

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION
OF THE DIRECTIVE:**

CARRIERS LIABILITY OF 28 JUNE 2001

IN DENMARK¹

by

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FIRST PART

1. NORMS OF TRANSPOSITION AND JURISPRUDENCE

Q.1.A. Identify the MAIN (because of its content) norm(s) of transposition 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

¹ Denmark has a *special arrangement* as regards EU legislation under TEC Title IV according to the Protocol (5) on the Position of Denmark, annexed to the TEU and the TEC pursuant to the Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Related Acts (Official Journal C 340, 10 November 1997). Articles 1 to 3 of the Protocol on the Position of Denmark exempts Denmark from participating in the adoption of or being bound by the measures pursuant to Title IV of the TEC. According to Article 4 of the Protocol the exemptions in Articles 1,2 and 3 shall not apply to measures determining the third countries whose national must be in possession of a visa when crossing the external borders of the Member States, or measures relating to a uniform format for visas.

Article 5 of the Protocol provides a special procedure as regards the development of the *Schengen acquis* (opt-in) which indirectly binds Denmark to enter into intergovernmental agreements notwithstanding the Danish reservation against First Pillar cooperation, cf. the Edinburgh Decision of December 1992 (Official Journal C 021, 25 January 1993) and Protocol (2) integrating the Schengen acquis into the framework of the European Union, annexed to the TEU and the TEC pursuant to the Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Related Acts (Official Journal C 340, 10 November 1997).

Directive 2001/51/EC of 28 June 2001 (Official Journal L 187, 10 July 2001) was considered to be a development of the *Schengen acquis*.

implementation of laws and regulations and adopted in principle by the administrative authorities

The Danish government considered the existing national legislation as compatible with the Directive. Therefore no amendments were made upon the adoption of the Directive.²

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Lov om ændring af udlændingeloven (Act on amendment of the Aliens Act)
DATE: 17 October 1986
NUMBER: 686
DATE OF ENTRY INTO FORCE: 1 of January 1989. The act authorizes the Ministry of Justice to determine this date, cf. section 3 (2), see Executive Order No. 788 of 14 December 1988, below.
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 59a was inserted in the Aliens Act by this amending act before the adoption of the Directive, cf. the amending act section 1 (11), and is the provision which is considered to be compatible with the Directive in association with Aliens Act section 61, and section 43 (3) and (4) (section 43 (3) was section 43 (2) until Act No. 425 of 31 May 2000, see below). Also, section 43 (2) was amended, cf. the amending act section 1 (7).
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 18 October 1986.
LEGAL NATURE (indicate a cross in the correct box): <input checked="" type="checkbox"/> LEGISLATIVE: <input type="checkbox"/> REGULATION: <input type="checkbox"/> CIRCULAR or INSTRUCTIONS:

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Bekendtgørelse nr. 788 om ikrafttræden af §59a i udlændingeloven (Executive Order No. 788 on entry into force of section 59a in the Aliens Act).
DATE: 14 December 1988
NUMBER: 788
DATE OF ENTRY INTO FORCE: 24 December 1988
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 59a
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:

² According to Note from the Ministry of Refugee, Immigration and Integration for the Danish Parliament's European Committee, Denmark informed the Council by letter of 31 October 2001 that Denmark decided to transpose Directive 2001/51 according to Article 5 of the Protocol on the Position of Denmark, annexed to the TEU and the TEC pursuant to the Treaty of Amsterdam Amending the Treaty on European Union, the Treaties Establishing the European Communities and Related Acts (Official Journal C 340, 10 November 1997). The Council was informed that the transposal did not require any changes in national legislation, and moreover *that the provisions in the Directive apply from the date of the drafting of the communication* (i.e. 31 October 2001) and are binding on an intergovernmental level, cf. Note for the Parliament's European Committee on the response to the opening communication from the Commission on the lack of implementation of 10 Directives in national legislation (Comm. No. SG(2003)D/220108 of 7 March 2003).

<p>Lovtidende A, 23 December 1988.</p> <p style="text-align: center;">LEGAL NATURE (indicate a cross in the correct box):</p> <p><input type="checkbox"/> LEGISLATIVE:</p> <p><input checked="" type="checkbox"/> REGULATION:</p> <p><input type="checkbox"/> CIRCULAR or INSTRUCTIONS:</p>

<p>This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted</p> <p>TITLE: Lov om ændring af udlændingeloven (Schengenkonventionen m.v.) (Act on amendment of the Aliens Act (Schengen Convention etc.)).</p> <p>DATE: 10 June 1997</p> <p>NUMBER: 410</p> <p>DATE OF ENTRY INTO FORCE: 25 March 2001 as regards section 59a and the other Schengen related provisions, see below on Executive Order of entry into force of Act No. 410 of 10 June 1997 on Amendment of the Aliens Act (Schengen Convention etc.). The remaining provisions of the act entered into force on 12 June 1997.</p> <p>PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 59a and 43 (2) and other Schengen related provisions were amended due to the simultaneous implementation of the Schengen Convention by the act, by insertion of subsection (2) in section 59a, cf. the amending act section 1 (33), and by the insertion of subsection 5 in section 43; both subsections making the sanctions non applicable on entry from a Schengen country. In addition section 43 (2) was amended to encompass <i>return</i> (before the provision only encompassed <i>leave</i>) and by making the carrier's obligation to see that the alien <i>immediately</i> leaves or return, cf. the amending act section 1 (25) and (24), respectively.</p> <p>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 11 June 1997.</p> <p style="text-align: center;">LEGAL NATURE (indicate a cross in the correct box):</p> <p><input checked="" type="checkbox"/> LEGISLATIVE:</p> <p><input type="checkbox"/> REGULATION:</p> <p><input type="checkbox"/> CIRCULAR or INSTRUCTIONS:</p>
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<p>This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted</p> <p>TITLE: Bekendtgørelse om ikrafttræden af lov nr. 410 af 10. juni 1997 om ændring af udlændingeloven (Schengenkonventionen m.v.) (Executive Order of entry into force of Act No. 410 of 10 June 1997 on Amendment of the Aliens Act (Schengen Convention etc.)).</p> <p>DATE: 13 March 2001</p> <p>NUMBER: 170</p> <p>DATE OF ENTRY INTO FORCE: 18 March 2001</p> <p>PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 59a and the Schengen related provisions in Act No. 410 of 10 June 1997 on Amendment of the Aliens Act (Schengen Convention etc.), cf. the Executive Order section 1.</p> <p>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 17 March 2001.</p> <p style="text-align: center;">LEGAL NATURE (indicate a cross in the correct box):</p>

