



Guidelines from the Ministry of Justice No. 9188/2015 of 20 March 2015 on the Processing of Applications for Visas for Denmark

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1 Introduction

1.1. The Schengen Area

Denmark entered the Schengen cooperation in March 2001. The basis for the Schengen cooperation is the abolition of border controls for individuals at the common borders within the Schengen Area, supplemented with common rules for crossing the external borders of the Schengen Area and common visa rules 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 building upon the Schengen rules, and this will create an obligation under international law which will be binding on Denmark.

The Schengen area currently covers the following 26 European countries: Austria, Belgium, Czech Republic, 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.

1.2. Legal Framework

1.2.1. 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 section 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.).

The Visa Code contains 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). 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 States' 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 States to take and register a visa applicant's biometric data (photograph and fingerprints), and the system also allows the Schengen States to see if a visa applicant has previously applied for a visa in another Schengen State and, if appropriate, the result of this application. The launch of the VIS was commenced on 11 October 2011 in North Africa and is being rolled out gradually throughout the world.

In addition to the visa rules mentioned, the Regulation (EC) No. 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (the Schengen Borders Code) contains a number of rules on border crossing and border control which apply to foreign nationals who are required to obtain visas as well as to foreign nationals who are exempt from the visa requirement. The Schengen Borders Code lays down a number of basic conditions for entry which a foreign national must meet in order to enter and stay in a Schengen State for up to 90 days.

1.2.2. National Rules

The overall national rules on foreign nationals' entry into and stay in Denmark are set out in the Aliens Act, i.e. Consolidated Act No. 1021 of 19 September 2014.

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. 376 of 20 March 2015 on aliens' access to Denmark on the basis of a visa (the Visa Executive Order) 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

Foreign nationals 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 Visa Executive Order, read with section 3 of the Aliens Act, read with section 39(2) of the Act.

2.1. Nordic Nationals and Foreign Nationals 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 Visa Executive Order, read with section 39(2) of the Aliens Act.

2.2. Nationals of EU or EEA Member States and Switzerland

Foreign nationals 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.

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

Foreign nationals holding a residence permit or long-term visa issued by another Schengen State have a right to enter and stay in Denmark without a visa for up to 90 days in any 180-day period, 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.¹

2.4. Third-Country Nationals Holding an EU Residence Card

Foreign nationals holding an EU residence card issued by another Schengen State have a right to enter and stay in Denmark without a visa for up to 90 days in any 180-day period, see section 2, para. (3), of the Visa Executive Order, read with section 2(4) of the Aliens Act.

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

Foreign nationals holding an EU residence card issued by a country outside the Schengen area due to family relations with an EU citizen also have a right to enter and stay in Denmark without obtaining a visa for up to 90 days in any 180-day period if they accompany or join the EU citizen, see section 2, para. (4), of the Visa Executive Order, read with section 2(4) of the Aliens Act.

For example, a third-country national, who is married to a British national and staying in the United Kingdom on an EU residence card, may accompany his spouse on a journey to Denmark without obtaining a visa. However, the third-country national is not exempt from the visa requirement if he travels to Denmark alone while the spouse stays in the United Kingdom.

2.5. Other Third-Country Nationals

The Visa Regulation² contains a list of the third countries whose nationals must be in possession of visas when crossing the external borders of the Schengen States 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.

¹ The Visa Handbook is available at the website of the immigration authorities: www.newtodenmark.dk.

² Council Regulation (EC) No. 539/2001 as amended.

2.5.1. National Exceptions from the Common Lists regarding Visa Requirement and Visa Exemption

Under Article 4 of the Visa Regulation, the individual Schengen States 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.

Annex 5 of the Visa Handbook contains a list of Denmark's as well as the other Schengen States' national derogations from the common rules. Updates are regularly published on the website of the immigration authorities, 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 States under the rules described in section 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 control at the Danish border, the 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 any 180-day period.

2.6. Bilateral Visa Exemption Agreements

Foreign nationals 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 States without obtaining a visa. Thus, these foreign nationals have the right to enter and stay in Denmark for up to 90 days reckoned from the date of their entry into Denmark or another Nordic country, irrespective of whether they may have stayed in another Schengen State prior to their entry into Denmark. The time the foreign national has stayed in Denmark or another Nordic country within the 180-day period will be deducted from the mentioned 90 days.

2.7. Visa Requirement for Foreign Nationals Who Are Subject To an Entry Prohibition

Under section 3a of the Aliens Act, all foreign nationals 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 foreign national and irrespective of whether the foreign national is in possession of a Schengen visa issued by another Schengen State.³

3 Definition of the Term "Visa"

3.1. Schengen Visa

A Schengen visa – also termed a uniform visa – is a permit which foreign nationals who are subject to a visa requirement must obtain prior to their entry into Denmark or another Schengen State 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 foreign national meets a number of basic entry conditions which are set out in the Schengen Borders Code.⁴

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 States must not exceed 90 days in any 180-day period, 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 State within the 180-day period will be deducted from the 90 days. However, if the applicant

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

⁴ See section 5 for further details.

has stayed in a Schengen State other than Denmark on the basis of a residence permit or a long-term visa limited to that Schengen State, 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 States unless otherwise stated, see section 4 of the Aliens Act.

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.

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 States, 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 States in connection with a stopover, but not to enter the Schengen States, see section 4, para. (2), of the Visa Executive Order.

Only certain specifically listed nationalities or specific groups of persons are required to obtain an airport transit visa to stop over in the Schengen States. Annex 7A of the Visa Handbook contains an overview of the nationalities and groups of persons who are required obtain an airport transit visa upon entry into any Schengen State. Moreover, Annex 7B of the Visa Handbook contains an overview of the nationalities and groups of persons who are required obtain an airport transit visa upon entry into certain Schengen States.

3.3. Visas with Limited Territorial Validity (VLTV⁵)

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 a group of Schengen States, see section 4a of the Aliens Act and Article 25 of the Visa Code.⁶

4 Application for a Visa

4.1. Place of Application

An application for a visa must, as a rule, be submitted to a mission (normally an embassy or a consulate) representing the Schengen State the applicant wishes to visit. If the applicant wishes to visit several Schengen States, the visa application

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⁶ The rules governing visas with limited territorial validity are described in further detail in section 13 below.

must, as a rule, be submitted to a mission representing the Schengen State which is the main destination of the journey or – if the main destination cannot be determined – to a mission representing the country which the applicant will enter first, see Article 5(1) of the Visa Code.

A visa application must, as a rule, be submitted to a mission located in the country where the applicant has his legal residence. If the applicant is legally present in a country other than the country of residence, the application may, however, also be submitted to a mission in that country if the applicant provides justification for lodging the application there, see Article 6 of the Visa Code.

If the mission where the application has been submitted is not competent to process the application, the application must be returned, the visa fee reimbursed and the mission must indicate which mission is competent to process the case, see Article 18 of the Visa Code.

4.1.1. Danish Missions

Under section 47(2), first sentence, of the Aliens Act, Danish diplomatic and consular missions abroad may be authorised to make decisions in visa cases.⁷

When Denmark is the competent state, an application for a visa may be submitted to the Danish diplomatic or consular missions which are authorised to handle visa applications under the rules mentioned above or in special cases to certain Danish honorary missions, see section 6(1) of the Visa Executive Order.

Information about Danish missions abroad may be found at the website of the Ministry of Foreign Affairs of Denmark, www.um.dk.

