

Directive 2004/38/EC on the right of citizens of the Union and their family members
to move and reside freely within the territory of the Member-States

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Country:	DENMARK	

Introduction to transposition context:

Transposition of Dir. 2004/38/EC into Danish law has been done through the Executive Order No. 300 of 29 April 2008 on Residence in Denmark for Aliens falling within the Rules of the European Union (the EU Residence Order), Act No. 808 of 6 June, 2007 (Aliens Act, codified version), Executive Order no. 810 of 20 June, 2007 on Aliens' Access to Denmark (Aliens Order), Executive Order no. 904 on the Issue of Residence and Work permits for students and Executive Order no 1003 of 06/10/2006 (Passport Order), Act. no 1460 of 12 December 2007 on Active Social Policy (consolidated version). The deadline laid down in the Directive was 30 April 2006. The Danish transposing Act entered into force on 30 April 2006, by which the Order No 1255 of 28 November 2005 on the residence in Denmark of aliens who are covered by the European Union rules or the EEA Agreement (the EU/EEA Order) no longer applied to EU citizens.

List of transposing legislation:

- BEK nr. 300 af 29/04/2008 om ophold i Danmark for udlændinge, der er omfattet af Den Europæiske Unions regler (EU-opholdsbekendtgørelsen)/ the Executive Order No. 300 of 29. April 20068 on Residence in Denmark for Aliens falling within the Rules of the European Union (the EU Residence Order)
- LBK nr. 808 af 08/07/2008 Bekendtgørelse af Udlændingeloven (Lovbekendtgørelse af Udlændingeloven)/ Aliens Act LBK Nr. 808 of 08/07/2008 codified version
- LBK nr. 1460 af 12/12/2007 Bekendtgørelse af lov om aktiv socialpolitik (Lovbekendtgørelse af Lov om Aktiv Socialpolitik)/ Act. no 1460 of 12 December 2007 on Active Social Policy (consolidated version)
- LBK nr. 1365 af 07/12/2007 Bekendtgørelse af Forvaltningsloven/ Executive Order nr. 1365 of 07/12/2007 on Administrative Procedure Act
- BEK nr. 810 af 20/06/2007 Bekendtgørelse om Udlændinges adgang her til landet (Udlændingebekendtgørelsen)/ Executive Order no. 810 of 20 June, 2007 on Aliens' Access to Denmark (Aliens Order) (latest amendments up to BEK nr. 635 of 24/06/2008 are included)
- BEK nr. 904 af 04/07/2007 Bekendtgørelse om meddelelse af opholds- og arbejdstilladelse til studerende/ Executive Order no. 904 on the Issue of Residence and Work permits for students
- BEK nr. 1003 of 06/10/2006 (Passport Order), cf. LBK nr 586 af 01/09/1986 med senere ændringer (Passport Act)/ Executive Order no 1003 of 06/10/2006 (Passport Order)

Information on the migration related issues is obtainable at the web site www.nyidanmark.dk

Abbreviations:

BEK: Executive Order

LBK: Act, codified version

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Analysed legislation in conformity? (click as appropriate)

