

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE :
LONG-TERM RESIDENTS OF 25 NOVEMBER 2003**

IN: DENMARK

by

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DENMARK IS NOT BOUND BY THE DIRECTIVE

*The person in the team of thematic coordination in charge of this directive that you can contact if you have a question or need help when completing this questionnaire is:
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General comments:

Though the Court's judgment of 26 June 2006 (C-540/03) was aimed at Directive 2003/86 on family reunification, it is likely that a number of the Court's decisions, particularly those concerning the limited margin of discretion and the relationship between human rights instruments and the Directive, will also apply to the Long-Term Residents Directive. It is therefore advisable to take a closer look at this judgment, especially to legal considerations 22-23, 52-53, 57-59, 60-61, 65-66 and 97-107.

The purpose of the Directive is to determine the terms for granting and withdrawing long-term resident status and the rights pertaining thereto and terms for the exercise of rights of residence by long-term residents in other Member States.

FIRST PART

1. NORMS OF REFERENCE AND JURISPRUDENCE

Q.1.A. Identify the main (because of its content) norm(s) of reference and indicate its legal nature

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: legislative refers to a norm adopted in principle by the Parliament; regulation refers to a norm complementing the law and adopted in principle by the executive power; circular or instructions refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

*Please **duplicate** the table below if there is more than one MAIN norm of reference*

This table is about: a text already adopted a text which is still a project to be adopted

TITLE: Bekendtgørelse af udlændingeloven (Aliens (Consolidation) Act)

DATE: 1 September 2006. This is the date of the latest Aliens Consolidation Act. The Aliens Act (Udlændingeloven) was adopted by Law no. 226 of 8 June 1983 and subsequently amended numerous times.

NUMBER: 945 (Consolidation Act)

DATE OF ENTRY INTO FORCE: The Aliens Act of 1983 entered into force on 1 October 1983. The latest amendment to the Aliens Act, which is included in the Aliens (Consolidation) Act of 1 September 2006 entered into force on 10 June 2006.

PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 9 a, 9c, 9f and 11.

REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:
Lovtidende A, 9 June 2006

LEGAL NATURE (indicate a cross in the correct box):

LEGISLATIVE:

REGULATION:

CIRCULAR or INSTRUCTIONS:

Q.1.B.

List the others norms of reference by order of importance of their legal nature (first laws, secondly regulations; thirdly circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

*Please use one table per norm and **duplicate** as much as necessary*

TITLE: Udlændingebekendtgørelsen (Executive Order on Aliens' access to Denmark (Aliens Order))

DATE: 22/01/2007

NUMBER: 63

DATE OF ENTRY INTO FORCE: 1 February 2007

PROVISIONS CONCERNED : Section 23, 28-30

(for example if the norm is not devoted only to the transposition of the concerned directive)

REFERENCES OF PUBLICATION

IN THE OFFICIAL JOURNAL:

LEGAL NATURE (indicate a cross in the right box):

LEGISLATIVE

REGULATION

CIRCULAR OR INSTRUCTIONS

TITLE: Bekendtgørelse om meddelelse af tidsbegrænset opholdstilladelse (Executive order on the grant of permanent residence permit)

DATE: 9 January 2006

NUMBER: 8

DATE OF ENTRY INTO FORCE: 1 February 2006

PROVISIONS CONCERNED :

(for example if the norm is not devoted only to the transposition of the concerned directive)

REFERENCES OF PUBLICATION

IN THE OFFICIAL JOURNAL:

LEGAL NATURE (indicate a cross in the right box):

LEGISLATIVE

REGULATION

CIRCULAR OR INSTRUCTIONS

TITLE: Vejledning om meddelelse af tidsbegrænset opholdstilladelse (Circular on the grant of permanent residence permit)

DATE: 4 July 2000

NUMBER: 127

DATE OF ENTRY INTO FORCE: 4 July 2000

PROVISIONS CONCERNED :

(for example if the norm is not devoted only to the transposition of the concerned directive)

REFERENCES OF PUBLICATION

IN THE OFFICIAL JOURNAL:

LEGAL NATURE (indicate a cross in the right box):

LEGISLATIVE

REGULATION

CIRCULAR OR INSTRUCTIONS

Q.2.

THIS QUESTION IS IN PRINCIPLE ONLY FOR FEDERAL OR ASSIMILATED MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN

Q.2.A.

Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

LEGISLATIVE RULES

COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:

COMPETENCES OF THE COMPONENTS:

EXPLANATIONS IF NECESSARY:

REGULATIONS

**COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:**

CIRCULAR OR INSTRUCTIONS

**COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:
COMPETENCES OF THE COMPONENTS:
EXPLANATIONS IF NECESSARY:**

Q.2.B. In case, explain if the federal structure and the distribution of competences between the different levels pose any problem or difficulty regarding the transposition and/or the implementation of the directive.

Q.3. Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

Please use one table per competence concerned and duplicate it if necessary

COMPETENCE CONCERNED:	The grant of residence status/permit
CENTRAL MINISTRY OF:	Refugee, Immigration and Integration
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	Immigration Service (first instance) Work and Family Reunification Division of the Immigration Department of the Ministry of Refugee, Immigration and Integration (appeal)
OTHER LEVEL OF ADMINISTRATION: IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	The Immigration Service is a directorate within the Ministry of Refugee, Immigration and Integration

Q.4. A. Has the main regulation foreseen explicitly by the main norm of transposition already been adopted or not:

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.4.B. If the main norm(s) of transposition foresees the adoption of one or several regulations, indicate if they have all been adopted:

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

If no, please indicate the missing text(s) in the table below
Please use one line per missing text and duplicate it if necessary

MISSING TEXTS
INDICATE HERE THE MISSING TEXTS

The directive concerning the status of third-country nationals who are long-term residents is subject to the Danish reservation relating to Justice and Home Affairs under the 1997 Protocol. The Directive would require amendment of domestic legislation, in case Denmark were to participate in this part of the EU harmonisation.

Add if necessary some explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):

SECOND PART

2. TRANSPOSITION OF THE DIRECTIVE IN NATIONAL LAW

In each answer, please specify the relevant provisions of the national law

Q. 5.A. (personal scope of the Directive)

Article 3(1) and Article 4(1)

- Has the term “lawful residence” been specified in the national law and if yes, how is that term specified?

- Is it possible to have lawful residence without a residence permit?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive and existing legislation does not contain any norms which even partly correspond to those of the Directive.

Section 9a and section 11 of the Danish Aliens Act are the main national norms dealing with residence permit to and potential status of third country nationals, but do not operate with or contain references to a long-term residence status of third country nationals.

Please see the attached Annex I for more information.

Q. 5.B.

Article 3(2)

- Does the Directive in your country apply to categories of third country nationals who have been excluded by Article 3(2)?

 YES **NO**

If yes, please specify to which categories.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does your national law exclude other categories of temporary admitted third country nationals than the categories mentioned in Article 3(2)(e) (au pairs, seasonal workers and posted workers)?

 YES **NO**

If yes, how is the term “formally limited residence permit” defined?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 5.C.

Article 3(3) (bilateral and multilateral agreements)

- During the transposition has reference been made to the bilateral and multilateral agreements mentioned in Article 3(3)?

YES

NO

If yes, with which effect?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 6.A.

Article 4(1)

- Has a right to the long term resident status been codified in the legislation or does granting the status depend on the discretion of national authorities?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 6.B.

Article 4(2)

- Has the special rule on students in Article 4(2) been transposed in the national law? If yes, how?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Are periods of lawful residence in situations covered by letters b, c and d taken into account if the third country national has a non-protection status at the time of application for the long-term resident status?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- How long can the absences from the territory be and how are they calculated?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 6.C.

Article 4(3)

- How are the “specific and exceptional circumstances” specified in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 7.A. (income requirement)

Article 5(1)(a)

- How is the income requirement of this provision specified in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Have certain types of income been excluded?

YES

NO

If yes, please specify.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the level of resources higher or lower than the level of social assistance for nationals?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Are contributions to the pension system and the tax record of the applicant taken into account?

YES

NO

If yes, please specify how they are taken into account and what the consequences of insufficient contributions to the pension system or the tax record are.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 7.B. (integration conditions)

Article 5(2)

- Does the national law require third country nationals to comply with integration conditions to obtain the status?

YES

NO

If yes, how is this condition specified in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Are integration facilities made available for third country nationals in order to comply with the integration conditions?

YES

NO

If yes, who pays the costs of these facilities?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 7.C. (family members)

Article 5

- Are dependent family members required to fulfil all three conditions of Article 5 themselves?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is there a minimum age for the issue of the long-term resident status in the national law?