In addition, an application for a visa may also be submitted through a private company or organization which has an agreement with a Danish mission or the Danish Ministry of Foreign Affairs regarding certain administrative duties in connection with the visa administration. Such private application centres 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 6(3) of the Visa Executive Order.

In countries where Denmark has established travel agency and tourist arrangements,⁸ 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, see section 6(4) of the Visa Executive Order. If the applicant

⁷ Authority is granted upon agreement between the Minister for Justice and the Minister for Foreign Affairs.

⁸ See section 12.5 below for further details.

needs to have his biometrics taken in connection with the application, he will also have to appear in person at the mission.

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 Visa Executive Order. This is described in section 9 below.

4.1.2. Foreign Missions (Representation Arrangements)

Denmark does not have missions which are authorised to handle visa applications in all countries, but has chosen to enter into representation arrangements with other Schengen States in accordance with the rules set out in Article 8 of the Visa Code.

When Denmark has entered into an agreement with another Schengen State about being represented by that country, this means that the mission of the Schengen State in question is authorised to receive and process visa applications on behalf of Denmark.

A visa application may thus be submitted to a mission representing another Schengen State if a representation arrangement has been agreed, see section 6(2) of the Visa Executive Order.

When a visa application is submitted through a mission representing another Schengen State, that mission will make the initial assessment of whether a visa can be granted. In such situations, the case will be processed in accordance with the common Schengen rules (including the Visa Code) and the national rules and practice of the representing Schengen State.

If the representing Schengen State finds that the applicant meets the conditions for obtaining a visa, the country in question will grant the visa on behalf of Denmark.

If the representing Schengen State deems that a visa cannot be granted, the further steps depend on whether the Schengen State in question has been assigned with the authority to refuse applications under the representation arrangement with Denmark. If the country is competent to refuse applications on behalf of Denmark, the foreign mission will finalise the case and refuse the application. If the country has only been assigned with the competence to grant visas but not to refuse applications, the application will be submitted to the Danish Immigration Service which will then decide the matter. In such situations, the decision of the Immigration Service will be made in accordance with the Schengen rules and Danish rules and practice.

If an applicant does not wish to make use of the representation arrangements made, the applicant may choose to travel to the nearest Danish mission which is authorised to issue visas and submit the application there, provided that the applicant will be legally present in that country.

Information about Denmark's representation arrangements with other Schengen States may be found at the website of the Ministry of Foreign Affairs of Denmark, 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. However, missions may waive the requirement to appear in person when the applicant is known to them for his integrity and reliability, see Article 10(2) of the Visa Code.

At locations where the VIS has been launched, an applicant must always appear in person when lodging his first visa application as his fingerprints must be collected, see Article 13 of the Visa Code and Section 7(6) of the Visa Executive Order for further details.

If a visa application is lodged with a private application centre, it is usually sufficient to appear in person there.

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 his 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. This is also laid down in Section 7 and 8 of the Visa Executive Order.

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

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

4.3. Admissibility

Article 19 of the Visa Code and Section 7 of the Visa Executive Order 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 must be lodged a maximum of three months before the planned stay.
- The applicant must present a filled in and signed application form.
- The applicant must present a valid passport or other valid travel document.
- The applicant must have his 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 Visa Executive Order for further details.

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

A mission'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 Visa Executive Order, a visa application may not be lodged more than three months prior to the commencement of the expected stay.

The application shall be submitted after the expiration of a possible, previously issued visa.

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.

Please refer to part II, section 3.1, of the Visa Handbook.

4.3.2. Application Form

Under Article 11 of the Visa Code and Section 7(3) of the Visa Executive Order, a visa applicant must present a signed and filled in application form of the type included as Annex 1 of the Visa Code.

4.3.3. Travel Document

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

- a) 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.
- b) It must contain at least two blank pages.
- c) 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 Visa Executive Order, 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.

For further information about the requirements for photographs and fingerprints, please refer to part II, sections 4.3 and 5, of the Visa Handbook.

4.3.5. Fee

Under Article 16 of the Visa Code, a visa applicant must, as a rule, pay a visa fee of EUR 60.⁹ 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, section 4.4, of the Visa Handbook.

In addition to the visa fee, external service providers (private 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 5(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 justify¹⁰ the purpose 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)).

⁹ This amount is stated in 2014 figures.

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- The applicant must not have an alert entered against him in the Schengen Information System (SIS II) for the purpose of refusing entry on the same grounds (para. (d)).
- The applicant must not be considered to be a threat to public policy, international relations or national security of the Schengen States (para. (e)).

In addition, the authorities must check that the applicant's travel document is genuine, that the applicant has an 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 in any 180-day period 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 Visa Executive Order, 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
- 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 States, in particular where an alert has been issued in the Schengen States' national databases for the purpose of refusing entry on the same grounds
- Verification of travel medical insurance
- Assessment of the reliability of the information presented
- Assessment of the applicant's intention to leave the Schengen area before the expiry of the visa applied for

5.1. Examination 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.

The assessment of whether a travel document is false, counterfeit or forged should generally be made by people with special expertise in the field, so that the authorities issuing visas merely take the expert assessment into account in their decision on the matter.

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 Visa Executive Order 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 need to complete and harmonise the lists of supporting documents shall be assessed in order to take account of local circumstances, see Article 14(5).

To the extent that local documentation lists have been prepared, the Schengen States 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 his 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 5 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 Visa Executive Order.

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

Sections 5.2.1-5.2.5 below describe the requirements which should usually be made in connection with different types of visa visits.

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 his integrity and reliability, for example because of previous problem-free visits.

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 Visa Executive Order. Please refer to section 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 States.

The countries whose nationals are subject to visa requirements have been divided into five main groups¹¹ 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 illegal 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 in order to obtain a visa and thus depends, to some extent, on which main group the applicant belongs to.

If the practice is to grant visas for pure tourist visits, the documentation requirements should be limited, 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, supplementary documents in the form of airline tickets or hotel reservations 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.¹²

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 docu-

¹¹ See section 5.9.7 below for further details about the main groups.

¹² 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 foreign national has sufficient means of subsistence, see section 5.3 below.

mentary 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 boyfriend or girlfriend. This applies irrespective of whether the applicant himself has stated that he is going to visit a spouse.¹³

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.

As a rule, it is a condition for inviting applicants to Denmark for a visit that the host has permanent residence and is legally residing in Denmark. Therefore, the authorities should also check these requirements in relevant registers. The condition of permanent residence should normally be regarded as fulfilled, if the host is registered with an address in Denmark in the Danish Civil Registration System (CPR). 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 usually be determined by checking the CPR. Information about the host's residence permit, if any, may – if there is not already documentation in the form of a copy of the residence card – be checked by an inquiry in the immigration authorities' case administration systems, or by going through any physical immigration cases.

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,

¹³ However, under the circumstances, there may be reason to look further into the matter if the foreign national'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 section 5.8 below for further details about this.

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 permanent residence in Denmark, a visa may according to practice be granted to a spouse, a cohabiting partner, a boyfriend or girlfriend 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 his immediate family. In this context, settling down permanently abroad means that the Danish national has given up his Danish address and taken up long-term residence abroad. In this connection, it must be proved that the Danish national has a permanent address in the country in question, for example in the form of a certificate of address from that country's address registration authority.

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 his 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 his 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 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 a foreign national 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 is 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 submitted for this purpose.¹⁴

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 himself 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 submitted 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 process an application for a residence permit submitted by the person in question and in that connection stated as a reason that the application was deemed primarily to have been submitted with a view to obtaining a procedural stay, for example, if it was manifest that the alien did not meet

¹⁴ 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 foreign national's intention to leave the Schengen area before the expiry of the visa applied for (see Article 32(1)(b) of the Visa Code).

