the Visa Code stipulate that a visa may, in special cases, be issued at the exterior border of the Schengen Area. Article 35 is concerned with the issue of visas at the border in general situations of emergency, while Article 36 is concerned with the issue of visas for seafarers who are required to be in possession of a visa.

Under section 47a of the Aliens Act, the Minister for Immigration and Integration may lay down more detailed rules specifying that in special cases the Danish Immigration Service and the police are authorised to issue visas upon entry into Denmark. This authorisation was implemented by section 21 of the Executive Order on Visas which applies to the issue of any type of visa at the border, including visas for seafarers who are required to obtain a visa.

### 9.1. Emergency Visa

Under Article 35 of the Visa Code, visas may be issued, in exceptional cases, at border crossing points if the following conditions are satisfied:

- The applicant fulfils the basic conditions for entry laid down in Article 6(1)(a), (c), (d) and (e) of the Schengen Borders Code.<sup>39</sup>
- The applicant has not been in a position to apply for a visa in advance and submits, if required, supporting documents substantiating unforeseeable and imperative reasons for entry.
- The applicant's return to their home country, country of residence or transit country through states outside the Schengen Area is assessed as certain.

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<sup>39</sup> See paragraph 5 above.

Section 21(1) of the Executive Order on Visas stipulates that the Danish Immigration Service may issue visas at the border when special reasons warrant it. Such visas may be issued with a validity of up to 15 days and a single entry or as a transit visa. However, a Schengen visa cannot be issued at the border if there is a duty to consult the authorities of other Schengen countries prior to issuing the visa. In such situations, a visa with limited territorial validity may be issued for Denmark on humanitarian grounds, for reasons of national interest or because of international obligations.

Under section 21(3) of the Executive Order on Visas, the police may – upon authorisation by the Danish Immigration Service<sup>40</sup> – in special situations issue visas at the border with the same validity and on the same conditions as mentioned above. However, the police must not issue a visa if the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS II) for the purpose of refusing entry, or if the applicant is subject to an entry prohibition for Denmark.

Please find further guidelines on the issue of visas at the border in Part IV, paragraph 1, of the Visa Handbook.

## **9.2. Visas Issued to Seafarers<sup>41</sup>**

Article 36(1) of the Visa Code stipulates that a transit visa may be issued at the border to seafarers if the applicant meets the conditions set out in Article 35(1)<sup>42</sup> and are crossing the border in question for the purpose of embarking on, re-embarking on or disembarking from a ship where the person in question is to work or has been working as a seaman.

The Danish Immigration Service and the police<sup>43</sup> may issue visas at the border to seafarers in accordance with the rules referred to in paragraph 9.1 above.

Please find further guidelines on the issue of visas at the border to seafarers who are subject to the visa requirement in Part IV, paragraph 2, of the Visa Handbook. That paragraph states, amongst other things, that when processing cases concerning seafarers who are subject to the visa requirement it must be taken into account that there will quite often be "*unforeseeable and imperative*" reasons for an entry because of unforeseeable changes of the schedules of the ship on which the seafarer is to embark, re-embark or disembark from, for example due to weather conditions.

## **9.3. Refusal of Visas at the Borders**

Decisions on refusal of visa applications at the border are made by the Danish Immigration Service, see section 21(4) of the Executive Order on Visas.

Thus, the police are only authorised to issue visas, and not to refuse visa applications.

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<sup>40</sup> By Circular Letter No. 71 of 10 August 2010, the Danish Immigration Service authorised the Commissioner for the Copenhagen Police and the Commissioner for South East Jutland Police to issue visas at the border in certain emergency situations – at Copenhagen Airport and Billund Airport, respectively.

<sup>41</sup> It should be noted that certain crew members are exempt from the visa requirement in connection with transit in Denmark, see paragraph 2.5.1 above. The rules governing visas issued to seafarers are thus only relevant to the seafarers who are not covered by the visa exemption.

<sup>42</sup> See paragraph 9.1 above.

<sup>43</sup> See paragraph 9.1 above.

<sup>43</sup> By Circular Letter No. 70 of 10 August 2010, the Danish Immigration Service authorised the police to issue visas at the border to seafarers in transit who are subject to the visa requirement.

## 10. Refusal of a Visa Application

Article 32 of the Visa Code sets out the framework for when an application for a Schengen visa may be refused.

Thus, a visa application must only be refused if there are grounds for refusal as mentioned in Article 32(1) of the Visa Code, see also section 8(2) of the Executive Order on Visas.

The grounds for refusal mentioned in Article 32 are also listed in a standard form to be used when refusing an application for a visa. The standard form is set out in Annex VI of the Visa Code.<sup>44</sup>

In the subsequent paragraphs, the grounds for refusal are described in the order in which they appear in the standard form. Annex 2 of these Guidelines also contains a schematic overview of the overall grounds for refusal in the standard form and the situations in which applications are refused according to Danish practice.

### 10.1. Presentation of a False, Counterfeit or Forged Travel Document

Under Article 32(1)(a)(i) of the Visa Code and section 8(2)(1) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant presents a travel document which is false, counterfeit or forged.

Please refer to paragraph 5.1 above.

### 10.2. Failure to Justify the Purpose and Conditions of the Stay

Under Article 32(1)(a)(ii) of the Visa Code and section 8(2)(2) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant fails to justify the purpose and conditions of the intended stay.

In the assessment of whether the applicant has justified the purpose of the intended stay, the authorities will consider among other things whether the applicant has submitted relevant documentation, see section 10(1) of the Executive Order on Visas.

The documentation requirements vary depending on the purpose of the stay. For information about the usual documentation requirements for different types of visa stays, please refer to paragraphs 5.2.1-5.2.5 above.

In the assessment of whether the applicant meets the purpose of the stay, the authorities will consider among other things whether the applicant's travel document and re-entry permit, if relevant, meets a number of conditions, see section 13 of the Executive Order on Visas. For information about these conditions, please refer to section 5.2.6 above.

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<sup>44</sup> The standard form must also be used for annulment and revocation of visas already granted, see paragraph 16 below for further details.

If the applicant fails to submit relevant documentation after having been requested to do so, the visa application will usually be refused.

This also applies if the host fails to appear without giving notice of lawful excuse after being summoned to appear before the Danish Immigration Service or the police.

### **10.3. Lack of Proof of Sufficient Means of Subsistence**

Article 32(1)(a)(iii) of the Visa Code and section 8(2)(3) of the Executive Order on Visas stipulate that a Schengen visa must be refused if the applicant has not provided proof that they have sufficient means of subsistence for the duration of the intended stay or means for the return to the country of origin or residence, or for the transit to a third country into which the person in question is certain to be admitted.

Please refer to paragraph 5.3 above and paragraph 5.2.2 of the Visa Handbook.

### **10.4. Lack of Documentation of the Ability to Lawfully Acquire Sufficient Means**

Article 32(1)(a)(iii) of the Visa Code and section 8(2)(4) of the Executive Order on Visas stipulate that a Schengen visa must be refused if the applicant fails to provide proof that they are able to lawfully obtain sufficient means of subsistence for the duration of the intended stay or funds for the return to the country of origin or residence, or for the transit to a third country into which the applicant is certain to be admitted.

Please refer to paragraph 5.3 above and paragraphs 5.2.2 and 6.6 of the Visa Handbook.

### **10.5. Stays in Excess of 90 Days Within the Current Period of 180 Days**

Under Article 32(1)(a)(iv) of the Visa Code and section 8(2)(4) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant has already stayed in the Schengen countries for 90 days within the current period of 180 days on the basis of a Schengen visa or a visa with limited territorial validity.

If an applicant has stayed in the Schengen Area within the last 180 days but has not spent the maximum 90 days, a visa with a limited validity may be issued in consideration of the duration of the previous visa stay, see section 18(2) of the Executive Order on Visas.<sup>45</sup>

For information about the reckoning of allowed stays, please refer to paragraphs 3.1 and 5.4 above.

### **10.6. Alert in the Schengen Information System (SIS II)**

Under Article 32(1)(a)(v) of the Visa Code and section 8(2)(6) of the Executive Order on Visas, an application for a Schengen visa must be refused if an alert has been issued regarding the applicant in the Schengen Information System (SIS II) for the purpose of refusing entry.

Please refer to paragraph 5.5 above.

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<sup>45</sup> See paragraph 8.4 above.