YES

NO

If yes, what is the minimum age?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 8.A. (public policy exception)

Article 6(1)

- How is the possibility to refuse to grant the status on grounds of public policy or public security specified in the national legislation?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does this specification take into account the case law of the ECJ with regard to similar terms in the EC law on free movement of Union citizens?

YES

NO

If yes, please specify. If no, what are the main differences with the case law of the ECJ?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Has the obligation to take into account the elements mentioned in the second sentence been codified in the national law?

YES

NO

If yes, how?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 8.B. (economic considerations)

Article 6(2)

- Has the provision that the refusal to grant long-term resident status and similar provisions in Articles 12(2) and 17(2) can not be founded on economic considerations been codified in the national law?

YES

NO

If yes, mention the relevant provisions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 9.A. (documents and conditions; N.B. Q.17.D asks similar questions regarding the documentary evidence that has to accompany the application for a residence permit by a long-term resident in a second Member State)

Article 7(1)

- Which documents does an applicant for the status have to produce with his application? Please specify according to the conditions required by Articles 4 and 5.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the applicant required to provide documentation regarding appropriate accommodation?
 YES
 NO

If yes, please specify the level of accommodation required.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the absence of appropriate accommodation a ground for refusal of the status?
 YES
 NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the absence of a valid travel document a ground for refusal of the status?
 YES
 NO

If yes, please specify

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 9.B. (length of procedure)
Article 7(2)

- What is the time limit for making a decision on the application for the status according to the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- How is the decision on the application notified to the applicant?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- What are the consequences of the decision not being made within the time limit provided in Article 7(2)?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- How is the obligation to inform the person concerned about his/her rights and obligations under this Directive implemented in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.9.C.

Article 7(3)

- How has this clause on the obligation to grant the status been implemented in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does the national law provide for the possibility that the long-term resident also holds another residence status under Community Law or under national law?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.10.A. (period of validity)

Article 8(2)

- What is the period of validity of the EC long term residents permit?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does the national law provide for automatic renewal upon expiry of the permit?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 10.B. (form of residence permit)

Article 8(3)

- Is the long term resident permit issued as a sticker or as a special document?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Please send us a photocopy of all sides of the relevant document.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 11.A. (loss of the status)

Article 9(1)

- What are the grounds for loss of the status according to the national law of your country?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Are these grounds compatible with Article 9(1)?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does an absence of more than twelve months from the EU result in automatic loss of the status or is a decision of the administration required before the status is lost?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 11.B. (period of absence)

Article 9(2)

- Does your national law allow for a longer period of absence from the territory of the EU?

YES

NO

If yes, please specify under which conditions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q. 11.C. (threat to public policy)

Article 9(3)

- Does the national law provide for the possibility that the long term resident is no longer entitled to maintain the status because he/she presents a threat to public policy or public security but is not expelled from the country?

YES

NO

If yes, what are the criteria for non expulsion in those cases?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

If yes, which resident status will be granted to the person in these cases and under what conditions, see also Article 9(7)?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.11.D. (acquisition of status in another member state)

Article 9(4)

- Does the national law provide that the long term resident status will be withdrawn if the person acquires such a status in another member state or after six years of absence from the territory of your country?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.11.E. (facilitated re-acquisition)

Article 9(5)

- How has this Article on the facilitated re-acquisition of the long term resident status been implemented in the national law for those who lost the status on the ground of 12 months absence from the territory?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.11.F. (expiry of the permit)

Article 9(6)

- Does the national law provide that expiry of the long term resident permit does not entail withdrawal or loss of the status?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- What are the legal or practical consequences of expiry of the permit?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.12.A. (procedural guarantees)

Article 10(1) and Article 20

- Does the national law provide that a decision to withdraw or refuse the status has to contain the reasons for that decision?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- How is the decision notified to the person concerned?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does the notification include a specification of the available redress procedures and the time limit for using these remedies?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Do the same procedural guarantees apply with respect to decisions meant in Article 20?

YES

NO

If no, please specify the differences.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.12.B. (judicial review)

Article 10(2) and Article 20

- Which remedies are available to challenge the refusal, withdrawal or loss of the status or the renewal of the permit?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is access to a court guaranteed in such cases?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Are these remedies effective in your judgment?