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.

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 his 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 Visa Executive Order, 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 States, 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 Visa Executive Order.¹⁵ 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

¹⁵ 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 section 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.

least three months after the intended date of departure from the Schengen States, see section 13(3) of the Visa Executive Order. 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 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 States, see section 13(4) of the Visa Executive Order. 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 his home country after the visa stay.

As regards the other terms set out in Article 5 of the Schengen Borders Code, please see section 4.3.3 above and sections 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 his home country or country of 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 expected stay will be made based on the duration and purpose of the stay.

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 States 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 States.

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 section 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 section 8.4 below.

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.

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

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 States as defined in Article 2, para. (19), 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 au-

thorities must check the applicant in a number of registers and, if relevant, consult other Schengen States or the intelligence services.

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 his departure and until the end of the entry prohibition.

At all events, the processing of the visa application should take into account the applicant'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 applicant has previously 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 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 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 2 years, 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 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.

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 registered on a sanction list, the case must be submitted to the Ministry of Foreign Affairs of Denmark which will then make a recommendation for the decision of the case.

5.6.3. Consultation of Other Schengen States or the Intelligence Services

Under Article 22(1) of the Visa Code, a Schengen State may require the authorities of other Schengen States 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 Visa Executive Order stipulates that the processing of a visa case must include consultation of the authorities of other Schengen States in accordance with the rules set out in the Visa Code.

A Schengen State 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 Visa Executive Order, 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 States 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 consulted authorities have responded, or until the time limit for responding has expired.¹⁶

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 as "restricted".

In the processing of a specific visa case, the authorities must therefore not hand out information to the applicant as to which countries' authorities may have been consulted or the response of the authorities of the countries in question, if any.

In connection with a request for access to relevant records, documents containing information about consulted countries/authorities and their response to such consultation may be exempted from the access to relevant records under sections 15-15A of the Public Administration Act, according to which the right to access to relevant records may be limited on the basis of decisive consideration for national security, the defence of the realm or the foreign policy interests of Denmark, etc.

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 States.

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 cohabiting 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 cohabiting 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.

The authorities should also refuse an application for a visa if, in connection with the processing 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 previ-

¹⁶ However, there may be exceptional grounds for granting a visa with limited territorial validity before the expiry of the time limit, see section 14.1 below for further details.

ously had an application for family reunification with that spouse processed. 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 cohabiting 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 States.

5.6.4.3. Illegal Work

Section 13 of the Aliens Act stipulates that a foreign national 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(2) 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.

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 States. In connection with such refusal, the applicant should be informed of the possibility of applying for a work permit.

5.6.4.4. 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 States.

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.

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 the travel medical insurance 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 foreign national's stay. The travel medical insurance must also cover all Schengen States and cover the entire period of the intended stay or transit. The minimum coverage required is EUR 30,000.

If the visa application covers more than two entries into the Schengen States, the travel medical insurance only needs to cover the first intended entry into and stay in the Schengen States. 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 States.

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.

Please refer to section 15 of the Visa Executive Order and part II, section 6.3, of the Visa Handbook.

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. This will be at the premises of the Immigration Service if the host lives in Greater Copenhagen and at the local police station if the host lives outside Greater Copenhagen.

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 Visa Executive Order further stipulates that in their assessment of whether an applicant intends to leave the Schengen States 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 States, 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 processed 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.

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

Section 16(2) of the Visa Executive Order 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 States 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.¹⁷

This applies to the Danish missions as well as the Danish Immigration Service, but in practice it is most important to the missions, as cases submitted to the Danish 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.

5.9.2. The Significance of Previous Stays in Denmark or Other Schengen States

Under section 16(3) of the Visa Executive Order, information about an applicant's previous stays, if any, in Denmark or other Schengen States 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 States before the visa expires.

¹⁷ I.e. if the foreign national is deemed to be *bona fide*.

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 States, complied with the rules governing entry into and stays in the Schengen States will thus generally also be assumed to intend to comply with the rules in connection with a new stay.

Similarly, an applicant's previous misuse of the rules governing entry into and stays in the Schengen States may be viewed as an indication that the applicant does not intend to leave the Schengen States 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 inquiry in the visa system¹⁸ 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 missions only have limited access to the case administration systems, and as they do not have access to the physical immigration cases, the missions 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.

¹⁸ The Danish visa system is divided into UM-VIS, which the Danish missions have access to, and IVR-VIS, which the Danish Immigration Service and the Ministry of Justice have access to.

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 State¹⁹ 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 and the stated purpose of the visit.

A visa should also be granted if the applicant has previously had a residence permit for Denmark and had an unproblematic stay in that connection.

An applicant's previously 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.

An applicant's previous visits are also only accorded importance if they took place within a few years prior to the current visa application. A specific assessment may mean that importance is attached to stays up to ten years prior if matters are entirely unchanged, both in relation to the applicant's situation, the situation in the home country and the purpose of the stay.

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 foreign nationals who, in certain specified manners, use a visa stay for other purposes than the intended one. The penalty period is either 3 or 5 years, see below.

Under section 4c(1) of the Aliens Act, a foreign national is generally not eligible for a visa for a period of 3 years if, after entry, the foreign national stays in Denmark or another Schengen State without the requisite permit for up to one month (30 days) beyond the period of validity of the visa. The period is 5 years if the stay lasts more than one month (30 days) beyond the period stated. The periods of

¹⁹ Visa stays in the Schengen area as it is composed at any given time are taken into account. Visa stays in a current Schengen State prior to that country's accession to the practical Schengen cooperation should thus not be accorded the same weight.

3 and 5 years, respectively, are reckoned from the date of the foreign national's departure from the Schengen area.

However, the foreign national 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 foreign national'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 foreign national 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 a foreign national stays in Denmark or another Schengen State 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.²⁰

Under section 4c(3)(1) of the Aliens Act, a foreign national is not eligible for a visa for a period of 5 years if, after entry into Denmark, the foreign national is expelled by court order or by administrative decision under Part 4 of the Aliens Act. The period of 5 years is reckoned from the first day of the month following the voluntary or involuntary departure from Denmark.

Section 4c(3)(2) of the Aliens Act further stipulates that a foreign national is not eligible for a visa for a period of 5 years if, after entry into Denmark, the foreign national submits an application for asylum in Denmark or another Schengen State. The period of 5 years is reckoned from the time of the voluntary or involuntary departure from Denmark.

However, the foreign national 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.

²⁰ This practice was determined in Bill No. L 6 of 2 October 2013, particularly in the comments in section 3.2.2.3.

Finally, section 4c(3)(3) of the Aliens Act stipulates that a foreign national is not eligible for a visa for a period of 5 years if, after entry into Denmark, the foreign national submits an application for a residence permit on another basis than asylum. The period of 5 years is reckoned from the date of the submission of the application for a residence permit. If the foreign national submits more than one application for a residence permit, the period will be reckoned from the most recently submitted application.

However, the foreign national 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 cohabiting 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, residence permit on the basis of the International Cities of Refuge Network, residence permit on the basis of employment, or residence permit granted with reference to international obligations. Furthermore, the foreign national will not be subject to a penalty period if, after submission of an application for a residence permit, the foreign national leaves the Schengen States 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.

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.

5.9.3. The Applicant's Previous Behaviour in General²¹

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 State, or if the applicant failed to depart in accordance with a

²¹ This section 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.

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 State, despite the main destination being Denmark, for the purpose of bypassing Danish visa practices.