## **10.7. Threat to Public Policy or Internal Security of the Schengen Countries**

Under Article 32(1)(a)(vi) of the Visa Code and section 8(2)(7) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant is considered to be a threat to public policy or the internal security of the Schengen countries, in particular where an alert has been issued regarding the applicant in the Schengen countries' national databases for the purpose of refusing entry on the same grounds.

The basis for refusing an application under these provisions may be, for example, that the applicant is registered in the Danish Central Criminal Register's list of entry prohibitions, that the applicant is included on the list of foreign preachers, etc., who may be excluded from entry which is referred to in section 29c of the Aliens Act, that the applicant is registered on the EU or UN's sanction lists, or that an objection has been made against issuing a visa for the applicant in connection with consultation of the authorities of other Schengen countries and/or the intelligence services.

This may also involve cases in which the authorities, in some other manner, have come into possession of information indicating that the applicant will constitute a threat to public policy or the internal security of the Schengen countries.

Please refer to paragraph 5.6 above.

In the examination of a specific visa case in which the application is refused due to the intelligence services, etc. of other Member States having objected to the issuing of a visa through a consultation procedure, the applicant must be informed which Member State(s) objected, which specific reason the refusal was based on (threat to public policy or internal security, public health or international relations), or for what reasons they were regarded as constituting such a threat, see Article 32(2) and (3) of the Visa Code.<sup>46</sup>

## **10.8. Threat to Public Health as Defined in Article 2, para. (21), of the Schengen Borders Code (Regulation (EU) 2016/399)**

Under Article 32(1)(a)(vi) of the Visa Code and section 8(2)(8) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant is considered to be a threat to the public health of the Schengen countries as defined in Article 2, para. (21), of Regulation (EU) No. 2016/399 (Schengen Borders Code), in particular where an alert has been issued regarding the applicant in the Schengen countries' national databases for the purpose of refusing entry on the same grounds.

It is sufficient for refusal under the provision set out in Article 32(1)(a)(vi) of the Visa Code and section 8(2)(8) of the Executive Order on Visas that there is reason to believe that the applicant will constitute a threat to the public health of the Schengen countries. Thus, it does not have to be medically documented that this is the case. For example, there will be cause to regard applicants as a threat to the public health of the Schengen countries if the World Health Organization WHO or the health authorities in a country have stated that a pandemic or epidemic of a very infectious disease has broken out, such as Ebola, SARS, COVID-19/coronavirus or another similar infectious disease.

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<sup>46</sup>The Judgment of the Court of Justice of the European Union of 24 November 2020 in the joined preliminary cases C-225/19 and C-226-19 held that Article 32(2) and (3) of the Visa Code, read in the light of Article 47 of the Charter of Fundamental Rights of the European Union, must be interpreted as meaning that a Member State is required to indicate the identity of the Member State which raised the objection and the specific ground for refusal based on that objection, accompanied, where appropriate, by the essence of the reasons for that objection, and the authority which the visa applicant may contact in order to ascertain the remedies available in that other Member State.

The Danish Immigration Service is the authority competent to make decisions on refusal in cases where there are grounds to assume that the applicant will constitute a threat to the public health of the Schengen countries.

The diplomatic missions and consular posts must therefore submit such visa applications to the Danish Immigration Service. In cases of doubt, the diplomatic missions and consular posts may contact the Ministry of Refugee, Immigration and Integration Affairs through the Ministry of Foreign Affairs, which will then, to the extent necessary, involve the health authorities.

Please refer to paragraphs 6.2.4 and 5.6 above.

### **10.9. Threat to the International Relations of One or More Schengen Countries**

Under Article 32(1)(a)(vi) of the Visa Code and section 8(2)(9) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant is considered to be a threat to the international relations of the Schengen countries, in particular where an alert has been issued regarding the applicant in the Schengen countries' national databases for the purpose of refusing entry on the same grounds.

### **10.10. Doubts as to the Reliability of the Information Submitted Regarding the Justification for the Purpose of the Intended Stay**

Under Article 32(1)(b) of the Visa Code and section 8(2)(10) of the Executive Order on Visas, an application for a Schengen visa must be refused if there are reasonable doubts as to the authenticity of the supporting documents submitted by the applicant or if there are reasonable doubts as to the veracity of the contents or the reliability of the information provided by the applicant to justify the purpose and conditions of the intended stay.

Like Article 32(1)(a)(ii) of the Visa Code, this provision gives grounds to refuse an application for a visa if it cannot be verified that the purpose of the intended stay is as stated by the applicant.

Article 32(1)(a)(ii) of the Visa Code is concerned with the situation where the applicant has not provided relevant documentation of the purpose of the intended stay, while Article 32(1)(b) is concerned with the situation where the applicant has provided relevant information but where the statements made are not reliable.

Please refer to paragraph 5.8 above.

### **10.11. Doubts as to the Reliability of the Statements Made**

Under Article 32(1)(b) of the Visa Code and section 8(2)(11) of the Executive Order on Visas, an application for a Schengen visa must be refused if there are reasonable doubts as to the reliability of the statements made by the applicant.

This provision makes it possible to refuse a visa if, in connection with the application, the applicant has provided divergent or otherwise unreliable information, whether in writing or orally, about matters such as their job situation or family relations.

Please refer to paragraph 5.8 above.

### **10.12. Doubts as to the Reliability and Authenticity of the Supporting Documents Submitted by the Applicant or Doubts as to the Veracity of Their Contents**

Under Article 32(1)(b) of the Visa Code and section 8(2)(12) of the Executive Order on Visas, an application for a Schengen visa must be refused if there are reasonable doubts as to the reliability and authenticity of the documentation submitted or as to the veracity of their contents.

The provision makes it possible to refuse a visa application if the applicant has presented false, counterfeit or forged documents except travel documents.

In cases where there is reason to doubt the authenticity of the documents presented but where it is not possible to make an actual verification in connection with the processing of the visa case, the application should usually be refused. However, the applicant should at the same time be informed that it has not actually been attempted to verify the documents and that this may be done if required in connection with a subsequent residence permit case.

If it is generally not possible to verify documents of a specific type or from a specific area, this should not in itself lead to a refusal of the visa application. In such situations, an application should only be refused if – in addition to the general verification problems – there are also specific reasons to doubt the authenticity of the document, for example because the appearance of the documents seems irregular or because information provided in the document is in contradiction of other information in the case.

Please refer to paragraph 5.8 above.

### **10.13. Doubts as to the Applicant's Intention to Leave the Schengen Countries**

Under Article 32(1)(b) of the Visa Code and section 8(2)(13) of the Executive Order on Visas, an application for a Schengen visa must be refused if there are reasonable doubts as to the applicant's intention to leave the Schengen countries before the expiry of the visa applied for.

This provision covers cases where the applicant has previously violated the rules on entry into and stays in Denmark and cases where there is otherwise thought to be a risk of immigration as a consequence of the applicant's conditions and the general conditions in the home country (see the division into main groups).

Please refer to paragraph 5.9 above.

### **10.14. Lack of Grounds for Issuing Visas at the Border**

Under Article 35(6) of the Visa Code and section 8(2)(14) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant has applied for a visa at the border but has not provided sufficient proof that it has not been possible to apply for a visa in advance.

Please refer to paragraph 9 above.

## **10.15. Lack of Justification for the Purpose and Conditions of the Expected Airport Transit**

Under Article 32(1)(a)(ii) of the Visa Code and section 8(2)(15) of the Executive Order on Visas, an application for a Schengen visa must be refused if the applicant has applied for an airport transit visa but has not provided justification for the purpose and conditions of the expected airport transit.

Like Article 32(1)(a)(ii) of the Visa Code, this provision gives grounds to refuse an application for a visa if it cannot be verified that the purpose of the intended stay is as stated by the applicant.

Article 32(1)(a)(ii) of the Visa Code applies in the situation where the applicant has not provided relevant documentation of the purpose of the expected airport transit.

This provision covers cases in which the applicant has not provided documentation in relation to the onward journey to the final destination, or where the applicant's information on the points of departure and destination and the intended itinerary and airport transit are not coherent, see Article 21(6) of the Visa Code.

Please refer to paragraph 5.2 above.