YES
or/and Stricter

NO
Incomplete or/and Incorrect

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Chapter I. GENERAL PROVISIONS						
Art. 2.1	Definitions For the purposes of this Directive: 1) "Union citizen" means any person having the nationality of a Member State;	Art. 1 of LBK nr. 300	§1 Ved hovedperson forstås i denne bekendtgørelse en EU-statsborger, der her i landet har en selvstændig opholdsret efter EU-reglerne. Stk. 2. En EØS-statsborger og en schweizisk statsborger sidestilles i denne bekendtgørelse med en EU-statsborger	Section 1 For the purpose of this Order, a principal person means an EU national who has an independent right of residence in Denmark under the EU rules. EEA nationals as well as nationals of Switzerland are treated in this Order as equal to EU nationals.	Y	Effective transposition. 'Union citizen' is transposed as 'principal person', which covers EU nationals with the qualification that they have an independent right of residence in Denmark under EU rules. Further, the Danish law treats EEA nationals as well as nationals of Switzerland as equal to EU nationals. The European Economic Area (EEA) includes the 27 EU Members States and the EFTA member states Norway, Iceland and Liechtenstein.
Art. 2.2 (a)	2) "Family member" means: (a) the spouse;	Art 2(1)(i) of LBK nr. 300	§2 Ved familiemedlem forstås i denne bekendtgørelse 1) en hovedpersons ægtefælle,	Section 1 For the purposes of this Order, a family member means: (i) a principal person's spouse	Y	Effective transposition.
Art. 2.2 (b)	(b) the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host Member State;	Art 2(2) of LBK nr. 300	§2(2) Stk. 2. Med ægtefælle sidestilles en registreret partner.	Section 2 para. 2 A registered partner is treated as the equivalent of a spouse.	Y	Effective transposition. Under the national law, registered partnerships are treated as equivalent to marriage in accordance with Articles 1 and 3 of the Executive Order No. 938 of 10 October 2005. Therefore in all provisions of the Directive where there is a reference to partner, the DK transposition uses the term "spouse" as equivalent and covering "registered partnerships".
Art. 2.2 (c)	(c) the direct descendants who are under the age of 21 or are dependants and those of the spouse or partner as defined in point (b);	Art 2(1) of LBK nr. 300	§2 2) en hovedpersons efterkommere, der er under 21 år, og en hovedpersons ægtefælles efterkommere, der er under 21 år,	Section 2 a principal person's descendants under 21 years of age and the descendants under 21 years of age of a principal person's spouse	Y, More favourable	Effective transposition for: - direct descendants under 21; - dependants; - those of the spouse or partner.

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		Art 2(1) of LBK nr. 300	3) en hovedpersons efterkommere i øvrigt, som forsørges af hovedpersonen, og en hovedpersons ægtefælles efterkommere i øvrigt, som forsørges af hovedpersonen,	Section 2 a principal person's other dependent descendants and any other descendants of the principal person's spouse who are dependent on the principal person;		The national law is more favourable in that it is not limited to 'direct' descendants. Partners are not mentioned directly because the legislation states that they are treated as equivalent to spouse.
Art. 2.2 (d)	(d) the dependent direct relatives in the ascending line and those of the spouse or partner as defined in point (b);	Art 2 (1)(iv) of LBK nr. 300	§2 4) personer, der er beslægtet i opstigende linje enten med en hovedperson eller med hovedpersonens ægtefælle, når de forsørges af hovedpersonen,	Section 2 relatives in the ascending line of either a principal person or the principal person's spouse if they are dependent on the principal person	Y, More favourable	Effective transposition. Again, the 'direct' requirement is not transposed which would make the national law more favourable. The national law also fails to refer to the partner – explained by the fact that a registered partner is treated as the equivalent of a spouse.
Art. 2.3	3) "Host Member State" means the Member State to which a Union citizen moves in order to exercise his/her right of free movement and residence.		-	-	Y	Effective transposition. Danish transposing legislation uses "Denmark" within the meaning of this definition.
Art. 3.1	Beneficiaries This Directive shall apply to all Union citizens who move to or reside in a Member State other than that of which they are a national, and to their family members as defined in point 2 of Article 2 who accompany or join them.	Executive Order No. 300, §§ 5,8 Executive Order No. 300, §§ 5,10	§ 8. Familiemedlemmer til en af § 3, stk. 1, 1. pkt., jf. dog 2. pkt., omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS-land eller Schweiz. 10. Familiemedlemmer til en af § 5 omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de	8.(1) Family members of an EU citizen covered by the first sentence of Section 3(1) shall, without prejudice to the second sentence, have the right to reside in Denmark beyond the periods of three or six months they may reside under Section 2(1) and (2) of the Aliens Act when they are accompanying or joining the person concerned and already have a permanent, lawful residence in an EU/EEA Member State or Switzerland. 10.(1) Family members of an EU citizen covered by Section 5 shall have the right to reside in Denmark beyond	N, Incorrect	Incorrect transposition The transposing legislation does not include any specific statement equivalent to that in Art 3.1 that the Order shall apply to EU citizens who move to or reside in a MS other than that of which they are a national. Article 2 of Executive Order No.808 prescribes that EU/EEA nationals have the right to enter and the right to reside up to three months, or in the case of job-seeker, up to six months from the date of entrance. N.B.: EU citizens are citizens of Austria, Belgium, Bulgaria, Cyprus (applies to the Greek-