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 for anything other than short-term visits. 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 states that he does 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 processed by the Danish Agency for Labour Market and Recruitment.

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 cases processed by the Danish Immigration Service.

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

However, a visa must always be granted if a refusal would constitute a violation of Denmark's international obligations, see section 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 his 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 assessment 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 Visa Executive Order.

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

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 Visa Executive Order.

Annex 2 of the Visa Executive Order thus contains a list of the countries whose nationals are required to obtain a visa, and these countries are listed in five 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 sections 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.

Sections 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 illegal immigration into Denmark or the other Schengen States.

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.

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 States. This could be the case if the applicant states that he does not intend to leave after expiry of the visa, or if the applicant has previously displayed a behav-

jour which indicates that he does not only wish to stay in Denmark for a short period.

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 pure 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 his 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 his home country.

It is a condition that the business visit is documented and that the stated purpose is confirmed by the business host, see section 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 section 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 illegal immigration in Denmark or the other Schengen States.

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.

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 States. This could be the case if the applicant states 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.

Moreover, authorities should refuse applications in certain situations where the applicant has limited ties to his 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, cohabiting 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.

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, boyfriends or girlfriends 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.²²

²² However, in order to be regarded as boyfriends or girlfriends in this connection, it is a condition that it is a romantic relationship of a permanent nature building on a normal prior personal knowledge.

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 his 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 his home country.

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

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 section 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 substantial risk of illegal immigration in Denmark or the other Schengen States.

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.

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 States. This could be the case if the applicant states 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.

Moreover, authorities should refuse applications in certain situations where the applicant has limited ties to his 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 cohabiting partner
- the host's boyfriend/girlfriend 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 boyfriends or girlfriends, 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 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 boyfriend or girlfriend 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 processing of visa applications lodged by persons other than spouses, cohabiting partners, minor children and parents,²³ the authorities should also assess 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 he will take up permanent 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.

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, boyfriends or girlfriends 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.

²³ I.e. applications lodged by boyfriends, girlfriends, 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.

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 his 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 his home country.

It is a condition that the business visit is documented and that the stated purpose is confirmed by the business host, see section 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 section 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 illegal immigration in Denmark or the other Schengen States.

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.

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 States.

An application should be refused if, for example, the applicant states 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.

Moreover, authorities should refuse applications in certain situations where the applicant has limited ties to his 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 cohabiting 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 States. This could be the case if the applicant states 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.

In addition, an application for a Schengen visa should 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 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 are not able to prove a steady income. However, the visa applicant being unemployed is not always in itself sufficient reason to refuse the visa application.

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 States.

As regards parents applying for a Schengen visa to visit their children living in Denmark, it should also be taken into account if the parents have other children in their home country. Thus, an application for a Schengen visa should generally be

refused in situations where it is deemed, upon a specific assessment, that the applicants do not have significant ties to their home country. For example, it cannot be assumed that the applicant has the required ties to the home country if all 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 his permanent residence. It also cannot be generally assumed that the applicants have the required ties to the home country if all the applicants are not staying in the country where they are nationals but are staying in a third country. However, in such situations it may be considered of a certain importance if the applicants have had for a number of years, and still have, a permanent residence permit in that third country and if the applicants are 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 his 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 his home country.

It is a condition that the business visit is documented and that the stated purpose is confirmed by the business host, see section 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 States.

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 section 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 States.

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 illegal immigration into Denmark or the other Schengen States, 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.

5.9.7.5.1. Private Visits

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.²⁴

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 processing 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 an individual tie to Denmark.

Thus, it is a condition that, in connection with the processing of the application for family reunification, it was ascertained that the spouse living in Denmark has significant ties to Denmark so that only the applicant did not meet their part of the requirement to have ties to Denmark. In addition, it is a condition for granting a visa that it has been ascertained that there is a legally valid marriage or a family

²⁴ 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 section 13 for further details.

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, but meeting the requirement to provide a financial security only has to be documented after entry into Denmark.

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

Applicants from countries in main group 5 may, as a rule, not be granted a Schengen visa with a view to a business visit.

5.9.7.5.3. Cultural and Scientific Visits

Applicants from countries in main group 5 may, as a rule, not be granted a Schengen visa with a view to participation in a cultural or scientific event.

5.9.7.6. Derogation From the Main Groups Because of Regional Differences

It is stipulated in section 16(4) of the Visa Executive Order 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 illegal 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 his 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(6) of the Visa Executive Order 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.

In such situations, the application may be processed based on a specific assessment in accordance with the practice for nationals from the country of residence.²⁵

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 Extraordinary Circumstances

Section 16(6) of the Visa Executive Order, stipulates that irrespective of the rules set out in subsections (3) to (5) a visa may be granted if warranted by 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.

²⁵ However, a foreign national who is subject to the visa requirement cannot be exempted from the visa requirement because he is staying in a country whose nationals are exempt from the visa requirement.

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

Section 17 of the Visa Executive Order 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 one entry and for a stay of up to 30 days, irrespective of the rules in section 16(4) of the Executive Order, i.e. irrespective of which main group the applicant belongs to.

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

Decisions in visa cases are made by Danish missions abroad that are authorised to do so under section 47(2), 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 Act²⁶ that the Danish missions 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 or information from the police or the intelligence services.

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

²⁶ See the comments on Bill No. L 6 of 2 October 2013, particularly sections 4.1-4.3.

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

6.1. Decisions Made by the Missions

The decision in a visa case is usually made by the mission where the application was lodged, see section 28(1) of the Visa Executive Order.

6.2. Submission of Cases to the Danish Immigration Service

Section 28(2) to (6) of the Visa Executive Order 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 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 (6) of the Visa Executive Order. However, some of the provisions allow the missions a certain discretionary power when assessing whether there is a need for submission.

6.2.1. Doubts About the Purpose of the Stay

Under section 28(2)(1) of the Visa Executive Order a case must be submitted to the 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 Visa Executive Order a case must be submitted to the 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 Visa Executive Order. 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 Visa Executive Order 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 States.

Under section 28(2)(4) of the Visa Executive Order a case must be submitted to the Immigration Service if there are grounds for believing that the applicant constitutes a threat to the Schengen States' 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;

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

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 States and/or the intelligence services under section 14 of the Visa 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. 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.

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 States.

6.2.5. Doubts About the Reliability of Information or Supporting Documents

Under section 28(2)(5) of the Visa Executive Order a case must be submitted to the 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 Visa Executive Order a case must be submitted to the 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 in excess of the stipulated deadline for departure was without doubt due to circumstances which cannot be held against the foreign national. 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 Visa Executive Order a case must be submitted to the 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.²⁷

6.2.8. Forced Marriages and Marriages of Convenience

Under section 28(2)(8) of the Visa Executive Order a case must be submitted to the Immigration Service if the applicant has previously applied for family reunifi-

²⁷ See section 5.9.2 above for further details.

cation 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 missions obtain further details from the 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 Visa Executive Order a case must be submitted to the 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 Immigration Service, for the reason among others that there may be basis for examining such cases further, both in relation to the risk of illegal 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 illegal immigration or child abduction.

For example, it might be unobjectionable to issue a visa to a minor who is residing with his 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 Investigation

Under section 28(2)(10) of the Visa Executive Order 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 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 missions to submit cases to the 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.

6.2.11. Visas with Limited Territorial Validity

Under section 28(3) of the Visa Executive Order the 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 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 States solely because one or more other Schengen States 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 State(s) which do(es) accept the travel document in question, see section 19 of the Visa Executive Order.