## **10.16. Lack of Proof of Adequate and Valid Travel Medical Insurance**

Under Article 32(1)(a)(vii) of the Visa Code and section 8(2)(16) of the Executive Order on Visas, an application for a Schengen visa must be refused where the applicant fails to present proof of holding adequate and valid travel medical insurance unless there are grounds for derogating from this requirement.

Please refer to paragraph 5.7 above.

# **11. Visas for Special Groups**

## **11.1. Visa Applications Covered by the EU Rules**

Some third-country nationals are entitled to have a visa issued under the EU rules. This applies to certain family members of a citizen of an EU Member State, an EEA Member State<sup>47</sup> or Switzerland (referred to as a Union citizen below) if the visa applicant is accompanying or joining the Union citizen while the Union citizen is exercising their right to free movement within the EU.<sup>48</sup>

Furthermore, third-country nationals holding an EU\_residence\_card issued in accordance with EU law are generally exempt from the visa requirement. Please refer to section 2 above.

### **11.1.1. Family Members Covered by the EU Rules**

The EU rules apply to the following family members of a Union citizen:<sup>49</sup>

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<sup>47</sup> A country covered by the Agreement on the European Economic Area.

<sup>48</sup> The rules governing this are laid down in Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (the Directive on the right to move and reside freely).

<sup>49</sup> See section 9 of the Executive Order on Visas and Article 2, para. (2), and Article 3(1) and (2) of the Directive on the right to move and reside freely.

- The spouse of the Union citizen.
- The registered partner of the Union citizen.
- The Union citizen's permanent live-in partner with whom the Union citizen has a durable relationship, duly attested.
- Descendants (i.e. children, grandchildren, etc.) of the Union citizen or the Union citizen's spouse, registered partner or permanent live-in partner who are under the age of 21 or are dependent on the Union citizen or the Union citizen's spouse, registered partner or permanent live-in partner.
- Relatives in the ascending line (i.e. parents, grandparents, etc.) of the Union citizen or the Union citizen's spouse, registered partner or permanent live-in partner if the relative is dependent on the Union citizen or the Union citizen's spouse, registered partner or live-in partner.
- Other family members of the Union citizen (i.e. siblings, cousins, etc.) if in the country from which they have come they are dependants or members of the household of the Union citizen or where serious health grounds strictly require the personal care of the family member by the Union citizen.

### **11.1.2. Family Members Who Accompany or Join a Union Citizen**

The EU rules (the Directive on the right to move and reside freely) only apply to family members of a Union citizen to the extent that the persons in question accompany or join the Union citizen, see Article 3(1) of the Directive on the right to move and reside freely.

Thus, the rules apply if the applicant is planning to travel to Denmark with the Union citizen or if the applicant plans to travel to Denmark independently to join or visit the Union citizen in Denmark. The rules do not apply if the applicant plans to travel to Denmark independently of whether the Union citizen is in the destination country.

### **11.1.3. The Union Citizen (the Host) Must Exercise the Right of Free Movement**

The EU rules generally only apply to family members of a Union citizen who is exercising their right of free movement.

Thus, the rules apply to family members of a Union citizen who is staying in Denmark in accordance with the rules on free movement.

As a general rule, the Directive on the right to move and reside freely does not apply to family members of a Danish national who is staying in Denmark, as the Danish national is staying in their own Member State and thus not exercising the right to free movement. However, there may be situations in which this general rule is derogated from, see immediately below.

### **11.1.4. Danish Nationals Returning to Denmark After Having Exercised Their Right of Free Movement**

Family members of a Danish national, who has exercised their right of free movement in another EU or EEA Member State or Switzerland in accordance with EU rules as a worker, for example, and who returns to Denmark, will be eligible for having their visa application for Denmark considered under the EU rules when they enter the country with a view to taking up residence here with the Danish national. This could, for example, be a Danish national who has worked in Germany but who has now returned to Denmark and wishes to bring their family who are subject to the visa requirement. The Directive on the right to move and reside freely applies *mutatis mutandis* (similarly) in this situation.

In this connection, it is a condition that the Danish national genuinely and actually stayed in the EU Member State in question. A specific, individual assessment will always be made as to whether the Danish national's stay in the EU Member State may be characterised as genuine and actual. If the Danish national has rented a room or has moved to a c/o address with relatives or acquaintances for a short period only, the stay will usually not meet the requirement to have established a genuine and actual residence. In contrast, a long-term stay in a rented flat or in a dwelling which the person in question has bought will normally meet the requirement for establishment of a genuine and actual residence.

It is a further requirement that the Danish national and the family member have built or consolidated their family life in the country where the Danish national exercised their right of free movement, and that the family life has not been broken off or ended in the meantime. As part of the overall specific assessment of whether the family life has been broken off or ended, it may be taken into account whether a family member's lodging of the application took place in natural extension of the Union citizen's return to the Member State of origin. A visa cannot be refused under the EU rules in such situations solely on the grounds that there is a shift in timing between the Danish national's return and the time when the family member wishes to join the Danish national.

In the assessment, it will be taken into account why the application was lodged at a later time, including whether the family member postponed the application for special work-related, educational or health reasons as well as the amount of time which has elapsed. Irrespective of the shift in timing, an overall specific assessment must be made taking into account the matters which may justify that the family life that has been built or consolidated in the host Member State has not ended despite the shift in timing. Thus, specific circumstances indicating an intention to continue the family life that has been built or consolidated in the host Member State must be taken into account as must circumstances which might, conversely, indicate that the family life has been broken off or ended.

In addition to the situation described above in which a Danish national returns to Denmark after having exercised their right of free movement, there may be quite extraordinary situations in which a refusal of a visa for a third-country national who is a family member of a Danish national who has not exercised their right of free movement may, under the circumstances, constitute an infringement of Denmark's EU obligations under Article TFEU 20 on Union citizenship as interpreted by CJEU practice. Such situations are characterised by a qualified state of dependence between a Danish national and a third-country national which is of such a nature that the Danish national would be required to leave Denmark and thus leave Union territory altogether or be barred from entering Denmark and thus from taking up residence in the territory of the Union as a whole if third-country nationals are refused a right of residence or entry into the country. It might be relevant in a situation where a Danish child, who was born and raised in a third country, wishes to enter and take up residence in Denmark but, due to the qualified state of dependence in relation to a parent, for example, is only able to enter Denmark if the child's parent, who is a third-country national, is granted a visa with a view to the entry being effected. In all events, however, a specific, individual assessment will have to be made as to whether a visa can be issued to the third-country national, including when the regard for public policy or security makes it otherwise inappropriate.

#### **11.1.5. Processing of Applications Covered by the EU Rules**

An application for a visa under the EU rules must, as a rule, be lodged in the usual manner by submission of an application form to a private visa application centre or a diplomatic mission or consular post abroad.

Such an application needs only meet a few conditions to be considered admissible for processing. The general requirements that an application may not be submitted earlier than six months prior to the intended stay, that the validity of the applicant's travel document must extend at least three months after the

intended date of departure from the Schengen countries, that the travel document must have been issued within the last ten years, and that a visa fee must be paid do not apply in cases covered by the EU rules, see section 7(8) of the Executive Order on Visas.

In practice, this means that, upon submission of the visa application, the applicant needs only present a valid passport or other valid travel identification, proof of the family relationship with the Union citizen and documentation that the Union citizen or the Danish national is exercising or has exercised the right of free movement.<sup>50</sup>

If an application must be examined under EU rules, this also entails that the applicant must be issued a visa as soon as possible and on the basis of an accelerated procedure, see section 9 of the Executive Order on Visas. It is also stipulated in Article 5(2) of the Directive on the right to move and reside freely that the EU Member States must grant applicants covered by the EU rules every facility to obtain the necessary visas, and that the visas must be issued free of charge and on the basis of an accelerated procedure. If the applicant makes use of a private visa application centre, the applicant must pay a service fee. Processing times going beyond 15 days should be exceptional, and a prolonged processing time must be duly justified, see Part III, paragraph 4.4, of the Visa Handbook.

It should be noted in this connection that third-country family members, who are subject to a visa requirement and who accompany or join a Union citizen, are not only entitled to enter the territory of the Member State but are also entitled to an entry visa, which separates them from other third-country nationals who do not have such a right.<sup>51</sup> This means that where the family member does not hold an entry visa at the border, the authorities must, before turning them back, give such persons every reasonable opportunity to obtain the necessary documents or have them brought to them within a reasonable period of time or in some other way confirm that they are covered by the right of free movement and residence under Article 5(4) of the Directive on the right to move and reside freely. In such special situations, a visa may be issued at the border, see section 21 of the Executive Order on Visas.