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		Executive Order No. 300, §§ 5,11	pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS-land elelr Schweiz.	the period of three or six months they may reside in Denmark under Section 2(1) and (2) of the Aliens Act when they accompany or join the person concerned and already have permanent lawful residence in an EU/EEA state or Switzerland.		Cypriot area only), the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, the Netherlands, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom. EEA citizens are citizens of Iceland, Liechtenstein and Norway. Citizens of Switzerland fall under the same rules as EEA citizens. ¹
		Executive Order No. 300, §§ 2, 13	§ 11. Familiemedlemmer til en af § 6 omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS-land elelr Schweiz.	11.(1) Family members of an EU citizen covered by Section 6 shall have the right to reside in Denmark beyond the period of three or six months they may reside in Denmark under Section 2(1) and (2) of the Aliens Act when they accompany or join the person concerned and already have permanent lawful residence in an EU/EEA state or Switzerland		One of the problems is that Denmark has a complicated set of rules represented in parallel systems. Thus, it is rather confusing that the terms <i>alien</i> , <i>EU national</i> , <i>EEA national</i> and <i>Schengen state</i> are used in various provisions. Indeed, this creates confusion for an EU national in terms of interpretation of the existing rules. Furthermore, in Denmark, there are two parallel systems for "old member states" and "new member states". The rules were recently amended, however. In principle, the only difference between the two regimes is access to the labour market thus not affecting the conformity as such. However, the issue needs to be highlighted.
			§ 2. Ved familiemedlem forstås i [...]	Art. 13 Family members to Danish citizens. To the extend that it follows from the EU law, family members to Danish citizens have the right to stay here in the country for a period longer than 3 or 6 months [...]		The responsible authorities are: - New member states:
			§13 Familiemedlemmer till danske statsborgere. I det omfang det følger af EG-retten, har familiemedlemmer til en dansk statsborgere ret til ophold her i landet udover de tidsrum på 3 eller 6 måneder, [...]			

¹ The official homepage of The Ministry of Refugee, Immigration and Integration Affairs http://www.nyidanmark.dk/en-us/coming_to_dk/eu_and_nordic_citizens/eu_eea_citizens.htm, visited 03042008
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						<p>Statforvaltning - Old member states: Inderigsministeriet Within Statforvaltning, there are departments that deal with questions concerning work, study and residence rules accordingly.</p> <p><u>Regarding Surinder Singh jurisprudence:</u> the right of family members of Danish citizens is stated in section 13 of Order No. 300. After <i>Surinder Singh</i> was decided, the Danish Foreign Service decided to change administrative practice. In the decision of March 2007 to grant residence permits, the circumstances were as follows:</p> <p>The Danish resident had stayed in another EU-country, where he/she had worked. The applicant who is a third-country national had stayed legally in the same EU-country due to his/her marriage with the Danish citizen. The Danish resident could document that he/she had work when he/she would return to Denmark. As the Danish resident had used his/her right to free movement and the applicant had stayed legally in the EU-country with the Danish resident, the requirements for obtaining a residence permit by the rules of the EU-court had been met.</p> <p>Regarding Metock case law: the Danish transposition imposes</p>