<input type="checkbox"/> LEGISLATIVE:
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<input type="checkbox"/> CIRCULAR or INSTRUCTIONS:

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Lov om ændring af udlændingeloven (Act on amendment of the Aliens Act).
DATE: 10 June 1997
NUMBER: 407
DATE OF ENTRY INTO FORCE: 12 June 1997
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 61 was amended, cf. the amending act section 1 (17), to bring the provision in accordance with the amendment of the Criminal Code by Act No. 474 of 12 June 1996 on criminal liability for legal persons.
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 11 June 1997.
LEGAL NATURE (indicate a cross in the correct box):
<input checked="" type="checkbox"/> LEGISLATIVE:
<input type="checkbox"/> REGULATION:
<input type="checkbox"/> CIRCULAR or INSTRUCTIONS:

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Lov om ændring af udlændingeloven og lov om midlertidig opholdstilladelse til visse personer fra det tidligere Jugoslavien m.v. (Act on amendment of the Aliens Act and Act on temporary residence permit for certain persons from the former Yugoslavia etc.).
DATE: 17 March 1999
NUMBER: 140
DATE OF ENTRY INTO FORCE: 1 April 1999
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 43 (2) was extended to encompass aliens transferred or retransferred by Aliens Act Part Va (Dublin-Convention), cf. the amending act section 1 (11).
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 18 March 1999.
LEGAL NATURE (indicate a cross in the correct box):
<input checked="" type="checkbox"/> LEGISLATIVE:
<input type="checkbox"/> REGULATION:
<input type="checkbox"/> CIRCULAR or INSTRUCTIONS:

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Lov om ændring af udlændingeloven og lov om midlertidig opholdstilladelse til visse personer fra det tidligere Jugoslavien m.v. (Act on amendment of the Aliens Act and Act on temporary residence permit for certain persons from the former Yugoslavia etc.).

DATE: 31 May 2000
NUMBER: 425
DATE OF ENTRY INTO FORCE: 3 June 2000 as regards the relevant provisions.
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 43 (2) became section 43 (3) and the provision was amended editorially, cf. the amending act section 1 (42). Section 59a (2) was included with the same wording as by Act No. 410 of 10 June 1997, see above and cf. the amending act section 2 (34). The Act amended the Aliens Act as a consequence of the practical Schengen co-operation.
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 2 June 2000.
LEGAL NATURE (indicate a cross in the correct box): <input checked="" type="checkbox"/> LEGISLATIVE: <input type="checkbox"/> REGULATION: <input type="checkbox"/> CIRCULAR or INSTRUCTIONS:

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Lov om ændring af udlændingeloven og lov om ægteskabs indgåelse og opløsning (Act on amendment of the Aliens Act and Act on Marriages Making and Break-up).
DATE: 19 April 2006
NUMBER: 301
DATE OF ENTRY INTO FORCE: 1 May 2006 as regards the relevant provisions.
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Section 59a was extended by this act to encompass liability for bringing an alien to Denmark who upon <i>transit</i> in a Danish airport is not in possession of the requisite travel document or visa, cf. the amending act section 1 (54) (before the amendment the act only encompassed <i>entry</i>). The Draft Bill (No. L94 of 30 November 2005) refers to the Joint Action adopted by the Council on the basis of Article K.3 of The Treaty on European Union on airport transit arrangements, 96/197/JHA of 4 March 1996 and the rules on airport transit visas. The Act also extended the authorisation in section 38 (4) to the Minister of Refugee, Integration and Immigration to lay down more detailed rules on the checking of entry and departure, on the stay in Denmark of foreign crew members, on signing on and discharge in Denmark of foreign crew members, and on the duties of the ship masters and aircraft captains in the Aliens Order, to encompass rules on the polices access to airline booking systems to facilitate and enhance the efficiency of the entry control, cf. the amending act section 29. The rules on the police access to booking systems have not yet been laid down. The act also transposed European Parliament and Council Regulation (EC) No. 562/2006 of 15 March 2006, Schengen Borders Code, Directive 2003/110/EC of 25 November 2003 and Directive 2004/38/EC of 29 April 2004.
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 20 April 2006.

LEGAL NATURE (indicate a cross in the correct box):
<input checked="" type="checkbox"/> LEGISLATIVE:
<input type="checkbox"/> REGULATION:
<input type="checkbox"/> CIRCULAR or INSTRUCTIONS:

This table is about: <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
TITLE: Aliens Act, Consolidation Act.
DATE: 6 August 2007
NUMBER: 1044
DATE OF ENTRY INTO FORCE: 1 October 1983
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): This is the most recent Consolidation Act. The relevant provisions amended by the acts mentioned in the tables above are section 43 (3) and section 59a and cf. section 61.
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 7 September 2007.
LEGAL NATURE (indicate a cross in the correct box):
<input checked="" type="checkbox"/> LEGISLATIVE:
<input type="checkbox"/> REGULATION:
<input type="checkbox"/> CIRCULAR or INSTRUCTIONS:

Q.1.B.