YES

NO

Please specify your answer.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is there a difference between legal remedies concerning decisions meant in Article 10 and the ones in Article 20?

YES

NO

If yes, please specify the differences.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.13.A. (equal treatment)

Article 11(1)

- Does your national law explicitly provide that long-term residents shall enjoy equal treatment with nationals as regards:
- For each bullet point please specify:
If no, on which issues are the long-term residents excluded:

- o Access to employment
 YES
 NO
- o Education and vocational training
 YES
 NO
- o Recognition of diploma's
 YES
 NO
- o Social security, social assistance and social protection
 YES
 NO
- o Tax benefits
 YES
 NO
- o Access to goods and services
 YES
 NO
- o Free access to the entire territory of your country
 YES
 NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.13.B. (exceptions to equal treatment)

Article 11(2)

- Has the possibility to restrict equal treatment provided for in this clause been used in your country?
 YES
 NO

If yes, please specify the restrictions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.13.C. (exercise of public authority)

Article 11(1)

- Has the possibility to restrict equal treatment under this clause or to exclude long term residents from activities that entail occasional involvement in the exercise of public authorities (Article 11(1)(a)) been used in your country?
 YES
 NO

If yes, how is the involvement in the exercise of public authorities defined? How does it differ from the ECJ case law on the topic for EU citizens?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.13.D. (social security)

Article 11(4)

- Has the equal treatment in respect of social assistance or social protection been restricted to core benefits?
 YES
 NO

If yes, which benefits are excluded from the equal treatment?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.13.E. (equal treatment for long-term residents of another member state)

Article 21(1)

- Does the national law explicitly provide for equal treatment with regards to areas and benefits mentioned in Article 11 for third country nationals who have acquired the EC long term resident status in another member state?

YES

NO

If no, please specify the differences.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.14.A. (protection against expulsion)

Article 12(1)

- How is this provision implemented in your national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does the definition of serious threat to public policy or security differ from the definition used for the implementation of Article 6(1) or this Directive?

YES

NO

If yes, please specify the differences.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.14.B. (relevant considerations)

Article 12(3)

- Does the national explicitly provide that before taking a decision on expulsion the authorities have regard to the four factors mentioned in this clause?

YES

NO

If yes, please mention the relevant provision of your national law.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.14.C. (legal remedies)

Article 12(4)

- Which judicial redress procedure is available to the long term residents against an expulsion decision under the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.14.D. (legal aid)

Article 12(5)

- Are long term residents lacking adequate resources entitled to legal aid on the same terms as applied to nationals?

YES

NO

If yes, please mention the relevant provision of your national law.

If no, please specify the differences.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.15. (more favourable national provisions)

Article 13

- Does the national law provide for the issue of residence permits of permanent or unlimited validity on terms that are more favourable than those laid down by the Directive?

YES

NO

If yes, please specify the categories of third country nationals benefiting from those more favourable national rules.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- In what aspects does the residence document issued to those persons differ from the document mentioned in Article 8(3)?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does your national law provide for the application of Chapters I and II of the Directive to these third country nationals?

YES

NO

If yes, please mention the relevant national provisions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.16.A. (long-term residents of another member state)

Article 14(1)(2)

- Does your national law provide for a residence right for long-term residents who acquired the status in another member state who wish to exercise an economic activity, pursue studies or for any other purpose?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.16.B. (conditions for employment)

Article 14(3)

- Does your country require an employment permit for long-term residents who acquired the status in another member state?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.16.C. (change of employer)

Article 14(3) and Article 21(2)

- Does a third country national with the long-term resident status need a work permit to change to another employer during the first year?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- After that year:

YES

NO

If yes, please specify what the conditions for granting a work permit are.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- When do long-term residents of another member state acquire free access to employment in your country?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.16.D. (limitation of number long-term residents)

Article 14(4)

- Did the national law of your country provide for a limitation of the total number of persons entitled to be granted a right of residence at the time of the adoption of this Directive?

YES

NO

If yes, please specify.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.17.A. (place of application)

Article 15(1)

- Does the national law of your country provide for the possibility that a long-term resident submits an application for a residence permit in your state while still residing in the first member state?

YES

NO

If yes, please specify.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the long-term resident required to have a visa and, if so, will he be obliged to leave the second Member State in order to apply for the visa?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.17.B. (conditions for residence in a second member state)

Article 15(2)

- Does the national legislation provide that the long-term residents of another member state prove to have stable and regular resources and sickness insurance?