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						<p>previous lawful residence in another Member State. This is clearly in contradiction with the decision of the ECJ in <i>Metock</i>. For this reason, the transposition is considered incorrect. It shall be noted in that respect that after <i>Metock</i>, the Danish administrative practice has recently been changed to be in line with the EU jurisprudence. New Article (Art. 13) in EU Residence Ordinance (No. 300) has recently been introduced explicitly stating that family members of Danish citizens shall have the right of residence for the period of more than 3 or 6 months.</p> <p>The new Article 13 applies specifically (and exclusively) to family members of <i>Danish citizens</i>, It opens up a new opportunity - that of the right of residence for the period of more than 3 or 6 months on the grounds of family ties to a Danish citizen. Previously, the Danish Aliens legislation did not recognize Danish citizens as EU citizens in this context. Therefore, it was considered necessary to introduce a specific rule applicable to Danish nationals. The strict rules of paragraphs 5, 8, 10 and 11 of the EU Residence Ordinance No. 300 apply to family members to non-Danish EU nationals.</p>
Art. 3.2 (a)	Without prejudice to any right to free movement and residence the persons concerned may have in their own right, the host Member State shall, in	Executive Order No. 300 §2	§2 5) en hovedperson og andre familiemedlemmer, hvis de i det land, de ankommer fra,	Section 2. For the purposes of this Order “family member” means: 5) a principal person’s other	Y, More favourable	Effective transposition Denmark has included these beneficiaries within the definition

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	accordance with its national legislation, facilitate entry and residence for the following persons: (a) any other family members, irrespective of their nationality, not falling under the definition in point 2 of Article 2 who, in the country from which they have come, are dependants or members of the household of the Union citizen having the primary right of residence, or where serious health grounds strictly require the personal care of the family member by the Union citizen;		forsørges af hovedpersonen eller er optaget i dennes husstand, eller 6) en hovedpersons andre familiemedlemmer, hvis alvorlige helbredsmæssige grunde gør det absolut nødvendigt, at hovedpersonen personligt plejer de pågældende.	family members if in their country of origin they are dependants of the principal person or form part of the household, or 6) a principal person's other family members, where serious health grounds strictly require the personal care of the family member by the principal person.		of family member. This meets the Directive's requirement to facilitate entry and residence for the persons concerned since the Danish law facilitates entry and residence by giving them the same rights as family members. N.B.: by "country of origin" is meant the country from which the family members have come. The confusion has been created by an inadequate translation.
Art. 3.2 (b)	(b) the partner with whom the Union citizen has a durable relationship, duly attested.	Executive Order No. 300 § 16	§ 16. Bestemmelserne i denne bekendtgørelse om ægtefæller finder tilsvarende anvendelse i tilfælde, hvor en person over 18 år samlever på fælles bopæl i fast samlivsforhold af længere varighed med en hovedperson over 18 år. Stk. 2. Opholdsret for en samlever er betinget af, at hovedpersonen påtager sig at forsørge ansøgeren.	Section 16(1) The provisions of this Order concerning spouses shall apply <i>mutatis mutandis</i> to cases in which a person over the age of 18 lives at a joint place of residence in stable, long-term cohabitation with an EU citizen over the age of 18. (2) The right of residence of a person who cohabits shall be conditional on the EU citizen undertaking to maintain the applicant	N, Incorrect	Incorrect transposition The Directive only requires a durable relationship, duly attested. However, Section 16 of Order No. 300 sets forth further conditions for a partner of an EU citizen to benefit from the Directive. First, the national provision requires living at a joint place in stable, long-term cohabitation. The question is whether this is equivalent to the Directive's "durable relationship, duly attested". Several facts indicate that the Danish provision is stricter than that of the Directive. First, the national provision clearly requires <i>living at a joint place</i> not recognising other forms of relationship (such as relationship on distance) as durable. On the other hand, it would be incorrect to draw the conclusion that the Directive does recognise a distant relationship solely on the basis of a <i>contrario</i>

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						<p>reasoning in this case. Second, it requires a <i>stable</i> long-term relationship, which is rather difficult to prove in practice, giving authorities quite a margin of discretion in appraisal. Lastly, the residence is conditional on the EU citizen's undertaking to maintain the applicant. In practice, this means that the family member to an EU national who otherwise fulfils the conditions to fall under the scope of Article 3(2) of the EU Residence Directive may be denied the right of residence on the basis that the main person is not able to maintain the applicant. This may be considered against Article 24(1) of the Directive, especially since in this case, the DK provision treats durable relations as core family members. Note that only partners who cohabit are covered (not other types of durable relationships). Accordingly, the national transposing measure is more stringent than required by the Directive in this part.</p> <p>Regarding facilitation, the national legislation also facilitates entry and residence for cohabitants by treating them as family members, which is in line with the provision of the Directive. The national transposing measure is more favourable in this part.</p> <p>In accordance with the reasoning above, it is concluded that the</p>