List the others norms of transposition 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)

TITLE: Meddelelse om udlændingelovens §59a (Notice on Aliens Act section 59a).
DATE: 17 January 1989
NUMBER: 11035
DATE OF ENTRY INTO FORCE: 17 January 1989
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): The notice deals with the conditions for liability in section 59a, cf. section 61, and the level of fines.
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Meddelelser fra Rigsadvokaten (Notices from the Attorney General), Medd. nr. 2/1989.
LEGAL NATURE (indicate a cross in the right box):
<input type="checkbox"/> LEGISLATIVE
<input type="checkbox"/> REGULATION
<input checked="" type="checkbox"/> CIRCULAR OR INSTRUCTIONS

TITLE: Meddelelse om behandlingen af straffesager efter udlændingelovens §59a om transportørers pligt til ikke at medtage passagerer uden
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rejselegitimation og visum til Danmark (Notice on the processing of criminal cases according to Aliens Act section 59a on carriers obligation to not bring passengers to Denmark without travel document or visa).
DATE: 4 February 1998
NUMBER: 11065
DATE OF ENTRY INTO FORCE: 4 February 1998
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): The notice deals with the confidentiality of information given upon an application for asylum and the necessity of operating with two separate police reports; one in the asylum case and one in the criminal case. The notice prescribes separation between the information given in the police report on the criminal case under section 59a and the police report on the application for asylum. In exceptional asylum cases a withdrawal of charge against the carrier according to section 59a will be relevant if the asylum seeker would be exposed to risk of persecution due to the criminal case.
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Meddelelser fra Rigsadvokaten (Notices from the Attorney General), Medd. nr. 3/98.
LEGAL NATURE (indicate a cross in the right box):
<input type="checkbox"/> LEGISLATIVE
<input type="checkbox"/> REGULATION
<input checked="" type="checkbox"/> CIRCULAR OR INSTRUCTIONS

TITLE: Cirkulæreskrivelse om politiets og Udlændingesservices behandling af sager om blindpassagerer (til politidirektørerne og Udlændingesservice) (Circular on the police's and Danish Immigration Service's processing of cases on stowaways).
DATE: 21 March 2007
NUMBER: 19
DATE OF ENTRY INTO FORCE: 22 March 2007
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): Aliens Act section 43 (3) and Aliens Order section 11 on the shipmaster's obligations and entry control, and the provisions in Aliens Act on refusal of entry, cf. section 28, and cf. section 48 on appeal, and application for asylum, cf. section 48a and appeal, cf. section 48d. The Circular is issued with the legal basis in Aliens Act section 38 (4), section 29 (9) and section 30 (2).
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Ministerialtidende, 22 March 2007.
LEGAL NATURE (indicate a cross in the right box):
<input type="checkbox"/> LEGISLATIVE
<input type="checkbox"/> REGULATION
<input checked="" type="checkbox"/> CIRCULAR OR INSTRUCTIONS

TITLE: Bekendtgørelse om udlændinges adgang her til landet (udlændingebekendtgørelsen) (Executive Order on Alien's Access to Denmark)
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(Aliens Order).
DATE: 22 January 2007
NUMBER: 63
DATE OF ENTRY INTO FORCE: 1 February 2007
PROVISIONS CONCERNED (for example if the norm is not devoted only to the transposition of the concerned directive): The executive order deals with the general and formal conditions and circumstances for entry, entry control, travel documents, visa, residence and working permits, etc.
REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL: Lovtidende A, 30 January 2007
LEGAL NATURE (indicate a cross in the right box): <input type="checkbox"/> LEGISLATIVE <input checked="" type="checkbox"/> REGULATION <input type="checkbox"/> 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.

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.

COMPETENCE CONCERNED:	Decisions under Aliens Act section 43 (3) <i>on the responsibility of the aircraft captain and shipmaster</i> and the person having disposal of an aircraft or a ship and their local representatives that has brought an alien to Denmark who is refused entry, transferred or retransferred under the rules laid down in Aliens Act Part V or Va, <i>to see that the alien immediately leaves Denmark or returns without expenses to the State and to refund of the State's expenses</i> for such crew members as have deserted or been left behind and of stowaways. The decision may be made by the National Commissioner of Police, the Chief Constable concerned or by the Chief Commissioner, cf. Aliens Act section 48.
CENTRAL MINISTRY OF:	Justice (organisational jurisdiction)/Refugee, Integration and Immigration Affairs (functional jurisdiction).
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	The decision made by the National Commissioner of Police, the Chief Constable concerned or by the Chief Commissioner may be <i>appealed</i> to the Minister of Refugee, Integration and Immigration Affairs; the appeal does not suspend enforcement of such decision, cf. Aliens Act section 48. The Minister of Refugee, Integration and Immigration Affairs issues the Aliens Order - with the legal basis in Aliens Act - on

	the general and formal conditions and circumstances for entry, entry control, travel documents, visa, residence and working permits, etc., see above on the Executive Order.
OTHER LEVEL OF ADMINISTRATION:	The Danish National Police Force is responsible for the control of alien's entry and stay. The Ministry of Foreign Affairs assists the police, the county government offices, the Danish Immigration Service, the Refugee Board and the Minister of Refugee, Immigration and Integration Affairs to procure more detailed information for the purpose of examination of cases or groups of cases, cf. Aliens Act section 46b.
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