Thus, a third-country national, who has family ties to a Union citizen, cannot be refused solely because the person in question does not hold the required travel documents or the potentially required visa if the person in question is able to prove their identity and family relation to a Union citizen in some other manner.

When processing an application under the EU rules, authorities must not require documentation of sufficient means of subsistence and return fare or of possession of adequate and valid travel medical insurance, and the other grounds for refusal of an application only apply to the extent this is compatible with the EU rules, see section 8(3) of the Executive Order on Visas.

Article 27(1) and (2) of the Directive on the right to move and reside freely also stipulate that limitations in the right of free movement of persons covered by EU rules must only be made out of considerations for public policy, security or health. Such measures must be in accordance with the principle of proportionality, and they require that the applicant's personal conduct represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society.

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<sup>50</sup> In relation to family members of a Danish national who has returned to Denmark after having exercised the right of free movement in another EU Member State, an EEA Member State or Switzerland, the documentation regarding the exercise of the right of free of movement will also include documentation that the family member and the Danish national have had a genuine cohabitation relationship in the other country.

<sup>51</sup> See paragraph 2.2.1 of Communication of 2 July 2009, COM (2009)313, on guidance for better transposition and application of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

Under Article 35 of the Directive, EU Member States may adopt the necessary measures to refuse, terminate or withdraw any right conferred by the Directive in the case of abuse of rights or fraud, such as marriages of convenience.

Thus, refusal of an application for a visa requires that the authorities demonstrate that the applicant is a genuine, present and sufficiently serious threat to public policy, public security or public health or that the authorities demonstrate that there was abuse or fraud involved, see Part III, paragraph 5, of the Visa Handbook.

In addition, Article 30 of the Directive on the right to move and reside freely stipulates that decisions limiting the freedom of movement of persons covered by EU rules must state, precisely and in full, the public policy, security or health grounds on which the decision is based unless this is contrary to the interests of state security.

Section 28(4) of the Executive Order on Visas further stipulates that cases in which there might be grounds for refusing a visa application submitted by an applicant who is covered by the EU rules or who claims to be covered by these rules must be submitted to the Danish Immigration Service.

For further information about visas under the EU rules, please refer to the Directive on the right to move and reside freely<sup>52</sup> which was implemented into Danish law by means of the EU Residence Order and Part III of the Visa Handbook.

## **11.2. Visa Facilitation Agreements**

In several situations, the EU Member States have entered into visa facilitation agreements with third countries whose nationals are subject to a visa requirement. These agreements do not have immediate effect for Denmark as a consequence of Denmark's reservation in relation to EU's cooperation in the field of justice and home affairs, but in a number of situations Denmark has entered into bilateral agreements with the third countries in question with contents corresponding to that of the EU agreements.

Denmark has entered into bilateral visa facilitation agreements with the following countries: Montenegro (as of 1 August 2008), Albania (as of 1 December 2008), Ukraine (as of 1 March 2009, with amendments as of 1 January 2016), Bosnia and Herzegovina (as of 1 April 2009), Serbia (as of 1. May 2009), Russia (as of 1 October 2009) and Moldova (as of 1 September 2011).<sup>53</sup>

A visa facilitation agreement is an agreement which facilitates the procedures for the processing of visa applications for specific groups of persons, for example in relation to the supporting documents required to show the purpose of the stay, for example for journalists, participants in cultural events or business people. In continuation of this, section 10(2) of the Executive Order on Visas stipulates that the general rules on documentation of the purpose of a visa stay only apply to nationals covered by a visa facilitation agreement to the extent that it is compatible with the provisions of that agreement.

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<sup>52</sup> Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

<sup>53</sup> Nationals of Moldova who are holders of biometric passports have been exempt from the visa requirement since 28 April 2014.

Moreover, the visa facilitation agreements set out provisions governing the issue of visas which are valid for multiple entries, visa exemption for holders of diplomatic passports and shorter processing times (usually a maximum of 10 days, but up to 30 days in special situations).

Further information about the individual visa facilitation agreements may be found at the website of the immigration authorities, [www.newtodenmark.dk](http://www.newtodenmark.dk).

### **11.3. Prior Approval for Enterprises in Denmark**

#### **11.3.1. Processing of Applications for Prior Approval**

The Immigration Service may give prior approval to enterprises in Denmark with a view to receiving business visits from aliens from countries whose nationals are required to obtain a visa, see section 4d(1) of the Aliens Act.<sup>54</sup>

Only enterprises which are registered in Denmark, or which have a department or branch office in Denmark may be pre-approved.

The prior approval scheme was particularly intended for businesses, but educational institutions, associations and organisations may also be given prior approval on the basis of a specific assessment if Denmark's cooperation relations with countries abroad warrant an approval of the application.

In the assessment of an application for prior approval, the authorities should take into account whether the enterprise is well-established, whether it is healthy and stable, and whether the enterprise must be assumed to have such knowledge of the employees invited to Denmark on business visits that the enterprise is actually able to vouch for the persons in question.

It is also a condition for prior approval of an enterprise that it provides a contact person for the authorities to contact with a view to confirming a visit and that the enterprise, due to its registered business activity, has a natural, commercial need for trading abroad.

A prior approval must be granted for a period of three or five years, depending on the enterprise's stability and experience in inviting aliens to come on visa stays.

In connection with prior approval of an enterprise, the Danish Immigration Service may require that the invited business relations must document their home journey to the Danish diplomatic mission or consular post by submitting passport copies or – if necessary – by appearing in person.

A refusal of prior approval cannot be appealed against, see section 46a(7)(3) of the Aliens Act.

A prior approval must be withdrawn if the approval was obtained through fraud, or if the conditions for the approval are no longer present. A prior approval may also be withdrawn if it is found that the terms of the approval are not being complied with, for example because the enterprise has invited aliens to Denmark who have misused the visas granted, see section 4d(2) of the Aliens Act. In this connection, it is a premise that gross or repeated misuse of a visa must result in the enterprise being stripped of its prior approval and prevented from obtaining a new prior approval for up to three years.

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<sup>54</sup> The prior approval scheme was introduced by Act No. 1334 of 19 December 2008 and expanded by Act No. 1616 of 26 December 2013.

### **11.3.2. Processing of Visa Applications Submitted with a view to Visiting Enterprises with Prior Approval<sup>55</sup>**

An application for a visa with a view to a business visit at an enterprise with prior approval must, as a rule, be submitted to a Danish mission or a private visa application centre abroad.<sup>56</sup>

An applicant who has been invited by an enterprise with prior approval should generally be given the same advantages as those attached to the local accreditation scheme for foreign enterprises, see paragraph 11.4.2 below. This may mean, for example, that the general requirement for appearance in person may be derogated from if the person in question has had their fingerprints taken no more than 59 months prior and that a visa may be granted for multiple entries and with longer validity.

An application for a visa with a view to a visit at an enterprise with prior approval must, as a rule, be granted by the mission. The applicant is not exempt from meeting the normal visa conditions, but in such cases, there is an assumption that the business relationship is genuine.

Against this background, an invitation from an enterprise with prior approval will normally be regarded as sufficient documentation of the purpose of the stay, see section 11 of the Executive Order on Visas.

However, obtaining supplementary documentation is not ruled out if, for example, there is specific reason to doubt the authenticity of the invitation or if there are doubts as to the applicant's intention with the stay, for example because there does not seem to be any connection between the applicant's trade in the home country and the field of activity of the enterprise which has been granted prior approval.

In special situations where there is a need for further investigations, the application may also be submitted to the Danish Immigration Service.

The Danish Immigration Service should, at intervals, conduct tests on a sample basis of applicants who are granted visas on the basis of the prior approval scheme, for example so that applicants are asked to document their home journey by submitting passport copies or – if necessary – by appearing in person at the Danish diplomatic mission or consular post where the application was lodged.

Further information about the prior approval scheme may be found at the website of the immigration authorities, [www.newtodenmark.dk](http://www.newtodenmark.dk).