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						Danish transposing measure is both incorrect with regard to the definition of durable relationship and more favourable with regard to facilitation.
	The host Member State shall undertake an extensive examination of the personal circumstances and shall justify any denial of entry or residence to these people.	Executive Order No. 300, § 37	§ 37. <i>Stk. 5.</i> Et afslag skal begrundes, medmindre hensynet til statens sikkerhed er til hinder herfor.	Section 37(5) A decision of refusal shall state the reasons on which it is based unless this would be contrary to considerations of national security.	Y	Effective transposition. The Directive requires the MS to extensively examine the personal circumstances. With regard to facilitation, this part has not been transposed by Denmark. In terms of giving the right as a family member, there is however no discretion for authorities: a family member obtains the right as soon as he or she meets the conditions. As the provision covers the last mentioned situation and Denmark considers these members of the extended family as family members in the meaning of Article 2, it is concluded that Denmark has effectively transposed the objective.
Chapter II. Right of exit and entry						
Art. 4.1	Right of Exit Without prejudice to the provisions on travel documents applicable to national border controls, all Union citizens with a valid identity card or passport and their family members who are not nationals of a Member State and who hold a valid passport shall have the right to leave the territory of a Member State to travel to another Member State.	LBK no. 808 § 39	§ 39. En udlænding skal ved indrejse, under ophold her i landet og ved udrejse herfra være i besiddelse af pas eller andet dokument, der efter ministeren for flygtninge, indvandrere og integrationsbestemmelse kan godkendes som rejselegitimation. <i>Stk. 2.</i> Ministeren for flygtninge, indvandrere og integration kan fastsætte regler om, i hvilket omfang passet eller rejselegitimationen skal være påtegnet visum til	Section 39. Upon entering, stay and /or departure to/from Denmark, an alien must be in the possession of a passport or other document, which can be approved by the Minister of Refugee, Immigration and Integration Affairs as a valid travel document. 2. The Minister of Refugee, Immigration and Integration Affairs can provide regulation on the extent to which a passport or the travel document must be attested	N, Incorrect	Incorrect transposition The Danish transposing legislation does not explicitly state a right of exit, it mentions only the right of entry and right of residence in LBK no. 808 § 39. However, as LBK no. 808 § 39 (2) states that entry and departure checks must not be carried out at the border of a Schengen country, except for exceptional cases according to Art. 2(2) of the Schengen Convention, this is considered to be in line with the

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			<p>indrejse i eller udrejse af landet. Ministeren for flygtninge, indvandrere og integration kan endvidere fastsætte nærmere regler om visum, herunder om adgangen hertil, om visummets varighed og om de betingelser, der kan fastsættes for visummet.</p> <p><i>Stk. 3.</i> Passet eller rejselegitimationen skal ved ind- og udrejse forevises for paskontrollen og under ophold her i landet på begæring forevises for offentlige myndigheder. Ved indrejse fra eller udrejse til et Schengenland skal passet eller rejselegitimationen ikke forevises for paskontrollen, medmindre der undtagelsesvis sker kontrol ved en sådan grænse i medfør af Schengengrænsekodeksens artikel 23, jf. § 38, stk. 2. Ministeren for flygtninge, indvandrere og integration kan bestemme, at udlændinge til stadighed skal medføre deres pas eller anden legitimation under ophold her i landet.</p> <p><i>Stk. 4.</i> Bestemmelserne i stk. 1-3 gælder ikke for statsborgere i et andet nordisk land, der opholder sig her i landet, eller som indrejser fra eller udrejser til et andet nordisk land. Ministeren for flygtninge, indvandrere og integration kan fritage andre udlændinge for pligterne efter</p>	<p>with a visa for entry or departure of Denmark. Furthermore, the Minister of Refugee, Immigration and Integration Affairs can provide regulation on visa including regulation on access to visa, regulation on the duration of the visa and the requirements, which can be established for the visa.</p> <p>3. The passport or the travel document must be produced to the passport officials at the time of entry or departure and during the stay upon request from the public authorities. The passport or travel document need not be produced to the passport officials at the time of entry or departure to/from a Schengen country, unless exceptional checks at the border is being carried out pursuant to the Schengen Agreement, article 23, cf. Article 38, para. 2. The Minister of Refugee, Immigration and Integration Affairs may decide that aliens must carry their passport or other identification constantly during the stay in Denmark.</p> <p>4. The clauses stated in para. 1-3 do not apply to citizens from other Scandinavian countries, who stays in Denmark or enters or departs to/from another Scandinavian country. The Minister of Refugee, Immigration and</p>		<p>Directive's requirement. The Directive is however broader regarding third country nationals.</p>