COMPETENCE CONCERNED:	<i>Public prosecution</i> or fine notice by the prosecuting authority; the Attorney General, the public prosecutors and the chief police constable under Aliens Act <i>section 59a on carrier sanctions</i> for bringing an alien who upon entry or transit in a Danish airport is not in possession of the requisite travel document or visa, cf. section 39 on the alien's obligation to hold the requisite travel documents, and cf. section 61 on criminal liability for legal persons, cf. Consolidation Act No. 1001 of 5 October 2006 on the Administration of Justice and cf. Criminal Code, Consolidation Act No. 1000 of 5 October 2006.
CENTRAL MINISTRY OF:	Justice
DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:	The Attorney General issues guidelines for the processing of the cases.
OTHER LEVEL OF ADMINISTRATION:	The Danish National Police Force is responsible for the control of alien's entry and stay.
IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)	

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

YES

NO

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

If NO, please indicate the missing text(s) in the table below

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. INDIVIDUAL PROVISIONS OF THE DIRECTIVE

The Danish government considered the existing national legislation as compatible with the Directive. Therefore no amendments were made upon the adoption of the Directive.

For the purpose of an overview, the relevant provisions in the Aliens Act are:³

- Aliens Act *section 59a on carrier sanctions* for bringing an alien who upon entry or transit in a Danish airport is not in possession of the requisite travel document or visa, cf. section 39 on the alien's obligation to hold the requisite travel documents, and cf. section 61 on criminal liability for legal persons.

With regard to criminal liability for *persons*, Aliens Act section 59a is only applicable when the general rules on responsibility in Criminal Code section 19 on intent and negligence is fulfilled.⁴ With regard to criminal liability for *legal persons*, Aliens Act section 61 means that fines may be imposed on companies on an objective basis under Aliens Act section 59a. The Supreme Court has interpreted the criminal liability for legal persons as being similar to the general responsibility for legal persons on an objective basis. This means that companies are not punishable by a fine in cases where they *could not or should not* have avoided the violation of section 59a.⁵ The carrier should in general only be prosecuted in cases of repeatedly offences.⁶

- Aliens Act *section 43 (3) on the responsibility of the aircraft captain and shipmaster* and the person having disposal of an aircraft or a ship and their local representatives that has brought an alien to Denmark who is refused entry, transferred or retransferred under the rules laid

³ Consolidation Act No. 1044 of 6 August 2007.

⁴ Consolidation Act. No 1000 of 5 October 2006.

⁵ Draft Bill No. L 4 of 7 October 1986 specific remarks section 1 (11) and Torben Melchior in U1992B.37. For more on the practice see below Third part Q.11.

⁶ Draft Bill No. L 4 of 7 October 1986, general remarks 4a and specific remarks section 1 (11).

down in Aliens Act Part V or Va, *to see that the alien immediately leaves Denmark or returns without expenses to the State and to refund of the State's expenses* for such crew members as have deserted or been left behind and of stowaways.⁷

- Aliens Act section 43 (4) *on the obligation for any person who assisted an alien in unlawfully entering or staying - or employed the alien - in Denmark to refund the expenses incurred by the State in connection with the alien's stay and departure.*

Aliens Act section 43 (3) and (4) and section 59a do not apply on entry from a Schengen country, cf. section 43 (6) and 59a (2), respectively.

Q.5. Necessary steps to ensure that the obligation of carriers to return third country nationals (Art. 26 (1)(a) of the Schengen Convention) applies when entry is refused to a third country national in transit (see Art. 2, which is a mandatory provision)

Q.5.A. Has the existing legislation providing for a carrier obligation to return been amended? (Please keep in mind that this question is about explicit changes, not about a mere change in the interpretation of already existing legislation. The term "Legislation" includes regulations in connexion with this question)

Yes

No

Q.5.B. If yes, please specify

Aliens Act section 43 (3) *on the responsibility of the aircraft captain and shipmaster and the person having disposal of an aircraft or a ship and their local representatives that has brought an alien to Denmark who is refused entry, transferred or retransferred under the rules laid down in Aliens Act Part V or Va, to see that the alien immediately leaves Denmark or returns without expenses to the State.* They shall further refund the State its expenses incidental to the stay, the return to ship or aircraft, or the return to their countries of origin of such crew members as have deserted or been left behind and of stowaways. This provision has not been amended with regard to the issue, as transit was already encompassed by the provision.

However, by Act No. 301 of 19 April 2006 Aliens Act section 59a on *carrier sanctions* was extended to encompass liability for bringing an alien to Denmark who upon *transit* in a Danish airport is not in possession of the requisite airport travel document or visa, cf. section 39.⁸

⁷ As regards the obligation in Article 26 (1) (a) to establish rules on *inland transport* to the border of a country not part of the Schengen Convention, this has no practical relevans for Denmark, since Denmark do not have borders to countries outside of the Schengen co-operation, cf. also Draft Bill No. L 222 of 10 April 1997, specific remarks section 1, 24.

⁸ Cf. the amending act section 54.

The explanatory notes to the travaux préparatoires of this provision refers to Joint Action adopted by the council 96/197/JHA of 4 March 1996 on Airport transit arrangements and states that the amendment means that carriers will be liable to a fine when carrying citizens without an airport transit visa from countries where an airport transit visa is required, unless the alien is encompassed by one of the groups of persons which are exempt from the requirement of airport transit visa.⁹

The Minister of Refugee, Immigration and Integration Affairs publishes a yearly notification on passport and visa related conditions in 'Statstidende',¹⁰ which in point V contains a listing of the countries from which an airport transit visa is required.

Q.5.C. Have administrative practices been changed?

There is no information available on the practice.¹¹

Yes

No

Q.5.D. If yes, please specify

Q.6. Necessary measures to oblige carriers which are unable to effect the return of a third country national whose entry is refused to find means of onward transportation and to bear the costs thereof or assume responsibility for the costs (see Art. 3, which is a mandatory provision)

Q.6.A. Have legislative provisions stipulating the obligations or responsibilities of carriers been adopted?