## **11.4. Accreditation Scheme for Enterprises Abroad – Red Carpet**

### **11.4.1. Processing of Applications for Accreditation**

The Danish missions abroad which are authorised to issue visas may accredit enterprises abroad with a view to giving aliens who are subject to a visa requirement, but who have a more permanent association with the enterprise, the possibility of carrying through business visits to Denmark, see section 4d(3) of the Aliens Act.<sup>57</sup>

It was implied that the accreditation scheme will be implemented differently in different places as the missions must adapt it to the local situation, for example in consideration of the asylum or immigration

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<sup>55</sup> Including enterprises, educational institutions, associations and organisations.

<sup>56</sup> The prior approval scheme only applies to applicants applying for a visa at a Danish mission, and not to applicants lodging an application through a foreign mission under a representation arrangement.

<sup>57</sup> The accreditation scheme was described explanatory notes to Bill No. L 6 of 2 October 2013, paragraph 3.

risk. It was also implied that, upon implementation of the individual schemes, the missions must obtain information from the Danish Immigration Service about current asylum and immigration trends.

When local accreditation schemes are designed, there may, for example, be variations in relation to the requirements made of the enterprises as a condition for accreditation, and there may also be differences as to which people are regarded as covered by an enterprise's accreditation.

The accreditation scheme was primarily intended for businesses, but educational institutions, associations and organisations may also be accredited on the basis of a specific assessment if Denmark's cooperation relations with countries abroad warrant an approval of the application.

In the assessment of an application for accreditation of an enterprise, the Danish diplomatic missions and consular posts should take into account whether the enterprise is well-established, whether it is healthy and stable, and whether the enterprise must be assumed to have such knowledge of the employees who are sent on business trips that the enterprise is actually able to vouch for the persons in question.

As a rule, accreditation of an enterprise is granted for a period of three years. However, the missions may extend the period to five years if the enterprise is particularly stable, and the risk of immigration is limited.

A refusal of accreditation cannot be appealed against, see section 46a(7)(3) of the Aliens Act.

An accreditation must be withdrawn if it was obtained through fraud, or if the conditions for the accreditation are no longer present. An accreditation may also be withdrawn if it is found that the terms of the accreditation are not being complied with, for example because the enterprise has invited aliens to Denmark who have misused the visas they were granted, see section 4d(4) of the Aliens Act. In this connection, it is a premise that gross or repeated misuse of a visa must result in the enterprise being stripped of its accreditation and prevented from obtaining a new accreditation for up to three years.

#### **11.4.2. Processing of Visa Applications Lodged by Applicants with a More Permanent Association with Accredited Enterprises Abroad<sup>58</sup>**

An application for a visa covered by the accreditation scheme must be lodged electronically via ApplyVisa and must, as a rule, be lodged with a private visa application centre. Only in very special cases may such an application be lodged with the Danish diplomatic mission or consular post abroad.<sup>59</sup> It is for the diplomatic mission or consular post to determine where the application can be lodged.

The accreditation scheme means that certain employees and other persons with a more permanent association with accredited enterprises are given access to a particularly flexible visa procedure because their integrity and reliability are generally regarded as documented because of their association with the accredited enterprise. Whether an employee or other persons may be regarded as having a more permanent association with an accredited enterprise depends on a specific individual assessment of the employment relationship, including whether it is a temporary employment or a permanent one, and in this connection,

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<sup>58</sup> Including enterprises, educational institutions, associations and organisations.

<sup>59</sup> The accreditation scheme only applies to applicants applying for a visa through the Danish diplomatic mission or consular post which accredited the enterprise with which the applicant is associated.

it may also be accorded importance if the employee has merely been employed for a short while or if the employment has lasted for many years.

The specific advantages given to an applicant through the accreditation scheme vary from location to location, as the schemes must be adapted to local situations. The applicants are typically given shorter processing times, a limitation of the requirement to appear in person to cases where biometrics must be recorded, wider access to being granted a visa for multiple entries and with longer validity, and a relaxation of the documentation requirements.

In continuation of this, section 12 of the Executive Order on Visas stipulates that submission of the supporting documents listed in the guidelines for the local accreditation scheme will be regarded as sufficient documentation for the purpose of the stay. However, supplementary documentation may be obtained if this is necessary to determine if the application should be refused for reasons other than a lack of documentation of the purpose of the stay.

An applicant who is associated with an accredited enterprise must otherwise meet the usual conditions for obtaining a visa, including the basic conditions for entry, and the asylum and immigration risk must be assessed for each individual applicant in the usual way.

It is implied that the accreditation scheme must be accompanied by efficient control measures, for example in the form of control of the accredited enterprises through regular test on a sample basis in specific cases and annual controls of the missions' administration of the scheme.

## **11.5. Travel Agency Arrangements and Tourist Arrangements**

Article 45 of the Visa Code allows the Schengen countries to introduce so-called travel agency arrangements which entail that travel agencies in third countries may be accredited to receive visa applications so that the applicants do not have to attend a Danish mission. However, this does not apply if there is a need to record biometrics, as only missions and private visa application centres are authorised to record fingerprints.

In Denmark, there are two different arrangements: a travel agency arrangement and a tourist arrangement with accreditation of other operators than travel agencies.

The travel agency arrangements entail that the visa applicant must buy a journey arranged by an accredited travel agency in the home country which cooperates with an accredited travel agency in Denmark.

The tourist arrangements with accreditation of other operators entail that the visa applicant must buy a journey arranged by an accredited travel agency in the home country which cooperates with other accredited operators than travel agencies in Denmark.

Both arrangements require that the journey is bought as a total package including at least transport and accommodation.

Applicants covered by the arrangements may, as a rule, be granted a visa for up to 30 days stay if they meet the basic conditions for entry (valid travel document, etc.). This applies notwithstanding that the

person in question may be included in the group of nationals from the country in question to whom visas are usually granted according to the current practice.<sup>60</sup>

So far, Denmark has introduced travel agency and tourist arrangements in Russia, China,<sup>61</sup> Ukraine<sup>62</sup> and India. Information about the arrangements can be found at the website of the immigration authorities, [www.newtodenmark.dk](http://www.newtodenmark.dk).

## 12. Denmark's International Obligations

A visa must always be granted to an applicant if a refusal would constitute a violation of Denmark's international obligations, including Article 8 of the European Convention on Human Rights on the right to respect for family life.

It can be inferred from the practice laid down by the European Court of Human Rights concerning Article 8 of the European Convention on Human Rights that families do not have an immediate right to choose the country in which they wish to live their family life.

It may further be inferred from the practice of the European Court of Human Rights that, in each case where an alien applies for access to leading a family life in Denmark, the Danish authorities must make an individual assessment of whether it is proportional on the basis of the circumstances of the case – for example in consideration of Denmark's interest in limiting immigration – to refuse an application.

The protection under Article 8 of the European Convention on Human Rights is primarily aimed at the traditional 'core family', as it has been modified in modern family practice, i.e. spouses, live-in partners and under-age children, and the very special situations where there is a state of dependence beyond what follows from the family relationship itself, between for example an adult child and its parents.

In a number of situations, the family life which the alien intends to lead with persons living in Denmark will not be of a sufficient scope or of the required quality for the alien to be able to require a residence permit. In such situations, the alien will be left to lead the family life in their country of residence or during visits to Denmark.

This applies, for example, where access has been fixed or agreed between a foreign parent and their under-age child living in Denmark at such long intervals that the parent may instead be referred to leading the family life with the child during visits, and such visits cannot be carried out in the country of residence of the foreign parent. The same would apply if the foreign parent needs to participate in a court hearing, an inquiry into parenting ability or similar in Denmark with a view to obtaining access with a child living in Denmark.

Situations which may be decisively in favour of granting a visa with a view to visiting a child living in Denmark – including a child whose other parent the alien is still married to – may also be if the child suffers from a serious illness which makes it impossible for the child to travel abroad.

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<sup>60</sup> See paragraph 5.9.7.9 above.

<sup>61</sup> Originally, a joint European travel agency scheme was introduced in China – the so-called ADS framework – which only covers groups of tourists of at least five participants. This scheme has subsequently been supplemented by travel agency and tourist schemes for individual travellers.

<sup>62</sup> However, this only applies to Ukrainian nationals without biometric passports.

Spouses may also be entitled to protection of their family life under Article 8 of the European Convention on Human Rights. This could be when the person living in Denmark for a shorter period is prevented from leading the family life in another country because of, for example, serious illness but where the hindrance is not of a duration warranting a residence permit.