If an applicant cannot be granted a Schengen visa solely because he has already stayed in Denmark or another Schengen State 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 Visa Executive Order.

6.2.12. Refusal of Visa Applications From Foreign Nationals Covered by the EU Rules

Under section 28(4) of the Visa Executive Order the 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.

6.2.13. Annulment and Revocation

Under section 28(5) of the Visa Executive Order the 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 foreign national 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 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.

6.2.14. Refusal During the Transitional Period

Finally, section 28(6) of the Visa Executive Order stipulates that the Immigration Service makes decisions as the first authority in all cases where the application cannot be granted until the Danish missions have been assigned with the competence to decide to refuse a visa, see section 47(2) of the Aliens Act. The background to this provision is that the extension of the competence of the Danish missions to include the competence to refuse applications does not occur simultaneously but rather through a gradual deployment of the scheme. During a transitional period, some missions will thus not have the competence to refuse applications which is why it will be necessary for them to submit cases that cannot be granted to the Danish Immigration Service.

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 19.²⁸

The period may be extended up to a maximum of 30 calendar days in individual cases, notably if further scrutiny of the application is needed or in cases of representation where the authorities of the represented Schengen State are consulted, see Article 23(2).

Exceptionally, when additional documentation is needed in specific cases, the period may be extended up to a maximum of 60 calendar days, see Article 23(3).

As described in further detail in section 6 above, the Danish visa system is structured so that the Danish missions 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 must generally be decided within 15 calendar days, while cases which are submitted to the

²⁸ The conditions for the admissibility of a visa application are described in section 4.3 above.

Danish Immigration Service for further examination must generally be decided within 30 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. In such situations, processing time will be reckoned from the date when the application is actually lodged, i.e. the date when, in accordance with the appointment obtained, the applicant shows up and lodges an application which is admissible under the Visa Code.

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 60 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.

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.²⁹

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 60 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 60 days, the authorities should acknowledge to the applicant in connection with their refusal of the

²⁹ In this connection, reference is made to Jens Garde et al., *Forvaltningsret – Sagsbehandling* (Administrative Law – Case Processing), 7th edition, p. 126.

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 60 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 Visa Executive Order.

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 in any 180-day period, which entails considering the 180-day period preceding each day of stay, see section 4 of the Aliens Act.³⁰

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.

The number of days is set in consideration of the purpose of the stay, see section 18(1) of the Visa Executive Order. 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.³¹

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.

³⁰ See section 3.1 above for further details.

³¹ See section 8.4 below for further details.

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.

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. 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 foreign national 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 foreign national 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.

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, section 9.1, 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(2) of the Visa Code, a visa may be issued for multiple entries and with a validity period of between six months and 5 years if the applicant has a need for this or justified the intention to travel often and the applicant proves his integrity and reliability, particularly by means of previous problem-free visa stays.

If a visa is issued for 90 days and with a validity period of more than six months, this means that the foreign national is entitled to 90 days' stay in each 180-day period within the validity period, see Annex VII, section 4, of the Visa Code.

Part II, section 9.1, of the Visa Handbook contains further guidelines as to when a visa may be granted for multiple entries and with an extended validity period.

8.4. Visa with Shorter Validity

As stated in section 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 Visa Executive Order.

This could be the situation if a foreign national 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 Visa Executive Order.

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 States) 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 Immigration Service will normally postpone the deadline for departure to eight weeks 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 per-

manent 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 permanent residence in Denmark, see section 5 of the Executive Order on the Right to Hospital Treatment, etc. (Executive Order No. 958 af 29 August 2014).

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 three months (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 Justice may lay down more detailed rules specifying that in special cases the Immigration Service and the police are authorised to issue visas upon entry into Denmark. This authorisation was implemented by section 21 of the Visa Executive Order 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 5(1)(a), (c), (d) and (e) of the Schengen Borders Code.³²
- 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 his home country, country of residence or transit country through states outside the Schengen area is assessed as certain.

³² See section 5 above.

Section 21(1) of the Visa Executive Order 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 States 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 Visa Executive Order, the police may – upon authorisation by the Immigration Service³³ – 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, section 1, of the Visa Handbook.

9.2. Visas Issued to Seafarers³⁴

Article 36(1) of the Visa Code stipulates that a transit visa may be issued at the border to seafarers if the applicants meet the conditions set out in Article 35(1)³⁵ and are crossing the border in question for the purpose of embarking on, re-embarking on or disembarking from a ship.

The Danish Immigration Service and the police³⁶ may issue visas at the border to seafarers in accordance with the rules referred to in section 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, section 2, of the Visa Handbook. That section 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 sea-

³³ 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.

³⁴ It should be noted that certain crew members are exempt from the visa requirement in connection with transit in Denmark, see section 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.

³⁵ See section 9.1 above.

³⁶ 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.

farer is to embark, re-embark or disembark from, for example due to weather conditions.

9.3. Refusal of Visas at the Borders

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

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

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 Visa Executive Order.

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.³⁷

In the subsequent sections, 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. False, Counterfeit or Forged Travel Document

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

³⁷ The standard form must also be used for annulment and revocation of visas already granted. See section 16 below for further details.

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 Visa Executive Order.

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 sections 5.2.1-5.2.5 above.

In the assessment of whether the applicant meets the conditions 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 Visa Executive Order. For information about these conditions, please refer to section 5.2.6 above.

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 Visa Executive Order stipulate that a Schengen visa must be refused if the applicant fails to provide proof that he has sufficient means of subsistence for the duration of the intended stay as well as for the return to his home country or country of residence, or for the transit to a third country into which he is certain to be admitted, or that the person in question is in a position to acquire such means lawfully.

Please refer to section 5.3 above.

10.4. 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 Visa Executive Order, an application for a Schengen visa shall be refused if the applicant has already stayed in the Schengen States 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 Visa Executive Order.³⁸

³⁸ See section 8.4 above.

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

10.5. Alert in the Schengen Information System (SIS II)

Under Article 32(1)(a)(v) of the Visa Code and section 8(2)(5) of the Visa Executive Order, 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 section 5.5 above.

10.6. Threat to Public Policy, Internal Security, Public Health or International Relations of the Schengen States

Under Article 32(1)(a)(vi) of the Visa Code and section 8(2)(6) of the Visa Executive Order, an application for a Schengen visa must be refused if the applicant is considered to be a threat to public policy, internal security, public health or international relations of the Schengen States, in particular where an alert has been issued regarding the applicant in the Schengen States' 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 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 States 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, internal security, public health or international relations of the Schengen States.

Please refer to section 5.6 above.

In cases where the authorities refuse an application for a visa because objections have been made against issuing a visa in connection with consultation of other Schengen States and/or the intelligence services, the reason given for the decision should generally be limited, as information cannot be disclosed about which countries' authorities have been consulted or about the response to the consultation from the authorities of the countries in question. This information may be excluded from the reason given based on decisive considerations for public interests, see section 24(3), second sentence, read with sections 15-15A, of the Public Administration Act.

10.7. Lack of Proof of Adequate and Valid Travel Medical Insurance

Under Article 32(1)(a)(vii) of the Visa Code and section 8(2)(7) of the Visa Executive Order, 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 section 5.7 above.

10.8. Doubts About the Reliability of the Information Presented

Under Article 32(1)(b) of the Visa Code and section 8(2)(8) of the Visa Executive Order, 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 statements made by the applicant.

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 and presented relevant documentation but where the documentation and the statements made are not reliable.

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 section 5.8 above.