Yes

No

Q.6.B. If yes, please specify

These provisions were adopted before the adoption of the Directive, see above.

Aliens Act section 43 (3) *on the responsibility of the aircraft captain and shipmaster* and the person having disposal of an aircraft or a ship and their local representatives that has brought an alien to Denmark who is refused entry, transferred or retransferred under the rules laid down in Aliens Act Part V or Va, *to see that the alien immediately leaves Denmark or returns without expenses to the State. They shall further refund the State its expenses incidental to the stay, the return to ship or aircraft, or the return to their countries of*

⁹ Draft Bill No. L 94 of 30 November 2005, specific remarks section 1, 54.

¹⁰ Official website www.statstidende.dk.

¹¹ Information has been obtained from the Ministry of Refugee, Immigration and Integration Affairs and the Attorney General. The information received does not constitute sufficient basis for replying in a detailed manner to the question.

origin of such crew members as have deserted or been left behind and of stowaways.¹²

According to the explanatory notes to the travaux préparatoires of this provision, the obligation of the carrier to see that the alien immediately leaves or return in practice means, that the carrier as a starting point has to carry the alien in question himself with the same aircraft or ship, which the alien was transported to Denmark by. If this is not practically possible, the leave or return has to be effected by the carrier's first available aircraft or ship, to the extent possible.¹³

Aliens Act section 43 (3) in fine authorizes the Minister of Refugee, Immigration and Integration Affairs to lay down more detailed provisions on *the size of the refund of expenses for such crew members or stowaways*.¹⁴ According to Circular on the police's and Danish Immigration Service's processing of cases on stowaways point 3¹⁵ the shipmaster etc. is in practice obligated to cover the expenses for the stowaway's home transportation, which means expenses for airline ticket and procuring of travel documents. Thus, the shipmaster etc. is not obligated to cover other expenses, such as expenses for the alien's stay in Denmark or accompanying police.¹⁶

According to Aliens Act section 43 (4) *any person who assisted an alien in unlawfully entering or staying - or employed the alien - in Denmark, shall refund the expenses incurred by the State in connection with the alien's stay and departure.*

According to Aliens Act section 43 (5) claims under subsection (3) and (4) may be enforced by statutory debt collection.

Q.6.C. Have administrative measures of control and enforcement of the carrier obligations under Art. 2 and 3 been taken? If so, please specify and describe control and supervision measures and enforcement sanctions unless described under Q. 10.

Aliens Order section 10 and 11, cf. section 9, contains the rules on *the obligations of the captains* of aircrafts arriving from or departing to a country which has not acceded to the Schengen Convention, *the shipmasters' obligations*, and the entry control upon entry or departure to a country which has not acceded to the Schengen Convention, respectively.

¹² The provisions was phrased by Act No. 686 of 17 October 1986 and amended by Act No 410 of 10 June 1997 and Act No. 140 of 17 March 1999.

By Act No. 410 of 10 June 1997 the carrier's responsibility was extended to encompass *return*, whereas the former provision only encompassed *leave*. In addition, the responsibility to see that the alien leaves or is returned was amended to take place *immediately*.

¹³ Draft Bill No. L 222 of 10 April 1997, specific remarks section 1, 24.

¹⁴ This provision was inserted by Act No. 33 of 18 January 1995 to assure that Denmark can fulfill the obligations following from the Bruxelles-Convention of 10 October 1957 on stowaways.

¹⁵ No. 19 of 21 March 2007 issued by the Ministry of Refugee, Integration and Immigration Affairs.

¹⁶ See more below Q.6.C on the Circular.

Aliens Order section 56 and 57 contains the *penalty provisions*. For the purpose of an overview, the penalty provisions are mentioned in connection with the obligations they concern.¹⁷

Aliens Order section 10 and 11 are enforced in connection with the general entry control by the police.

- The *shipmaster's* etc. obligations, cf. Aliens Order section 11, cf. Aliens Act section 43 (3), and Circular on the police's and Danish Immigration Service's processing of cases on stowaways:¹⁸
 - o Shipmasters shall ensure that *foreign crew member and foreign passengers remain onboard until an entry check* can be carried out and that *the ship does not sail until a departure check* of these persons has been carried out, cf. Aliens Order section 11 (1) (i) and (ii).

A person who violates section 11 (1) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
 - o Foreign crew members may have right to shore leave as long as the ship remains there, but not for more than three months. The police may prohibit certain crew members from leaving the ship, cf. Aliens Order section 11 (2).

Persons who violate these provisions are liable to a *fine*, cf. Aliens Order section 56 (1).
 - o The shipmaster shall *notify the police* of the *presence of stowaways* onboard and when a *foreign crew member* is to be discharged or signed on in Denmark or when a foreign crew member has jumped ship or failed to appear onboard, cf. Aliens Order section 11 (3).

A person who violates section 11 (3) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
 - o The shipmaster shall *strive to determine the identity of the stowaway*, such as the stowaway's nationality/citizenship and in which harbour the stowaway has embarked the ship.¹⁹
 - o The shipmaster shall *surrender a copy of the passenger list and crew list* at the request of the police, cf. Aliens Order section 11 (3) in fine.

A person who violates section 11 (3) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
 - o Shipping companies or shipbrokers of passenger ferries that operate a *regular passenger service between Denmark and a country which has not acceded to the Schengen Convention* require a *disembarkation permit* to be issued by the Minister of Refugee, Immigration and Integration Affairs. Shipmasters of passenger ferries shall observe the provisions laid down in the disembarkation permit on the reporting of crew members and passengers as well as other conditions in connection with entry and departure checks. This apply correspondingly to shipping companies or shipbrokers

¹⁷ Executive Order No. 63 of 22 January 2007.