Stable resources:

YES

NO

Sickness insurance:

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is there in your national law any difference between the level of the income requirement under this Article and article 5? Please specify any difference.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- If sickness insurance is required, is it possible for the long-term resident to obtain coverage in your country before having received a residence permit?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.17.C. (integration measures)

Article 15(3)

- Does the national law require long-term residents of another member state to comply with integration measures or a language course when the person has already been required to pass integration conditions in the first Member State?

YES

NO

If yes, is the person required to follow a language course or to pass an exam?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- What are the consequences of not meeting the integration requirement?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the long-term resident entitled to the same integration facilities as nationals of your country?
 YES
 NO

If yes, please mention the relevant national provisions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Are the family members of the long-term resident (Article 16) required to comply with integration measures?
 YES
 NO

If yes, please mention the relevant national provisions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.17.D.

Article 15(4) (documentary evidence for residence in second Member State)

- Which documents does a long-term resident from another Member State have to produce with his application for a residence permit in your Member State? Please specify according to the purpose of the stay in your Member State.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the long-term resident from another Member State required to provide documentation regarding appropriate accommodation?
 YES
 NO

If yes, please specify the level of accommodation required.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Can the right of residence of a long-term resident from another Member State be withheld if the long-term resident does not have appropriate accommodation?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Can the right of residence of a long-term resident from another Member State be withheld if the long-term resident does not have a valid travel document?

YES

NO

If yes, please specify.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.18. (family members)

Article 16(1)

- Does the national law of your country provide for a right of residence of the family members of a long-term resident who acquired that status in another member state?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.19. (public policy exception)

Article 17

- How is the possibility to refuse the application for residence from long-term residents of another member state on grounds of public policy or public security specified in the national legislation?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Has the obligation to take into account the elements mentioned in the second sentence been codified in the national law?

YES

NO

If yes, please mention the relevant provision of the national law.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.20.A. (public health exception)

Article 18(1)

- Does the national law provide for the refusal of an application for a residence permit by a long-term resident of another member state on public health grounds?

YES

NO

If yes, under what conditions?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.20.B. (medical examination)

Article 18(4)

- Are medical examinations required for long-term residents of another member state who apply for a residence permit in your country?

YES

NO

If yes, on what grounds and are these examinations free of charge?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.21.A. (length of procedure)

Article 19(1)

- What is the time limit for processing an application for a residence permit according to the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the long-term resident allowed to stay in your country pending the processing of his application?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.21.B.

Article 19(2)

- How has this clause on the obligation to grant a residence permit been implemented in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Is the residence permit issued to long-term residents of another member state renewable on expiry?

YES

NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- How is the obligation to inform the first member state of the issue of a residence permit to the long-term resident status holder of that member state implemented in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.21.C. (residence permit of family members)

Article 19(3)

- Does your national law provide that family members are issued with a renewable residence permit valid for the same period as the permit issued to the long-term resident?

YES

NO

If yes, please specify the national provisions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.22.A. (refusal and withdrawal)

Article 22(1)

- Which grounds for the refusal or withdrawal of a residence permit and the removal of the territory of a long-term resident of another member state are provided for in your national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.22.B. (obligation to readmit)

Article 22(2)

- How is the obligation to readmit long-term residents and their family members on the territory of your country been codified?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Has the clause of Article 22(5) concerning the obligation to readmit without prejudice to the possibility of the long-term resident and his/her family to move to a third member state been implemented?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.22.C. (removal from the territory of the Union)

Article 22(3)

- Has the possibility to remove long-term residents of another member state from the territory of the EU been implemented in the national law?

YES

NO

If yes, how?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- How have the serious ground of public policy or public security been specified in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Has the obligation to consult the first member state in such cases been codified?

YES

NO

If yes, please specify the relevant provisions in your national law.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.23.

Article 23(1)

- How has this clause on the obligation to grant the status to long-term residents of another member state been implemented in the national law?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

- Does the national law provide for an integration requirement in those cases?
 YES
 NO

If yes, please specify the requirement.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.24. (reference in national law)

Article 20

- Has explicit reference in national law been made to Directive 2003/109?
 YES
 NO

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

THIRD PART

3. IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.25.

- What are in your view the main strengths and weaknesses of the Directive?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.26.

- Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.27.

- Have statements been made during the implementation on the question whether certain provisions of the Directive have direct effect or not? If so, please specify for which provisions.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.28.

- In the transposition of the rules on the Long-Term Residents Directive in your country, which issues have become subject of controversy or court cases?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.29.

- How many applications for the Status have been made in your country? How many long-term resident statuses have been granted under Chapter II in your country?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.30.

- What have been the main changes in the national law or practice due to the Directive? Please indicate for each change whether it made the national rules more strict or more liberal from the perspective of long-term resident third country nationals?

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.31.

Mention if there is a general tendency to just copy the provisions of the directive into national legislation without redrafting or adapting them to national circumstances.

NO

YES

If yes, please indicate if this general tendency may or not create problems (for example difficulties of implementation, risk that a provision remains unapplied). Please give some examples.

Directive 2003/109/EC is not binding upon or applicable in Denmark due to the Danish reservations under the 1997 Protocol. Denmark has not taken any measures to implement the directive

Please see Q.5.A and the attached Annex I for more information.

Q.32.

Please quote interesting decisions of national courts related to the directive, its transposition or implementation (so this question concerns in principle decisions later than the directive, but earlier ones might be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.

Please use one box per decision and duplicate it if necessary

DECISION OF SUPREME COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
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DECISION OF APPEAL COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
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4. ANY OTHER INTERESTING ELEMENT

Q.34.

Please add here any other interesting element concerning the implementation of the Directive (either from the point of view of long-term residents or from the Member States' perspective) which you did not mention before.

N/A

Q. 35.

Please send us copies of any legal or other publications on the Directive or of judgments of national courts applying or interpreting the Directive, if possible in electronic form.

N/A

Annex 1
to Table of Correspondence and Questionnaire for the National Report on the
Implementation of the Directive:
“Status of third-country nationals who are long-term residents”
of 25 November 2003”

DENMARK

by

Lassen, Nina Marie
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15 November 2007

Preamble no. 26 of the Directive 2003/109/EC stipulates that “[i]n accordance with Articles 1 and 2 of the Protocol on the position of Denmark, annexed to the Treaty establishing the European Community, Denmark does not take part in the adoption of this Directive, and is not bound by it or subject to its application.”

Denmark has not taken any measures to adopt norms equivalent to those of Directive 2003/109/EC to date and existing legislation does not contain norms which correspond to those of the Directive. If Denmark were to participate in this part of the EU harmonization or ensure corresponding national norms, it would require fundamental amendments of domestic legislation.

No general legislative reform concerning a (corresponding) status of third-country nationals who are long-term residents or similar schemes seems to be contemplated by the Danish government presently.

Danish immigration policy vis-à-vis third country nationals has since the so-called “immigration freeze” at the beginning of the 1970ies and until recently been characterized by increasing restrictiveness. Aliens that do not belong to groups that have a particular favourite status based on either human rights considerations (i.e. asylum or family reunification) or regional considerations (i.e. Nordic and EU/EEA and Swiss citizens) will only be permitted entry and stay beyond three months (as a tourist) if fulfilling certain specified, mainly professional or labour-related requirements.

As a general rule, it is a requirement that either *studies*¹¹ in Denmark or *substantial professional or labour-related considerations* warrant such a permit¹², for example, if there is no one in Denmark who can undertake a specific function. Foreign nationals hired within industries where there is a lack of specially qualified professionals have easier access to residence and work permits in accordance with the so-called *job card scheme* according to which special rules apply for certain industries currently experiencing a shortage of specially qualified professionals. The industries and professions lacking specially qualified

¹¹ Section 9c(1) of the Aliens Consolidation Act (Consolidation Act No. 1044 of 6 August 2007) cf. section 28-30 of the Executive Order on Aliens’ access to Denmark - Aliens Order (Regulation No. 810 of 20 June 2007)

¹² Section 9a of the Aliens Consolidation Act

professionals can be found on a so-called *Positive List*. Furthermore, foreign *researchers*¹³, *members of the clergy or missionaries*¹⁴ and *trainees*¹⁵ may, in certain circumstances, be eligible for a residence and work permit in Denmark. Furthermore, residence and work permit for the purpose of *self-employment* can be issued under certain circumstances and only if there are particular Danish business interests related to the establishment of the business in Denmark.¹⁶

Generally, *applications* for residence and work permits will have to be submitted at a Danish representation abroad together with a copy of an already obtained employment contract, an employment offer or the like.