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			<p>stk. 1 og 3. <i>Stk. 5.</i> Ministeren for flygtninge, indvandrere og integration fastsætter regler om udstedelse af særlig rejselegitimation til udlændinge, der ikke kan skaffe sig pas, eller som af andre grunde har behov for et sådant dokument. Et barn under 15 år med selvstændigt pas eller selvstændig særlig rejselegitimation kan af den eller dem, der har forældremyndigheden, efter samme regler, som gælder om pas til danske statsborgere, kræves slettet i andre personers særlige rejselegitimation. Særlig rejselegitimation til udlændinge kan inddrages efter samme regler, som gælder om pas til danske statsborgere, eller når grundlaget for udstedelsen er bortfaldet.</p>	<p>Integration Affairs can exempt other aliens from the duties pursuant to para. 1 and 3. 5. The Minister of Refugee, Immigration and Integration Affairs provides regulation on the issuing of special travel documents for aliens, who are not able to obtain a passport, or for other reasons need such a document. Children under the age of fifteen with a separate passport or separate travel document can on the injunction of their legal guardian(s) in accordance with the regulations applicable to Danish citizens require that their names be removed from another persons special travel document. Special travel documents for aliens can be revoked pursuant to the passport regulations applicable to Danish citizens or once the reason for said document is repealed.</p>		
Art. 4.2	No exit visa or equivalent formality may be imposed on the persons to whom paragraph 1 applies.	LBK no. 808, §39 <i>Stk. 3.</i>	<p>§39 <i>Stk. 3.</i> Passet eller rejselegitimationen skal ved ind- og udrejse forevises for paskontrollen og under ophold her i landet på begæring forevises for offentlige myndigheder. Ved indrejse fra eller udrejse til et Schengenland skal passet eller rejselegitimationen ikke forevises for paskontrollen,</p>	<p>Section 39 3. The passport or the travel document must be produced to the passport officials at the time of entry or departure and during the stay upon request from the public authorities. The passport or travel document need not be produced to the passport officials at the time of entry or</p>	Y	<p>Effective transposition. The transposing legislation only states that a passport or a travel document need not be shown at the entry or exit point on the border with a Schengen state. As no formalities are prescribed by the Danish law, it is concluded <i>a contrario</i> that Denmark has effectively transposed the</p>