10.9. Doubts as to the Applicant's Intention to Leave the Schengen States

Under Article 32(1)(b) of the Visa Code and section 8(2)(9) of the Visa Executive Order, an application for a Schengen visa must be refused if there are reasonable doubts as to the applicant's intention to leave the Schengen States 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 section 5.9 above.

10.10. Lack of Grounds for Issuing Visas at the Border

Under Article 35(6) of the Visa Code and section 8(2)(10) of the Visa Executive Order, 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 section 9 above.

11 Visas for Special Groups

11.1. Visa Applications Covered by the EU Rules

Some third-country nationals are entitled to have their application for a visa processed under the EU rules. This applies to certain family members of a citizen of an EU Member State, an EEA Member State³⁹ or Switzerland (referred to as an EU citizen below) if the visa applicant is accompanying or joining the EU citizen while the EU citizen is using his right to free movement within the EU.⁴⁰

11.1.1. Family Members Covered by the EU Rules

The EU rules apply to the following family members of an EU citizen:⁴¹

- The spouse of the EU citizen.
- The registered partner of the EU citizen.

³⁹ A country covered by the Agreement on the European Economic Area.

⁴⁰ The rules governing this are laid down in Directive 2004/38/EC of 29 April 2004 on the right of EU 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).

⁴¹ See section 9 of the Visa Executive Order and Article 2, para. (2), and Article 3(1) and (2) of the Directive on the right to move and reside freely.

- The cohabiting partner of the EU citizen if both parties are over 18 years of age and are living together at the same address in a permanent cohabitation of a longer duration, i.e. as a minimum for a period of 1½-2 years.
- Descendants (i.e. children, grandchildren, etc.) of the EU citizen or the EU citizen's spouse, registered partner or cohabiting partner if the descendant is under the age of 21 or is dependent on the EU citizen or the EU citizen's spouse, registered partner or cohabiting partner.
- Relatives in the ascending line (i.e. parents, grandparents, etc.) of the EU citizen or the EU citizen's spouse, registered partner or cohabiting partner if the relative is dependent on the EU citizen or the EU citizen's spouse, registered partner or cohabiting partner.
- Other family members of the EU citizen (i.e., siblings, cousins, etc.) if in their country of origin they are dependent on the EU citizen or are a part of the EU citizen's household, or if serious health reasons strictly require that the EU citizen personally cares for the family members in question.

11.1.2. Accompanying or Joining an EU Citizen

The EU rules only apply to family members of an EU citizen to the extent that the persons in question accompany or join the EU citizen in connection with the visa stay.

Thus, the rules apply if the applicant is planning to travel to Denmark with the EU citizen or visit the EU citizen in Denmark, but not if the applicant plans to travel to Denmark independently of the EU citizen.

11.1.3. The Host's Exercise of the Right of Free Movement

The EU rules only apply to family members of an EU citizen who is using his right of free movement.

Thus, the rules apply to family members of an EU citizen who is staying in Denmark and thus exercising his right of free movement.

As a general rule, the EU rules do not apply to family members of a Danish national who is staying in Denmark, as the Danish national is not exercising his right of free movement. This also applies to family members of a Danish national who is working in another EU Member State, an EEA Member State or Switzerland but who has retained residence in Denmark.

The rules do apply if the Danish national has taken up permanent residence in another EU Member State, an EEA Member State or Switzerland, for example as a worker. In such situations, the family members of the Danish national are entitled to have their visa applications processed in accordance with the EU rules if they wish to travel to Denmark for tourist or family visits with the Danish national.

Moreover, family members of a Danish national who has exercised his right of free movement in another EU Member State, an EEA Member State or Switzerland and who, in that connection, genuinely and actually stayed in the country in question will be able to have their visa applications considered under the EU rules. In this connection, it is a condition that the relocation is a reality, and it must not merely be a short-term stay in, for example, a hotel room. A specific, individual assessment will always be made as to whether the Danish national's stay in the other country may be characterised as genuine and actual, but a Danish national who has rented a room or has moved to a c/o address with relatives or acquaintances for a short period will usually not meet the requirement to have established a genuine and actual stay in another country. Conversely, a Danish national who has had 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 stay in another country.

This could, for example, be a Danish national who has worked in Germany but who has now returned to Denmark and wishes to bring his family who are subject to the visa requirement. In this connection, it is a condition that the family members' visa applications are lodged no later than at the same time as the Danish national re-enters Denmark, or that the application is lodged in natural extension thereof. It depends on a specific assessment if a visa application may be considered to have been lodged in natural extension of the Danish national's re-entry into Denmark. 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 or educational reasons as well as the amount of time which has elapsed.

Furthermore, it is a requirement that the Danish national and the family member have had an actual cohabitation relationship in the country where the Danish national exercised his right of free movement.

11.1.4. 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 Danish mission or an application centre abroad.

Such an application needs only meet a few conditions to be considered admissible for processing. The general requirements to the effect that an application may not be submitted earlier than three 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 States, 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 Visa Executive Order.

In practice, this means that, upon submission of the visa application, the applicant needs only present a valid passport or other valid travel document, proof of the family relationship with the EU citizen and documentation that the EU citizen or the Danish national is exercising or has exercised the right of free movement.⁴²

If an application must be processed 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 Visa Executive Order. It is also stipulated in Article 5(2) of the EU 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. Processing times going beyond 15 days should be exceptional, and a prolonged processing time must be duly justified, see part III, section 3.4, of the Visa Handbook.

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 Visa Executive Order.

Article 27(1) and (2) of the EU 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.

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, section 3.8, of the Visa Handbook.

⁴² 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.

In addition, Article 30 of the EU 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.

In continuation of this, section 4e(2) of the Aliens Act stipulates that the rules governing notification of decisions solely by means of a standard form do not apply to applicants covered by the EU rules.

Section 28(4) of the Visa Executive Order 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 EU Directive on the right to move and reside freely⁴³ 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), 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)⁴⁴. Moreover, Denmark expects to enter into similar agreements with Georgia and Macedonia (FYROM).

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 Visa Executive Order stipulates that the general rules on documentation of the purpose of a visa stay only apply to nation-

⁴³ Directive 2004/38/EC of 29 April 2004 on the right of EU citizens and their family members to move and reside freely within the territory of the Member States.

⁴⁴ Nationals of Moldova who are holders of biometric passports have been exempt from the visa requirement since 28 April 2014. Thus, the visa facilitation agreement only has practical significance for persons who do not have a biometric passport.

als covered by a visa facilitation agreement to the extent that it is compatible with the provisions of that agreement.

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.

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 foreign nationals from countries whose nationals are required to obtain a visa, see section 4d(1) of the Aliens Act.⁴⁵

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 a 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 3 or 5 years, depending on the enterprise's stability and experience in inviting foreign nationals to come on visa stays.

⁴⁵ The prior approval scheme was introduced by Act No. 1334 of 19 December 2008 and expanded by Act No. 1616 of 26 December 2013.

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 mission by submitting passport copies or – if necessary – by appearing in person.

A refusal of prior approval cannot be appealed against, see section 46a(7) 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 foreign nationals 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 3 years.

11.3.2. Processing of Visa Applications Submitted with a view to Visiting Enterprises with Prior Approval⁴⁶

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 an application centre abroad.⁴⁷

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 section 11.4.2 below. This may mean, for example, that the general requirement for appearance in person may be derogated from 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 Visa Executive Order.

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

⁴⁶ Including enterprises, educational institutions, associations and organisations.

⁴⁷ 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.

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 mission 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.

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 foreign nationals 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.⁴⁸

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 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.