Moreover, spouses may be entitled to protection of their family life where there are insurmountable hindrances of a nature which may warrant a residence permit, but where the couple choose to lead their family life through visits instead. Such insurmountable hindrances may be that the spouse living in Denmark is a refugee and must still be assumed to be pursued in a manner warranting asylum in a common home country, that the person living in Denmark meets the conditions for granting a humanitarian residence permit in accordance with the requirements described in the legislative history of Act No. 572 of 31 May 2010,<sup>63</sup> or that the alien's under-age children living in Denmark have achieved a significant independent tie to the country.

The European Court of Human Rights does not normally regard a family life as protected if it is between spouses whose marriage is a marriage of convenience or a forced marriage.

## **13. Issuing of a Visa with Limited Territorial Validity (VLTV)**

If an applicant does not meet the requirements for obtaining a Schengen visa, the Danish authorities may, in exceptional cases, issue a visa which is only valid for staying in Denmark, see section 4a of the Aliens Act and Article 25 of the Visa Code.

### **13.1. Visas with Limited Territorial Validity When the Basic Conditions for Entry Are Not Satisfied**

Section 20(1) of the Executive Order on Visas stipulates that issuing a visa with limited territorial validity may be considered in the following situations:

- If the applicant does not meet the requirements for proving the purpose and conditions of the stay.
- If the applicant does not provide satisfactory documentation for having sufficient means.
- If the applicant is a person for whom an alert has been issued in the Schengen Information System (SIS II) for the purpose of refusing entry.
- If the applicant is considered to be a threat to public policy, internal security, public health or international relations of the Schengen countries.
- If the applicant does not provide proof of holding adequate and valid travel medical insurance.
- If the applicant is not in possession of a passport or other travel document recognised by Denmark.
- If the intelligence services and/or the authorities of other Schengen countries have not been consulted in accordance with the rules set out in the Visa Code.

In such situations, a visa with limited territorial validity may be issued on humanitarian grounds, for reasons of national interest or because of international obligations.

As a rule, such visas are limited to be valid only for entry into and stays in Denmark, but they may, in exceptional situations, be made valid for Denmark and one or more other Schengen countries if the other Schengen country(s) have consented thereto, see section 20(2) of the Executive Order on Visas.

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<sup>63</sup> See the explanatory notes to Bill No. L 188 of 26 March 2010, paragraph 8.4.

It appears from section 28(3) of the Executive Order on Visas that the Danish Immigration Service makes decisions as the first authority in cases where there might be grounds for granting a visa with limited territorial validity, except in the situations mentioned in sections 19 and 20(3) of the Executive Order. See more about this below.

See also paragraph 6.2.11 above.

### **13.2. Visas with Limited Territorial Validity in Cases Where Some Schengen Countries Do Not Recognise the Applicant's Travel Document**

If an applicant cannot be granted a visa applicable to all Schengen countries solely because one or more other Schengen countries do not accept the applicant's travel document, the authorities may issue a visa whose validity is limited to the Schengen country(s) which do accept the travel document of the person in question, see section 19 of the Executive Order on Visas.

See also paragraph 6.2.11 above.

### **13.3. Visas with Limited Territorial Validity for Stays of More than 90 Days Within Any 180-Day Period.**

If an applicant cannot be granted a Schengen visa solely because he has already stayed in Denmark or another Schengen country for 90 days within the last 180 days on the basis of a visa, the authorities may issue a visa whose validity is limited to apply only for entry into and stays in Denmark, see section 20(3) of the Executive Order on Visas.

In such situations, a visa with limited territorial validity may be issued if there is good reason to do so. It depends on a specific assessment if this condition may be regarded as satisfied, but it should at least be required that the need for a new visa within the 180-day period is not due to poor planning on the applicant's part.

See also paragraph 6.2.11 above.

## **14. Extension of Visas**

The visa system is only intended for short-term stays in Denmark and/or the other Schengen countries.

According to section 4(1) of the Aliens Act, a Schengen visa may be granted for a maximum of 90 days' stay in the Schengen countries within a period of 180 days.<sup>64</sup>

An issued visa may only be extended in special situations, see below.

Applications for an extension of a visa, must be submitted to the Danish Immigration Service.

### **14.1. Extension of a Schengen Visa**

A Schengen visa issued for a period shorter than 90 days may be extended to cover a maximum of 90 days, in case of force majeure or humanitarian considerations preventing the alien from leaving Denmark

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<sup>64</sup> See paragraph 3.1 above for further details.

in accordance with the validity of the original visa, see Article 33(1) of the Visa Code and section 22(1) of the Executive Order on Visas.

A Schengen visa issued for a period shorter than 90 days may furthermore be extended to cover a total stay of 90 days if the visa holder presents proof of serious personal reasons justifying the extension of the validity period or the duration of the stay, see Article 33(2) of the Visa Code and section 22(2) of the Executive Order on Visas.

For example, there may be basis for extension if the airline with which the visa holder is travelling is on strike, if the weather conditions make departure impossible, if the visa holder or the host becomes seriously ill, or if it has not been possible to complete an important transaction within the validity of the visa, but where it is expected that it can be completed within a very short period of time.

However unless there are special reasons against it, extension may only be granted on the basis of information which was not available at the time the visa was issued, and only if the purpose of the stay is unchanged.

If a Schengen visa was issued for 90 days, a further extension will only be possible in accordance with the rules on extension of the right to stay in Denmark, see below.

Section 22(3) of the Executive Order on Visas stipulates that an application for an extension must be submitted before the expiry of the current visa. This means that it is a condition that the application for an extension of the visa is lodged while the applicant is still legally in Denmark. If the application is submitted too late and was thus lodged during an illegal stay, the general rule is that the application must be refused. However, a specific and individual assessment must be made as to whether information has been provided about special circumstances causing the application to have been submitted late and as to whether there is a basis for granting an extension after all.

## **14.2. Extension of a Stay in Denmark**

The right to stay in Denmark of aliens who have been to Denmark or another Schengen country on a short-term visit in accordance with sections 2-3a<sup>65</sup> of the Aliens Act may be extended in special cases, see section 4b of the Aliens Act.

According to practice, extension of the right to stay in Denmark may only be granted if there are extraordinary circumstances to warrant this. This may be the case if the alien becomes ill during the stay in Denmark and documentation is presented to show that, based on a medical assessment, it will be irresponsible for health reasons if the person in question carries through the journey home before the expiry of the visa or the visa-exempt stay. Moreover, there may be basis for extending the right to stay if the host living in Denmark or other close relatives become seriously ill or die.

It is a condition for the extension of the right to stay in Denmark that the situation arose suddenly and did not exist at the time the visa was issued, and that the holder of the visa therefore was not able to plan the visa stay accordingly.

In addition to the situations mentioned above where extraordinary circumstances exist, the right to stay in Denmark may, under section 4b of the Aliens Act, be extended in the following situations:

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<sup>65</sup> This includes aliens who have entered Denmark on a visa, or who are exempt from the visa requirement.

- If the alien has applied for family reunification with a spouse, registered partner or permanent live-in partner living in Denmark and is currently awaiting the result of that application and has not been granted a procedural stay in Denmark, and the person in question entered Denmark at a time when both parties were at least 23 years and six months old. The purpose of this practice is to ensure that the spouses, registered partners and live-in partners who do not meet the requirement to be at least 24 years old in cases regarding family reunification are allowed to remain together, until the immigration authorities have decided whether the remaining conditions for family reunification are satisfied.
- If the alien is a third-country national and is visiting a spouse, registered partner, permanent live-in partner, romantic partner/fiancé(e), parents, children or siblings, and the host is a national of an EU Member State, EEA Member State or Switzerland and is exercising or planning to exercise their right of free movement in Denmark under the EU rules.

According to practice, extension of the right to stay in Denmark under section 4B of the Aliens Act may be granted for 90 days beyond a Schengen visa already issued, i.e. for a total stay of up to 180 days.

Extension of the right to stay in Denmark does not result in a right to enter or stay in the other Schengen countries, nor does it give a right to transit through other Schengen countries in connection with the return journey.

It is a condition that the application for an extension of the right to stay is lodged while the applicant is still legally in Denmark under sections 2-3a of the Aliens Act. If the application is submitted too late and was thus lodged during an illegal stay, the general rule is that the application for extension must be refused. However, a specific and individual assessment must be made as to whether information has provided about special circumstances causing the application to have been submitted late and as to whether there is a basis for granting an extension after all.