¹⁸ Circular No. 19 of 21 March 2007 issued by the Ministry of Refugee, Integration and Immigration Affairs point 1.1.

¹⁹ Ibid.

and shipmasters of cargo vessels capable of carrying up to twelve passengers and maintaining a regular service between Denmark and a country which has not acceded to the Schengen Convention, cf. Aliens Order section 11 (4).

A person who violates section 11 (4) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).

- Shipping companies or shipbrokers of *cruise ships carrying passengers* require a *disembarkation permit* to be issued by the Minister of Refugee, Immigration and Integration Affairs. The shipping companies or shipbrokers shall observe the provisions laid down in the disembarkation permit on the reporting of crew members and passengers as well as other conditions in connection with entry and departure checks, cf. Aliens Order section 11 (5).

A person who violates section 11 (5) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).

- Shipmasters of *cargo vessels other than those capable of carrying up to twelve passengers and maintaining a regular service between Denmark and a country which has not acceded to the Schengen Convention*, shall send a *list of the crew members and any passengers of the ship to the police*, as further provided for by the National Commissioner of Police, as far as possible 24 hours before calling at a Danish port approved as a border crossing point and otherwise promptly after the expected calling at such Danish port has been determined and information on crew members and any passengers at the time of calling at the port is available, for the purpose of planning the entry checks, cf. Aliens Order section 11 (8). This apply correspondingly to *masters of fishing vessels that do not daily or every few days call at a Danish port approved as a border crossing point after having sailed out from a port in Denmark or another Schengen country*, cf. Aliens Order section 11 (6). A person who violates section 11 (6) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
- Shipmasters of *pleasure craft* calling at a Danish port from a country *which has not acceded to the Schengen Convention* shall prepare a *list of the crew members and any passengers of the craft*, cf. Aliens Order section 11 (8). The list must be surrendered to the harbour master upon call for passing on to the police, as further provided for by the National Commissioner of Police, for the purpose of planning the entry check, cf. Aliens Order section 11 (7). A person who violates section 11 (7) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
- The *lists of crew members and any passengers of the a ship* mentioned above in Aliens Order section 11 (6) and (7) must provide information on the *names* (surnames and firstnames), *dates of birth* (date, month, year) and *nationalities*.

The information must be provided on the forms issued by the International Maritime Organisation (IMO) for crew members and passengers (FAL forms nos. 5 and 6) or otherwise as laid down by the National Commissioner of Police, including by electronic transmission, if relevant, cf. Aliens Order section 11 (8).

- The obligations of the *captains of aircrafts* arriving from or departing to a country which has not acceded to the Schengen Convention, cf. Aliens Order section 10, cf. Aliens Act section 43 (3):
 - o Captains of aircrafts shall ensure that *foreign crew members and any foreign passenger remain onboard* until an *entry check*, cf. Aliens Order section 10 (2) – (4), can be carried out, cf. Aliens Order section 10 (1) (ii).
A person who violates section 10 (1) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
 - o Captains of aircrafts shall ensure that the *aircraft does not depart until a departure check of foreign crew members and any foreign passengers*, cf. Aliens Order section 10 (2) – (4), has been carried out, cf. Aliens Order section 10 (1) (ii).
A person who violates section 10 (1) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
 - o Airline companies of *aircraft which carry passengers on scheduled flights to airports with no permanent police service* require a *disembarkation permit* to be issued by the Minister of Refugee, Immigration and Integration Affairs. Aircraft captains shall observe the provisions laid down in the disembarkation permit on reporting of crew members and passengers as well as other conditions in connection with entry and departure check, cf. Aliens Order section 10 (2). A person who violates section 10 (2) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
 - o Captains of *aircraft that arrive in or depart from an airport on unscheduled flights* shall *notify the airport of the time of arrival or departure before arrival or departure* and of the *number of crew members and passengers*, so that the airport can pass on the information to the police for the purpose of planning the entry and departure check, cf. Aliens Order section 11 (3).
A person who violates section 10 (3) is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).
 - o At the request of the police, aircraft captains shall *surrender a copy of the passenger list and the crew list*. The police may further order aircraft captains to *send a list of crew members and passengers to the police before the arrival of the aircraft* as further provided for by the National Commissioner of Police. The list must provide information on *names* (surnames, firstnames), *dates of birth* (date, month, year), *nationalities and travel documents* (including type and number of passport or other travel document). In addition, the police may order aircraft captains *before the arrival* of the aircraft, to provide information on the *place of the passengers' original boarding*, on the *border crossing point in Denmark*, on the *identification code of the aircraft* and on *departure and arrival times of the aircraft*. The information must be provided on a form drafted by the National Commissioner of Police or otherwise as laid down by the National Commissioner of Police, including by electronic transmission, if relevant, cf. Aliens Order section 10 (4).
A person who violates section 10 (4), first sentence on the request

of the police, or section 10 (4), second sentence on the order of the police, is liable to a *fine or imprisonment for up to four months*, cf. Aliens Order section 56 (2).

By Act No 301 of 19 April 2006 the authorisation in Aliens Act section 38 (4) to the Minister of Refugee, Integration and Immigration to lay down more detailed rules on the checking of entry and departure, on the stay in Denmark of foreign crew members, on signing on and discharge in Denmark of foreign crew members, and on the duties of the ship masters and aircraft captains in the Aliens Order, was extended to encompass rules *on the polices access to airline booking systems with regard to control of illegal entry*. The extension of the authorization was based on a recommendation from the National Danish Police in 2004 to facilitate and enhance the efficiency of the entry control.²⁰ The rules on the police access to booking systems have not yet been laid down.