⁴⁸ The accreditation scheme was described in the legislative history of Bill No. 1616 of 26 December 2013, see the comments on Bill No. L 6 of 2 October 2013, section 3.

In the assessment of an application for accreditation of an enterprise, the Danish missions 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 3 years. However, the missions may extend the period to 5 years if the enterprise is particularly stable, and the risk of illegal immigration is limited.

A refusal of accreditation cannot be appealed against, see section 46a(7) 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 foreign nationals 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 3 years.

11.4.2. Processing of Visa Applications Lodged by Applicants with a More Permanent Association with Accredited Enterprises Abroad⁴⁹

An application for a visa covered by the accreditation scheme must, as a rule, be lodged with a Danish mission or an application centre abroad.⁵⁰

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.

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.

⁴⁹ Including enterprises, educational institutions, associations and organisations.

⁵⁰ The accreditation scheme only applies to applicants applying for a visa through the Danish mission which accredited the enterprise with which the applicant is associated.

In continuation of this, section 12 of the Visa Executive Order 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 States 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 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 applicable for one single entry and up to 30 days' stay if they meet the basic conditions for entry (valid travel document, etc.). This applies regardless of whether the person

in question is included in the group of nationals from the country in question to whom visas are usually granted according to the current practice.⁵¹

So far, Denmark has introduced travel agency and tourist arrangements in Russia, China,⁵² Ukraine and India. Information about the arrangements can be found at the website of the immigration authorities, 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 a foreign national 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, cohabiting 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 foreign national intends to lead with persons living in Denmark will not be of a sufficient scope or of the required quality for the foreign national to be able to require a residence permit. In such situations, the foreign national will be left to lead the family life in his country of residence or during visits to Denmark.

This applies, for example, where access has been fixed or agreed between a foreign parent and his 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

⁵¹ See section 5.9.7.9 above.

⁵² 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.

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 foreign national 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.

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 2010,⁵³ or *that* the foreign national'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

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 Visa Executive Order stipulates that issuing a visa with limited territorial validity may be considered in the following situations:

⁵³ See Bill No. L 188 of 26 March 2010, general comments for section 8.4.

- 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 States.
- 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 States 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 States if the other Schengen State(s) have consented thereto, see section 20(2) of the Visa Executive Order.

13.2. Visas with Limited Territorial Validity in Cases Where Some Schengen States Do Not Recognise the Applicant's Travel Document

If an applicant cannot be granted a visa applicable to all Schengen States solely because one or more other Schengen States do not accept the applicant's travel document, the authorities may issue a visa whose validity is limited to the Schengen State(s) which do accept the travel document of the person in question, see section 19 of the Visa Executive Order.

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 State 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 Visa Executive Order.

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.

14 Extension of Visas

The visa system is only intended for short-term stays in Denmark and/or the other Schengen States.

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 States in each 180-day period.⁵⁴

An issued visa may only be extended in special situations, see below.

An application for an extension must be submitted to the Danish Immigration Service – possibly through the police if the applicant resides outside the Copenhagen or Western Copenhagen police districts – before the expiry of the valid visa, see section 22(3) of the Visa Executive Order.

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 foreign national from leaving Denmark in accordance with the validity of the original visa, see Article 33(1) of the Visa Code and section 22(1) of the Visa Executive Order.

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 Visa Executive Order.

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.

⁵⁴ See section 3.1 above for further details.

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.

14.2. Extension of a Stay in Denmark

The right to stay in Denmark of foreign nationals who have been to Denmark or another Schengen State on a short-term visit in accordance with sections 2-3a⁵⁵ 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 foreign national 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:

- If the foreign national has applied for family reunification with a spouse, registered partner or cohabiting partner living in Denmark and is currently awaiting the result of that case, 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 cohabiting 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 foreign national is a national of an EU Member State, EEA Member State or Switzerland and is visiting a spouse, registered partner, cohabiting partner, boyfriend/girlfriend/fiancé(e), parents, children or siblings.
- If the foreign national is a third-country national and is visiting a spouse, registered partner, cohabiting partner, boyfriend/girlfriend/fiancé(e), par-

⁵⁵ This includes foreign nationals who have entered Denmark on a visa, or who are exempt from the visa requirement.

ents, 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 his 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 States, nor does it give a right to transit through other Schengen States in connection with the return journey.

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 Visa Executive Order.

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 Visa Executive Order.

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 Visa Executive Order.

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.

15.3. Cancellation of a Visa at the Request of the Applicant

A visa may be cancelled at the request of the applicant, see section 23(2) of the Visa Executive Order.

15.4. Competence to Process Annulment and Revocation Cases

The division of cases between the Danish missions 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 Visa Executive Order.

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 foreign national 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.

16 Notification of Refusal, Annulment or Revocation of a Visa

16.1. Notification of Refusal, etc. by the Danish Missions

Under section 4e(1) of the Aliens Act, the decision of a Danish diplomatic or consular mission to refuse an application for a visa or to annul or revoke a visa already granted may be notified to the applicant by means merely of a standard form in accordance with the rules set out in the Visa Code.

However, the missions must not notify the applicant of a refusal solely by means of a standard form if the foreign national is covered by the EU rules, see section 4e(2) of the Aliens Act.⁵⁶

Under section 4e(3) of the Aliens Act, the Minister for Justice may lay down more detailed rules specifying the situations where the standard form may be used. It was implied in the legislative history of section 4e that the missions are to give notification of refusal solely by means of the standard form, unless the Minister for Justice has decided otherwise.⁵⁷

16.1.1. Standard Reasons for Refusal, Annulment or Revocation

Under section 29(1) of the Visa Executive Order, the general rule is that the decision of a Danish mission's on refusal, annulment or revocation of a visa is notified to the applicant solely by use of the standard form which is included as an Annex to the Visa Code. The same applies to a mission's decision to cancel a visa at the applicant's own request.

The standard form is filled in by ticking off the main ground for refusal which forms the basis of the decision. It was implied in the legislative history of section

⁵⁶ See section 12.1.4 above for further details.

⁵⁷ See Bill No. L 6 of 2 October 2013, section 4.3 of the general comments.

4e that the missions are to provide the applicant with the standard form in the local language if the form is available in an official version in that language.⁵⁸

16.1.2. Individual Reasons for Refusal, Annulment or Revocation

Section 29(2) of the Visa Executive Order contains a list of four exceptional situations where the decision of a Danish mission on refusal, annulment or revocation in a visa case must be drawn up in accordance with the general principles of administrative law governing reasons given for decisions. This includes decisions which are based on objective demonstrable facts and which are based on one of the following grounds for refusal:

- 1) The applicant has presented a travel document which is false, counterfeit or forged.
- 2) The applicant has presented other documents which are false, counterfeit or forged.
- 3) The applicant has not proved that he has sufficient means of subsistence.
- 4) The applicant has not provided proof of holding adequate and valid travel medical insurance, and it is evident that the applicant is not exempt from that requirement.

These exemptions only cover the situations where an application is refused with reference solely to the above-mentioned reasons and where the decision is based on objective demonstrable facts. For example, the missions should refuse an application providing an individual reason if an expert assessment has revealed without doubt that the applicant's travel document is false. Conversely, the missions should use the standard form in situations where a discretionary assessment indicates doubts as to the authenticity of a document.

If a case includes several reasons for refusal, all reasons must be stated in the decision. In such situations, the missions may only notify the refusal with an individual reason if all the grounds for refusal are covered by the exceptions stated above. For example, a refusal including an individual reason may be used if the applicant has presented an undoubtedly false passport and has also failed to present documentation for an adequate and valid travel medical insurance. On the other hand, the standard form should be used if the applicant has, for example, failed to prove the purpose of the stay, irrespective of whether he has also presented a false passport.