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			<p>medmindre der undtagelsesvis sker kontrol ved en sådan grænse i medfør af Schengengrænsekodeksens artikel 23, jf. § 38, stk. 2. Ministeren for flygtninge, indvandrere og integration kan bestemme, at udlændinge til stadighed skal medføre deres pas eller anden legitimation under ophold her i landet.</p>	<p>departure to/from a Schengen country, unless exceptional checks at the border is being carried out pursuant to the Schengen Agreement, article 23, cf. Article 38, para. 2. The Minister of Refugee, Immigration and Integration Affairs may decide that aliens must carry their passport or other identification constantly during the stay in Denmark.</p>		<p>objective.</p> <p>N.B.: In Denmark, there is no legislation imposing an exit visa.</p>
Art. 4.3	<p>Member States shall, acting in accordance with their laws, issue to their own nationals, and renew, an identity card or passport stating their nationality.</p>	<p>LBK 586 of 01.09.1986 Executive Order no 1003 of 06/10/2006 (Passport Order) § 4</p>	<p>§ 1 Ved kongelig anordning kan det bestemmes, hvorvidt danske statsborgere ved ankomst til eller udrejse fra landet skal være forsynet med pas eller anden rejselegitimation</p> <p>§4 Udstedelse af pas § 4. Kommunalbestyrelserne udsteder pas til danske statsborgere, som opholder sig her i landet, og forlænger gyldigheden for pas. Rigspoliti­chefen kan fastsætte retningslinjer vedrørende ekspeditions­mæssige forhold i forbindelse med kommunalbestyrelsernes sagsbehandling.</p> <p>Stk. 2. Til danske statsborgere, der opholder sig i udlandet, kan pas udstedes, og gyldighedstiden for pas forlænges af danske diplomatiske og konsulære repræsentationer. Nærmere regler herom fastsættes af udenrigsministeren.</p> <p>Stk. 3. Til danske</p>	<p>Section 4 The municipalities issue, and extend the validity of, passports to Danish citizens resident in the county. The Commissioner of Police decides the guidelines for the municipality's handling and expedition of passports</p> <p>2 For Danish citizens living abroad a passport may be issued and/or extended by Danish diplomatic representatives or consulates. The rules governing this are set by the Ministry of Foreign Affairs.</p> <p>3 Danish citizens travelling abroad can, with the approval of the Head of the Danish National Police Force, obtain an European emergency passport (ETD) from the Danish Embassy/ Consulate or other Danish diplomatic representation.</p> <p>4. A Danish citizen who previously held the nationality of another country can obtain a passport. The persons</p>	Y	<p>Effective transposition.</p> <p>According to the Danish legislation, the main rule is that a Danish national must have a passport in order to exit and entry Denmark. Municipal Councils are under obligation to issue and prolong passports to Danish nationals. The passport indicates nationality.</p> <p>An identity card may be issued upon application. Health insurance card is often used as an identity card in Denmark. However, there is no such obligation to have an identity card, and accordingly no sanction.</p>

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			<p>statsborgere, der opholder sig i udlandet, kan der endvidere efter tilladelse i hvert enkelt tilfælde fra Rigspolitichefen udstedes EU-nødpas (ETD) af udenlandske diplomatiske eller konsulære repræsentationer.</p> <p>Stk. 4. En dansk statsborger, der tillige er statsborger i et andet land, kan få udstedt pas. Den pågældendes udenlandske pas inddrages eller annulleres ikke i den anledning.</p>	<p>foreign passport is not withdrawn or cancelled in this instance.</p>		
Art.4.4	<p>The passport shall be valid at least for all Member States and for countries through which the holder must pass when travelling between Member States. Where the law of a Member State does not provide for identity cards to be issued, the period of validity of any passport on being issued or renewed shall be not less than five years.</p>	<p>Executive Order no 1003 of 06/10/2006 (Passport Order) § 26</p> <p>Executive Order no 1003 of 06/10/2006 (Passport Order) § 30-32</p>	<p>Kapitel 6 <i>Gyldighedstid og betaling m.v.</i></p> <p>§ 26. For personer, som er fyldt 18 år, udstedes pas med en gyldighedstid på 10 år fra udstedelsesdatoen, jf. dog stk. 4 samt § 29, stk. 2.</p> <p>Stk. 2. Er pasansøgeren mellem 2 og 18 år, udstedes passet med en gyldighedstid på 5 år fra udstedelsesdatoen, jf. dog stk. 4 samt § 29, stk. 2.</p> <p>Stk. 3. For børn under 2 år udstedes pas med en gyldighedstid, der under normale omstændigheder ikke overstiger 2 år fra udstedelsesdatoen, jf. dog stk. 4 samt § 29, stk. 2.</p> <p>Stk. 4. Når særlige omstændigheder taler for det, kan der fastsættes en kortere gyldighedstid end anført i stk. 1-3.</p> <p>§ 30. Efter ansøgning kan der udstedes et provisorisk pas, når det ikke vil være muligt at</p>	<p>Section 26. For persons who are 18 years of age, a passport, valid for a period of 10 years may be issued, in accordance with sect. 26(4) and 29(2).</p> <p>2. If the applicant is between the ages of 2 to 18, the passport is issued for a period of five years from date of issue, in accordance with sect. 26(4) and 29(2).</p> <p>3. For children under the age of 2 a passport may be issued for a period of not more than two years from date of issue, in accordance with sect. 26(4) and 29(2).</p> <p>4. In special circumstances a shorter period may be stipulated than the validity periods given in 26(1-3)</p> <p>Section 30. On application, a provisional passport may be issued in cases where it is not</p>	Y	<p>Effective transposition.</p> <p>Denmark has reserved the right for its nationals to have Danish passports.</p> <p>In general a passport is valid in DK for a period of 10 years. There are however some exceptions.</p> <p>According to Art. 26(3) issuance of passport for children under 2 years, the passport validity is not more than 2 years. Art. 26(4) provides for a possibility of exempting from the provisions in Art 26(1)-(3) and thus introducing a shorter validity period. However, these exceptions should be considered in line with the Directive since they are reasonable and due to specific circumstances generally admitted under international law.</p> <p>Furthermore, in case a provisional passport is issued according to Art. 30, this would as a main rule</p>