The *penalty provisions* are in Aliens Order section 56 and 57 and are mentioned above in context with the obligations they concern.

- A person who violates section 11 (2), first sentence and a person who violates orders issued under section 11 (2) second sentence, is liable to a fine, cf. Aliens Order section 56 (1).
- A person who violates section 10 (1) – (3), section 10 (4), first sentence, section 11 (1) and (3) – (7) and orders issued under section 10 (4), second sentence, is liable to a fine or imprisonment for up to four months, cf. Aliens Order section 56 (2).
- Criminal liability may be imposed on legal persons under the rules of Part V of the Criminal Code, cf. Aliens Order section 57.

Q.7. Penalties

Q.7.A. Have maximum or minimum penalties applicable to carriers under Art. 26(2) and (3) of the Schengen Convention been introduced in legislation? (*see Art. 4, which provides for minimum amounts to be foreseen, but gives the Member States the freedom to adopt even stricter provisions*)

Yes (*please provide exact amounts below*)

- Maximum Amount (in Euro for each person carried):

No maximum amount is given, see below.

- Minimum Amount (in Euro for each person carried):

According to the explanatory notes to the travaux préparatoires of Aliens Act section 59a, the minimum

²⁰ Cf. Draft Bill No. L 94 of 30 November 2005, general remarks 8 and specific remarks section 1, 29.

amount per person is set as 8-10.000 DKR.²¹ According to the Notice from the Attorney General on Aliens Act section 59a, the minimum amount for the fine pleads should be 10.000 DKR per person.²²

The exchange rate given in EU official Journal for 10 of August 2001 was 7, 4422, cf. article 4 (1) (a) of the Directive, which means the Danish fines are minimum 1.075-1.344 Euro.

There is one judgment published in the Danish Weekly Legal Magazine ('Ugeskrift for retsvæsen'): U1991.700H, where the level of fines per person was 8.000 DKR; which is 1.075 Euro.²³

There is no further information available on the practice.²⁴ However, by letter of 12 July the Attorney General informed that the level of fines as a starting point is 8.000 DKR per alien on the background of the judgment of 1991 from the supreme court. The Attorney General further informed that the Attorney General currently is considering if there is a basis for regulating the level of fines in the light of the financial development since 1991.

- Maximum Amount if penalty is imposed as a lump sum irrespective of the number of persons carried (in Euro):

It seems to be assumed that penalties may only be imposed on the basis of the number of persons carried, see above.

In case the amounts are provided in another currency than Euro, please calculate the equivalent on the basis of the exchange rate table in annex²⁵ if applicable. If the table does not contain information on your national currency, please calculate the equivalent in Euro on the basis of the recent exchange rate and provide the amount in your national currency in addition.

No

Q.7.B. How is the provision of Art. 4(2) (“without prejudice to Member States’ obligations”) interpreted in your country?

NB: The wording of Art. 4 (2) is ambiguous and may therefore lead to different interpretations. This problem may be more or less virulent and the different language versions of the directive. Art. 4 (2) may be

²¹ Draft Bill No. L 4 of 7 October 1986, general remarks 4 and specific remarks section 1 (11).

²² No. 11035 of 17 January 1989.

²³ See below Third part Q.14 on the judgment.

²⁴ Information has been obtained from the Ministry of Refugee, Immigration and Integration Affairs and the Attorney General. The information received does not constitute sufficient basis for replying in a detailed manner to the questions.

²⁵ Rate of Exchange published in the Official Journal on 10 August 2001.

interpreted as indicating that if a Member State is obliged not to refuse entry to persons seeking international protection, financial sanctions must not be imposed upon carriers who have transported these refugees, but it may as well be interpreted to the contrary way as indicating that carrier obligations apply regardless of an asylum seeker's entitlement to a temporary residence right during the asylum procedure or regardless of recognition as an asylum seeker. Please make clear which interpretation is applied in your Member State or if the provision is interpreted even differently.

The English version of the provision is:

"Article 4 (2). Paragraph 1 is without prejudice to Member States' obligations in cases where a third country national seeks international protection."

The Danish version of the provision is:

"Stk 1 berører ikke medlemsstaternes forpligtelser i tilfælde, hvor tredjelandstatsborgere søger international beskyttelse."

The Danish translation implies that the interpretation applied in Denmark is one where Paragraph 1 may not interfere with the obligations in situations where third country nationals are seeking international protection.

It is not clear, however, whether financial sanctions are imposed on carriers who have transported refugees.

In the explanatory notes to the travaux préparatoires of Aliens Act section 59a, it is stated that Aliens Act section 59a was adopted with the purpose of creating the legal basis for penalizing carriers for carrying aliens not in possession of the required travel identification and visa on an objective basis, cf. Aliens Act section 61.

The explanatory notes states that the obligation for carriers not to carry aliens without visa etc. already follows from the international rules on air transport.²⁶ The explanatory notes further state that the penalty clause makes an obligation already existing - with regards to air transport - punishable.

However, it is stated that section 59a should not be applied in all cases where an alien has entered Denmark without the requisite documents. The provision should not be applied in isolated cases where an asylum-seeker enters directly from his home country or from another country where he is subject to persecution encompassed by the Convention Relating to the Status of Refugees. The carrier should in general only be prosecuted in cases of repeatedly offences.²⁷

In the Notice on the processing of criminal cases according to Aliens Act section 59a on carrier's obligation to not bring passengers to Denmark without travel document or visa from the Attorney General, it is stated that the information given in the police report on the criminal case under section 59a against the carrier, and the police report on the alien's application for asylum

²⁶ Reference is made to the Chicago-Convention of 7 December 1944.