Residence and work permits are normally granted for a maximum of one year at a time, with a possibility for extension. However, a permit is never granted for longer than the period specified in the applicant's employment contract. Researchers, teachers, administrators in managerial positions and specialists are eligible for residence permits for a maximum of 3 years, with a possibility of extension for a maximum of 4 years at a time.¹⁷ Trainees are eligible for residence and work permits of up to one year at a time with an option to extend, albeit no longer than the contract period. The total contract period for trainees may not exceed 24 months.¹⁸

Family members, even though they fulfil the conditions referred to in Article 4(1) of Directive 2003/86/EC, are not automatically authorised to join or accompany or to join the third country national who has obtained a residence permit for work or study, but further conditions have to met.¹⁹

A *permanent residence permit* may normally be issued to a student pursuing a post-secondary educational programme, an independent entrepreneur or a paid employee if:

- He or she has resided in Denmark without interruption for the past 7 years and the following *additional requirements* are met:
- The residence permit has, throughout this period, been issued on the same basis;
- The person in question has not been sentenced to a custodial sentence of at least 2 years' imprisonment /or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this duration) for violation of certain specified criminal offences;
- The person in question has not within the last three to fifteen years, been sentenced in Denmark to imprisonment or suspended imprisonment (or other criminal sanction involving or allowing deprivation of liberty in respect of an offence that would have resulted in a punishment of this nature) for other - less serious – crimes.²⁰
- Unless “particular reasons make it inappropriate”, it is furthermore a condition for the issue of a permanent residence permit that the alien: -(i) has completed an introduction programme offered to him pursuant to the Danish Integration Act or, if this is not the case, has completed another comparable course; - (ii) has completed certain activities laid down pursuant to the

¹³ Section 9a of the Aliens Act

¹⁴ Section 9f of the Aliens Act

¹⁵ Section 9c of the Aliens Act

¹⁶ Section 9a of the Aliens Act

¹⁷ Section 23(4) of the Aliens Order

¹⁸ Section 28 of the Aliens Order

¹⁹ Section 9c(1) of the Aliens Act.

²⁰ If “particular reasons make it appropriate” permanent residence permit may be issued despite violation of this requirement

Act on Active Employment Measures; - (iii) has passed a test in the Danish language and; - (iv) has held ordinary full-time employment for two years and six months; - (v) has no overdue debt to public authorities.²¹

The requirement of having lived lawfully in Denmark for seven years in order to be granted permanent residence permit may be modified to *five years* of lawful living if the alien has had permanent ties with the labour market as an employee or self-employed in Denmark for the last 3 years prior to the issue of the permanent residence permit and must be assumed to continue to have such ties; - has not, for the last 3 years prior to the issue of the permanent residence permit, received any assistance under the Act on an Active Social Policy or the Integration Act other than assistance in the form of isolated benefits of a minor amount not directly related to support, or benefits that are comparable with a wage or salary or pension or replace such payment; - and has obtained essential ties with the Danish society.²² If “exceptional reasons” make it appropriate, a permanent residence permit may furthermore be issued to an alien who has lived lawfully in Denmark for more than the last 3 years and has been issued with a residence permit throughout this period on the same basis.²³ Finally, if “essential considerations conclusively” make it appropriate to grant the application, a permanent residence permit may be issued immediately upon application.²⁴

There is within national legislation - be it laws, regulations, circulars or internal administrative guidelines - no reference to third-country nationals, who have acquired long-term resident status in another member state. There is thus nothing that would suggest preferential treatment of this group with regard to obtaining residence permit in Denmark.

It should be noted that the Danish *translation* of the title of the Directive is not fully appreciative of the purpose and contents of the Directive and does also not seem to equal other translations. For the term “long-term” is merely used the Danish term “fastboende” which equals “resident” in terms of “settled”, rather than suggesting a time frame and duration of the preceding stay.

²¹ Section 11(3) cf. (7)-(9) of the Aliens Act

²² Section 11(4) cf. (7)-(9) of the Aliens Act

²³ Section 11(f) cf. (7)-(9) of the Aliens Act

²⁴ Section 11(6) cf. (7)-(9) of the Aliens Act