## **15. Annulment and Revocation of Visas Already Granted**

A visa may be annulled or revoked where it becomes evident after the visa was issued that there are circumstances warranting a refusal of the visa application, see Article 34 of the Visa Code and section 23 of the Executive Order on Visas.

In cases concerning annulment or revocation of a visa, the same assessment must therefore be made as to whether the applicant meets the conditions for being granted a visa as the assessment made in the original processing of a case. This assessment just has to be made in consideration of the new information in the case received after the visa was issued.

### **15.1. Annulment of a Visa**

A visa may be annulled where it becomes evident that the conditions for issuing it were not met at the time when it was issued, in particular if there are serious grounds for believing that the visa was fraudulently obtained, see Article 34(1) of the Visa Code and section 24 of the Executive Order on Visas.

This may be the case if it turns out after the visa was issued that the documents presented by the applicant in support of the application are false.

## **15.2. Revocation of a Visa**

A visa may be revoked where it becomes evident that the conditions for issuing it were met at the time when it was issued but are no longer satisfied, see Article 34(2) of the Visa Code and section 25 of the Executive Order on Visas.

For example, there may be a reason to revoke a visa if the host of the visit states that he no longer wishes to receive a visit from the applicant or if the visa holder can no longer prove that he has sufficient means of subsistence.

## **15.3. Revocation of a Visa at the Request of the Visa Holder**

A visa may be revoked at the request of the visa holder, see section 8(2)(17) of the Executive Order on Visas.

## **15.4. Competence to Examine Annulment and Revocation Cases**

The division of cases between the Danish diplomatic missions and consular posts and the Danish Immigration Service in cases concerning annulment or revocation of a visa is generally performed in accordance with the same principles as those applied in the original decision of the case, see section 28 of the Executive Order on Visas.

However, the Danish Immigration Service may make decisions as the first authority in such cases if this is deemed appropriate, see section 28(5). This could be in situations where the alien has already entered Denmark on the basis of the issued visa, and where the Danish Immigration Service receives information about matters which may warrant revocation or annulment of the visa.

Read more about the division of the cases between the Danish diplomatic and consular missions abroad and the Danish Immigration Service in paragraph 6 above.

# **16. Notification of Refusal, Annulment or Revocation of a Visa**

## **16.1. Notification of Refusal, etc. by the Danish Diplomatic Missions or Consular Posts**

As mentioned in paragraph 6 above, decisions in visa cases are made by a Danish diplomatic mission or consular post which, under section 47(3) of the Aliens Act, read with section 28(1) of the Executive Order on Visas, or the Danish Immigration Service, see section 46(1) of the Aliens Act, read with section 28(2)-(5) of the Executive Order on Visas.

In cases where the diplomatic mission or consular post decides to refuse an application for a visa or to annul or revoke a visa already granted, the general rules and principles of administrative law concerning reasons for decisions must be met, see section 24 of the Public Administration Act, and the parties must be heard to the extent required, see Part 19 of the Public Administration Act. In connection with their decisions on visas, the diplomatic missions and consular posts use a standard form (Annex VI of the Visa Code). The grounds for refusal listed in the standard form must be accompanied by specific and individual reasons referring to the relevant rules of law and – particularly as regards the decisions on refusal, which are based on discretion – an indication of the main considerations, which have resulted in the decision.

In situations where a visa is granted and the applicant is fully successful in the appeal, there is no requirement for providing a reason, see section 22 of the Public Administration Act.

## **16.2. Notification of Refusal, etc. by the Danish Immigration Service**

The Danish Immigration Service's decision to refuse an application for a visa or to annul or revoke a visa already granted must be notified to the applicant in accordance with the general rules and principles of administrative law concerning reasons for decisions, see Part 6 of the Public Administration Act.

The decision made by the Danish Immigration Service will be sent to the Danish diplomatic mission or consular post where the application was lodged for the applicant to receive it there.

# **17. Appeals Procedure**

## **17.1. Appeals against Decisions Made by Danish Diplomatic Missions or Consular Posts**

The applicant may appeal against decisions made by the Danish diplomatic missions and consular posts regarding refusal, annulment or revocation of a visa to the Danish Immigration Service, see section 29(1) of the Executive Order on Visas.

Appeals under section 29(1) of the Executive Order on Visas must be lodged with the Immigration Service not later than eight weeks after the appellant received notification about the decision, see section 29(2), first sentence, of the Executive Order on Visas. In special circumstances, however, the Danish Immigration Service may decide to consider an appeal even though the appeal was lodged after expiry of the time limit, see section 29(2), second sentence, of the Executive Order on Visas.

However, a decision to revoke a visa at the applicant's own request cannot be appealed, see section 29(4) of the Executive Order on Visas.

## **17.2. Appeals against Decisions Made by the Danish Immigration Service as the First Authority**

The Danish Immigration Service makes decisions as the first authority in certain visa cases requiring further examination, see section 28(2) to (5) of the Executive Order on Visas.<sup>66</sup>

In these situations, the applicant may appeal against decisions made by the Danish Immigration Service regarding refusal, annulment or revocation of a visa to the Immigration Appeals Board, see section 29(3) of the Executive Order on Visas, read with section 46a(1) of the Aliens Act.

Appeals under section 29(3) of the Executive Order on Visas must be lodged with the Immigration Appeals Board not later than eight weeks after the appellant received notification about the decision, see section 46a(3), first sentence, of the Aliens Act. In special circumstances, the chairman of the Immigration Appeals Board, or the person authorised by the chairman to do this, may decide to consider an appeal even though the appeal was lodged after expiry of the time limit, see section 46a(3), second sentence, of the Aliens Act.

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<sup>66</sup> See paragraph 6.2 above for further details.

### **17.3. Appeals against Decisions Made Under a Representation Arrangement**

Article 32(3) of the Visa Code stipulates that appeals must be conducted against the Schengen country that has taken the final decision on the application and in accordance with the national law of that Schengen country.

When the Danish authorities notify refusal of a visa for another Schengen country which Denmark is representing under a representation arrangement, appeals against such decisions must thus be submitted to either the Danish Immigration Service or the Immigration Appeals Board in accordance with the rules set out in section 29 of the Executive Order on Visas.

When another Schengen country representing Denmark in the field of visas under a representation arrangement notifies refusal of a visa for Denmark, appeals against such decisions must be submitted to the appeals body of that Schengen country.

## **18. Reopening**

In accordance with the general principles of administrative law, a visa case may be reopened if, after the decision is made, information appears which the authority was not aware of at the time of the original decision, and regarding which it must be assumed that it would have led to a significantly different assessment of the case.<sup>67</sup>

## **19. The Faroe Islands and Greenland**

The Faroe Islands and Greenland do not participate in the Schengen cooperation, and the rules concerning visas for Denmark do not immediately apply to applications for visas for the Faroe Islands or Greenland.

However, some of the provisions regarding visas in the Aliens Act have been brought into force for the Faroe Islands and Greenland by royal decrees.<sup>68</sup>

This applies, for example, to the rules on visa requirement and visa exemption, so an applicant who is subject to the visa requirement upon entry into Denmark is also required to obtain a visa for entry into the Faroe Islands or Greenland.<sup>69</sup>

A number of the provisions of the Aliens Act do not apply to the Faroe Islands and Greenland, however. This applies, for example, to the rules governing the competence of the missions to refuse applications.

Decisions to issue visas for the Faroe Islands or Greenland may be made by the Danish Immigration Service, a Danish diplomatic mission or consular post abroad or by the police in connection with the issue of a visa at the border. A decision to refuse a visa may only be made by the Danish Immigration Service.

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<sup>67</sup> Reference is made to Jens Garde et al., *Forvaltningsret – Sagsbehandling* (Administrative Law – Case Processing), 7th edition, p. 126.

<sup>68</sup> See Royal Decree No. 182 of 22 March 2001 on the entry into force for the Faroe Islands of the Aliens Act (as amended) and Royal Decree No. 150 of 23 February 2001 on the entry into force for Greenland of the Aliens Act.

<sup>69</sup> See paragraphs 2.5 and 2.5.1 above as well as Annexes 1 and 5 of the Visa Handbook for further details.

Applications lodged at Danish diplomatic missions or consular posts must thus be brought before the Danish Immigration Service if it is assessed that it should be refused, and all applications lodged with foreign diplomatic missions or consular posts must be submitted to the Danish Immigration Service.