²⁷ Draft Bill No. L 4 of 7 October 1986, general remarks 4a.

should be kept separated. The notice prescribes confidentiality of information given upon an application for asylum and the necessity of operating with two separate police reports; one in the asylum case and one in the criminal case. In exceptional asylum cases a withdrawal of charge against the carrier under section 59a will be relevant, if the asylum seeker would be exposed to risk of persecution due to the criminal case.²⁸

It is therefore not clear how the relationship between the criminal case against the carrier and the legal status of the alien (refugee) is. Information has been obtained from the Ministry of Refugee, Immigration and Integration Affairs and the Attorney General. The information received does not constitute sufficient basis for replying in a detailed manner to these questions.

Q.8. Have other measures like immobilisation, seizure and confiscation been adopted or retained in your country? *(see Art. 5, which is an optional provision and gives the Member States the freedom to adopt additional provisions with regard to sanctions)*

Yes

No

Q.9. Does your Member State apply a policy according to which carriers will not be subject to sanctions if they can prove that they have complied with “best practices”, a “memorandum of understanding between the transport industry and the administration”, “handbooks of due diligence” or other codes of conduct? *(This possibility is not explicitly foreseen in the directive but is a big issue in the discussions about the system of carriers liability)*

No information available.²⁹

Yes

No

If yes, please specify!

Q.10. Measures of Defence and Appeal *(see Art. 6, which is a mandatory provision. Please pay attention to the fact that Art. 6 requires “effective rights of defence and appeal” and make clear if any practical problems hinder the effectiveness of system of appeal in your Member State)*

²⁸ No. 11065 of 4 February 1998.

²⁹ Information has been obtained from the Ministry of Refugee, Immigration and Integration Affairs and the Attorney General. The information received does not constitute sufficient basis for replying in a detailed manner to these questions.

Q.10.A. If proceedings are brought against carriers with a view to imposing penalties, are carriers entitled to the following defence or appeal measures (Art. 6)?

Administrative appeal rights

Judicial appeal rights

Q.10.B. Measures of defence and/or appeal have...

suspensive effect with regard to administrative appeal

suspensive effect with regard to judicial appeal

no suspensive effect

Q.10.C. If there is no suspensive effect, how is effectiveness of defence and appeal ensured?

THIRD PART

The Danish government considered the existing national legislation as compatible with the Directive. Therefore no amendments were made upon the adoption of the Directive. See above second part for a description of the Danish legislation in the area.

3. IMPACT OF THE DIRECTIVE ON NATIONAL LAW

Q.11. **Did the transposition of the Directive make the rules related to carrier obligations to return third country nationals become from the point of view of carriers concerned more favourable or less favourable regarding the evolution of internal law (for example because of abolition or introduction of more favourable provisions, more restrictive conditions or amendments)? Make also a comparison with the standard of the Directive in the last column of the table below.**

OBLIGATIONS OF CARRIERS TO RETURN THIRD COUNTRY NATIONALS WHEN ENTRY IS REFUSED TO A THIRD COUNTRY NATIONAL IN TRANSIT		EVALUATION REGARDING THE EVOLUTION OF INTERNAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Explain the situation before transposition	Explain the situation after transposition	<ul style="list-style-type: none"> • <i>Status quo</i> 	<ul style="list-style-type: none"> • <i>In line with the Directive</i>
See above second part.	See above second part.		

Q.12. **From your point of view, did the transposition of the directive imply other interesting changes for the carriers concerned regarding other elements**

than the ones mentioned in the previous question. Make also a comparison with the standard of the directive in the last column of the table below

The Danish government considered the existing national legislation as compatible with the Directive. Therefore no amendments were made upon the adoption of the Directive.

Q.13.A. Mention if there is a **general tendency to just copy the provisions of the directive into national legislation without redrafting or adaptation them to national circumstances.**

NO

YES

Q.13.B. **If yes, please indicate if this general tendency may or may not create problems (for example difficulties of implementation, risk that a provision remain unapplied).**

NO

YES

Q.13.C. **If yes, give some of examples:**

Q.13.D. **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

Q.14. **Quote *interesting* decisions of jurisprudence related to the directive, its transposition or implementation (so this question concerns in principle decisions later than the directive, but previous 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.**

	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION OF SUPREME COURTS	26 of June 1991	U1991.700H	Seven airlines companies were charged with violation of Aliens Act section 59a, cf. section 61, for several situations of carrying aliens to Denmark, regardless of the fact that the aliens upon entry in Denmark was not in possession of the requisite travel identification and visa. The Supreme Court did not find that it appeared from the wording or the travaux préparatoires to the strict corporate liability in section 61, cf. section 59a, with the necessary clearness that carriers are punishable by a fine in cases where they <i>could not or should</i>

			<p><i>not</i> have avoided the violation of section 59a.</p> <p>Hence, the airline companies were not sentenced with fines in all the situations where the aliens upon entry in Denmark were not in possession of the requisite travel identification and visa. In the situations where the airline companies <i>could not or should not</i> have revealed the fake identification and visa presented by the aliens as fake, the airline companies were acquitted.</p> <p>The airline companies were sentenced fines in situations where the airline companies <i>should and could</i> have discovered that the identification, passport and visa were fake. In these situations the fine was set as 8.000 DKR per alien.</p>
DECISION OF APPEAL COURTS	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>
DECISION(S) IN FIRST RESORT	<u>DATE:</u>	<u>REFERENCE OF PUBLICATIONS:</u>	<u>SUMMARY OF CONTENT:</u>

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

Q.15. Specify if there are or not problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.

There are no problems with the translation of the directive

There are some problems with the translation of (indicate the number of the articles concerned) of the directive.

Explain the difficulties that this could create:

4. ANY OTHER INTERESTING ELEMENT

Q.16. Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State

Q.17. Please add here any other interesting element in your Member State which you did not had the occasion to mention in your previous answers