If such circumstances exist in a case that require it to be submitted to the Danish Immigration Service, see section 28 of the Visa Executive Order, the Danish missions must not refuse the application and notify the applicant of this by means of an individual reason. For example, the missions must submit a case in which an

⁵⁸ See Bill No. L 6 of 2 October 2013, sections 4.2 and 9 of the general comments.

alert has been issued for the applicant in SIS for the purpose of refusing entry and in which the applicant has also presented a false passport.

16.1.3. Individual Reasons for Partial Permission

Section 29(3) of the Visa Executive Order stipulates that a decision to issue a visa with a territorial or time limitation, see sections 18, 19 and 20(3), must comply with the general principles of administrative law governing the reasons for a decision.

For example, a decision must include an individual reason if a visa is issued for fewer days than applied for, for instance because the applicant has already stayed in the Schengen Area for a number of days within the current 180 day period.

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.

The decision made by the Danish Immigration Service will be sent to the Danish mission where the application was lodged for the applicant to receive it there.

17 Appeals Procedure

17.1. Appeals Against Decisions Made by Danish Missions

In some situations, the applicant may appeal against decisions made by the Danish missions regarding refusal, annulment or revocation of a visa to the Danish Immigration Service, while in other situations the decisions are regarded as appealed against *ex officio*, see section 30(1) and (2) of the Visa Executive Order, read with section 46a(8) of the Aliens Act.

In situations where the missions notify the applicant of a decision merely by use of a standard form, the decision is regarded as appealed against to the Danish Immigration Service *ex officio*, see section 30(1), read with section 29(1), of the Visa Executive Order.

When the missions make individual decisions in accordance with the general principles of administrative law,⁵⁹ the applicant may appeal the decision to the Danish Immigration Service, see section 30(2), read with section 29(2) and (3), of the Visa Executive Order.

⁵⁹ See section 11.1 above for further details.

However, a decision to cancel a visa at the applicant's own request cannot be appealed, see section 30(4) of the Visa Executive Order.

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 (6) of the Visa Executive Order.⁶⁰

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 Ministry of Justice, see section 30(3) of the Visa Executive Order, read with section 46(2) of the Aliens Act.

However, a decision to cancel a visa at the applicant's own request cannot be appealed, see section 30(4) of the Visa Executive Order.

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 State that has taken the final decision on the application and in accordance with the national law of that Schengen State.

When the Danish authorities notify refusal of a visa for another Schengen State which Denmark is representing under a representation arrangement, appeals against such decisions must thus be submitted to either the Danish Immigration Service of the Danish Ministry of Justice in accordance with the rules set out in section 30 of the Visa Executive Order.

When another Schengen State 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 State.

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.⁶¹

⁶⁰ See section 6.2 above for further details.

⁶¹ Reference is made to Jens Garde et al., *Forvaltningsret – Sagsbehandling (Administrative Law – Case Processing)*, 7th edition, p. 126.

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. This concerns the rules set out in the Visa Code, the Aliens Act and the Visa Executive Order.

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.⁶² 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.⁶³

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.

Issue of a visa for the Faroe Islands or Greenland may be made by the Danish Immigration Service, a Danish mission 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. Applications lodged at Danish missions must thus be submitted to the Danish Immigration Service if it is assessed that it should be refused, and all applications lodged with foreign missions 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.

However, an applicant is only exempt from meeting the conditions of the Visa Code if the application is only concerned with a visa for the Faroe Islands or Greenland.

In practice, an application for a visa for the Faroe Islands or Greenland will typically be accompanied by an application for a Schengen transit 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 appli-

⁶² See Royal Decree No. 182 of 22 March 2001 on the entry into force for the Faroe Islands of the Aliens Act and Royal Decree No. 150 of 23 February 2001 on the entry into force for Greenland of the Aliens Act.

⁶³ See sections 2.5 and 2.5.1 above as well as Annexes 1 and 5 of the Visa Handbook for further details.

cation for a Schengen transit 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, the authorities should notify the applicant that the Danish Polar Center 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 Labour Market and Recruitment which granted the residence permit to the applicant.

Applicants who have a residence permit for another Schengen State must obtain a visa to enter the Faroe Islands or Greenland. Applications in this respect may be lodged with a mission 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 State.

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 processed 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 States.

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Annex 2

Motivation of a refusal according to the Visa Code and Danish practice

No.	Ground for refusal according to the Visa Code, Annex 6	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. 8	5.1 and 10.1
2	"Justification for the purpose and conditions of the intended stay was not provided"	No documentation for the purpose of the visit, e.g.: <ul style="list-style-type: none"> • Visit not expected • Visit no longer relevant • Host not a permanent or legal resident • Main purpose not in Denmark • Business visit <ul style="list-style-type: none"> – no documentation for employment, business background, agreement etc. • Cultural visit <ul style="list-style-type: none"> – no documentation for attendance, relevant background etc. • Private visit <ul style="list-style-type: none"> – no documentation for family relationship, marriage etc. (typically combined with ground no. 9) Conditions for the stay not met: <ul style="list-style-type: none"> • Travel document not recognised by Denmark • Travel document not valid (if the application has been admitted in the first place) • No re-entry permit 	5.2 and 10.2
3	"You have not provided proof of sufficient means of subsistence, for the duration of the intended stay or	No documentation for sufficient means of subsistence	5.3 and 10.3

	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, or you are not in a position to acquire such means lawfully"		
4	"You have already stayed for 90 days during the current 180 days 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 days period	5.4 and 10.4
5	"An alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry by _____ (indication of Member State)"	Alert in the Schengen Information System (SIS)	5.5 and 10.5
6	"One or more Member State(s) consider you to be a threat to public policy, internal security, public health as defined in Article 2(19) of Regulation (EC) No 562/2006 (Schengen Borders Code) or the international relations of one or more of the Member States)"	<ul style="list-style-type: none"> • Entry prohibition • UN or EU sanction lists • Consultation of other Schengen countries and/or the intelligence services • Forced and pro forma marriages • Suspicion of crime, illegal work or propagate extreme values or views etc. • Other indications that the applicant will present a threat to public order, national security, public health or international relations 	5.6 and 10.6
7	"Proof of holding an adequate and valid travel medical insurance was not provided"	No documentation for adequate and valid travel medical insurance	5.7 and 10.7
8	"The information submitted regarding the justification for the purpose and condi-	<ul style="list-style-type: none"> • False, counterfeit or forged documents (except travel documents) 	5.8 and 10.8

	tions of the intended stay was not reliable"	<ul style="list-style-type: none"> • Unreliable information (divergent statements etc.) 	
9	"Your intention to leave the territory of the Member States before the expiry of the visa could not be ascertained"	<p>Penalty periods</p> <ul style="list-style-type: none"> • Previous overstay • Previous expulsion • Previous asylum application • Previous application for certain types of residence permit <p>Presumption of illegal immigration</p> <ul style="list-style-type: none"> • Previous misuse by the applicant or the host • Statement regarding long-term stay • Pending application for a residence permit • Limited ties to home country <p>Main groups</p> <ul style="list-style-type: none"> • 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 etc., if it means that the applicant is not included in the group) 	5.9 and 10.9
10	"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 10.10
11	"Revocation of the visa was requested by the visa holder"	Revocation of visa after issuance of sticker at the applicant's request	10.11