The rules on penalty periods set out in the Aliens Act do not apply to the processing of applications for a visa for the Faroe Islands or Greenland, and the applicant is not, in principle, required to meet the basic conditions set out in the Visa Code unless the conditions are also included in the royal decree. For example, there is no requirement for proof of adequate and valid travel medical insurance.

In practice, an application for a visa for the Faroe Islands or Greenland will typically be accompanied by an application for a Schengen visa, as only very few airline services make it possible to enter the Faroe Islands or Greenland directly from a country outside the Schengen Area. Unless it is clearly indicated that the applicant intends to travel directly to the Faroe Islands or Greenland, it should generally be taken into account that a visa application will also include an application for a Schengen visa, and in that case the applicant must also meet the basic conditions for obtaining a Schengen visa, and the application should also be otherwise assessed in accordance with the usual practice for granting Schengen visas for Denmark.

When issuing a visa for Greenland for the purpose of an expedition on the ice sheet, the authorities should inform the applicant that the Government of Greenland (Grønlands Selvstyre, Naalakkersuisut) must be notified of any kind of expedition on the ice sheet; that, in this connection, more detailed conditions for the project may be laid down; and that access to Greenland's defence areas requires special permission from the Ministry of Foreign Affairs of Denmark.

Applicants who have a residence permit for Denmark are not permitted to travel to the Faroe Islands or Greenland on their residence permits but are required to obtain special permission before entry. Applications in this respect should be lodged with the department of the Danish Immigration Service or the Danish Agency for International Recruitment and Integration which granted the residence permit to the applicant.

Applicants who have a residence permit for another Schengen country must obtain a visa to enter the Faroe Islands or Greenland. Applications in this respect may be lodged with a diplomatic mission or consular post abroad or through the Danish Immigration Service. Such applications may usually be granted as the applicant has already been checked in connection with the case concerning a residence permit for a Schengen country.

Applicants who have a residence permit for the Faroe Islands or Greenland must also obtain a visa to enter Denmark. Applications in this respect may be lodged with the police and are examined by the Danish Immigration Service. Visas are either issued as visas with limited territorial validity for Denmark or as Schengen visas if the applicant also wishes to travel to other Schengen countries.

Decisions by the Danish Immigration Service on refusal, annulment or revocation of a visa for the Faroe Islands or Greenland may be appealed against to the Ministry of Immigration and Integration under Royal Order No. 182 of 22 March 2001 on the entry into force for the Faroe Islands of the Aliens Act and its later amendments and Royal Order No. 150 of 23 February 2001 on the entry into force for Greenland of the Aliens Act.

Appendix 1 List of grounds for refusal according to the Visa Code and Danish practice

No.	Ground for refusal in Annex VI of the Visa Code	Ground for refusal according to Danish visa practice	Chapter
1	A false/counterfeit/forged travel document was presented.	False, counterfeit or forged travel document  Please note: Other false, counterfeit or forged documents are covered by ground no. 12.	5.1 and 10. 1
2	Justification for the purpose and conditions of the intended stay was not provided.	No justification provided, including documentation for the purpose of the visit, e.g.: Visit not confirmed Visit no longer relevant Host not a habitual and/or legal resident of Denmark Main purpose not in Denmark Business visit – no documentation for employment, business background, agreement etc. Cultural visit – no documentation for attendance, relevant background etc. Private visit – no documentation for family relationship, marriage etc. (typically combined with ground no. 13) Conditions for the stay not met, particularly: Travel document not recognised by Denmark Travel document not valid (if the application has been admitted in the first place) No re-entry permit  The applicant has not otherwise been able to account adequately for the purpose and conditions of the intended stay (as opposed to untrustworthy/unreliable information as to the purpose and conditions of the intended stay which is covered by ground for refusal no. 10).	5.2 and 10.2
3	You have not provided proof of sufficient means of subsistence, for the duration of the intended stay or for the return to the country of origin or residence, or for the transit to a	No documentation for sufficient means of subsistence	5.3 and 10.3

	third country into which you are certain to be admitted.		
4	You have not provided proof that you are in a position to lawfully acquire sufficient means of subsistence, for the duration of the intended stay or for the return to the country of origin or residence, or for the transit to a third country into which you are certain to be admitted	Lack of documentation of the ability to lawfully acquire sufficient means	5.3 and 10.4
5	You have already stayed for 90 days during the current 180-day period on the territory of the Member States on the basis of a uniform visa or a visa with limited territorial validity.	Stay in the Schengen Area for 90 days within the current 180-day-period	5.4 and 10.5
6	An alert has been issued in the Schengen Information System (SIS) for the purpose of refusing you entry by _____ (indication of Member State)	Alert in the Schengen Information System (SIS)	5.5 and 10.6
7	One or more Member States consider you to be a threat to public policy or internal security.	<ul style="list-style-type: none"> <li>• Entry Prohibitions</li> <li>• UN or EU sanction lists</li> <li>• Danish sanction lists</li> <li>• Consultation objections from other Schengen countries and/or intelligence services.</li> <li>• Forced marriages, marriages of convenience and false declaration of parenthood</li> <li>• Suspicion of crime, illegal work or propagation of extreme religious values or views, etc.</li> <li>• Other indications that the applicant will present a threat to public order or internal security</li> </ul>	5.6 and 10.7
8	One or more Member States consider you to be a threat to public health as defined in point (21) of Article 2 of Regulation (EU) No. 2016/399 (Schengen Borders Code)	<ul style="list-style-type: none"> <li>• Other indications that the applicant will present a threat to public health of one or more Member States.</li> <li>• Consultation objections from other Schengen countries and/or intelligence services.</li> </ul>	5.6 and 10.8
9	One or more Member States consider you to be a threat to their international relations.	<ul style="list-style-type: none"> <li>• Other indications that the applicant will present a threat to the international relations of one or more Member States.</li> <li>• Consultation objections from other Schengen countries and/or intelligence services.</li> </ul>	5.6 and 10.9

10	The information submitted regarding the justification for the purpose and conditions of the intended stay was not reliable.	<ul style="list-style-type: none"> <li>• Reliability refusal (divergent or otherwise unreliable information relating to the justification for the purpose and conditions of the intended stay)</li> </ul>	5.8 and 10.10
11	There are reasonable doubts as to the reliability of the statements made as regards _____ (please specify).	<p>Reliability refusal (other divergent or otherwise unreliable statements made by the applicant (in writing or orally))</p> <p>for example about:</p> <ul style="list-style-type: none"> <li>• job situation</li> <li>• family relations</li> <li>• etc.</li> </ul>	5.8 and 10.11
12	There are reasonable doubts as to the reliability, as to the authenticity of the supporting documents submitted or as to the veracity of their contents.	False, counterfeit or forged documents (except travel documents).	5.8 and 10.12
13	There are reasonable doubts as to your intention to leave the territory of the Member States before the expiry of the visa.	<p>Penalty periods</p> <ul style="list-style-type: none"> <li>• Previous overstay</li> <li>• Previous expulsion</li> <li>• Previous asylum application</li> <li>• Previous application for certain types of residence permit</li> </ul> <p>Presumption of immigration, due to e.g.:</p> <ul style="list-style-type: none"> <li>• Previous misuse of visa by the applicant or the host</li> <li>• Statements regarding long-term stays</li> <li>• Pending application for a residence permit</li> <li>• Limited ties to home country</li> </ul> <p>Refusal based on groups</p> <ul style="list-style-type: none"> <li>• Applicant not included in the group of people who are generally granted visa in the relevant main group (including cases with insufficient documentation for relationship, recognised marriage</li> </ul>	5.9 and 10.13

		etc., if it means that the applicant is not included in the group)	
14	Sufficient proof that you have not been in a position to apply for a visa in advance, justifying application for a visa at the border, was not provided.	Refusal of visa at the borders in case of insufficient documentation for not being able to apply for a visa in advance	9 and 10.14
15	Justification for the purpose and conditions of the expected airport transit was not provided.	Refusal of visa for airport transit	5.2 and 10.15
16	You have not provided proof of holding an adequate and valid travel medical insurance.	No documentation for adequate and valid travel medical insurance	5.7 and 10.16
17	The holder of the visa has requested revocation of the visa.	Revocation of a visa after it has been issued.	15.3 (revocation)