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			<p>udstede et nyt pas eller forlænge gyldighedstiden for et eksisterende pas.</p> <p><i>Stk. 2.</i> Et provisorisk pas udfærdiges på en særlig blanket og gives kun for det tidsrum, som er påkrævet af hensyn til rejsens varighed, og ikke ud over et år. Det provisoriske pas skal afleveres efter benyttelsen.</p> <p><i>Stk. 3.</i> Et provisorisk pas udstedes efter reglerne i §§ 6-13 og mod sædvanlig betaling efter § 4 a i pasloven. Indgiver ansøgeren samtidig ansøgning om et nyt pas, betales der dog alene for et pas. Udstedelsesdatoen i det nye pas fastsættes til datoen for udstedelsen af det provisoriske pas.</p> <p>§ 31. Politiet kan i særlige tilfælde udstede pas og forlænge gyldigheden for pas efter reglerne i denne bekendtgørelse. § 6, stk. 1 og 3, §§ 8, 9 og 12, § 16, stk. 1-3, § 23, stk. 4, og § 29, stk. 1, finder tilsvarende anvendelse.</p> <p>§ 32. Rigspolitchefen kan tillade, at der til en dansk statsborger, der opholder sig i udlandet, efter ansøgning udstedes et EU-nødpas (ETD) af en udenlandsk diplomatisk eller konsulær repræsentation, hvis ansøgerens pas er bortkommet eller er midlertidigt utilgængeligt, og ansøgeren befinder sig på et sted, hvor der ikke er en</p>	<p>possible to issue a new passport or extend the validity of the existing passport.</p> <p>2 A provisional passport is issued on a special form and is only valid for the period necessary to complete the trip, and for no longer than one year. A provisional passport is to be returned after use.</p> <p>3. A provisional passport is issued in accordance with paragraphs 6 to 13 and payment is made according to the stipulations in 4 of the law on issuance of passports. If the person applies for a new passport at the same time, payment is only required for the one passport. The date of issue in the new passport is the same as that of the provisional passport.</p> <p>Art. 31. The police can in special instances issue a passport and extend the validity of a passport in accordance with the rules stated in this regulation. Provided §6(1&3) §§ 8, 9 and 12, § 16 (1-3) §23 (4) and §29(1). 1, are applicable.</p> <p>Art. 32. In countries where there is no Danish diplomatic representation, the Head of the Danish National Police Force can grant permission for a foreign diplomatic representative to issue a EU emergency passport to a Danish citizen</p>		<p>only be valid for the duration of a travel and not for more than one year according to art. 30(2). The same principle is being applied in case of 'EU emergency passports', ETDs, according to Art. 32. In this context, the question is whether these exceptions are acceptable, as they apply in all countries. The immediate answer will be positive, meaning that no conformity issue arises at this point.</p>

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		Circular 11452 of 19. December 1984 (Introduction)	<p>tilgængelig dansk diplomatisk eller konsulær repræsentation, der kan udstede pas.</p> <p><i>Stk. 2.</i> Det er en betingelse for meddelelse af tilladelse til udstedelse af et EU-nødpas (ETD), at det udfærdiges på en særlig blanket, at det kun gives for det tidsrum, som er påkrævet af hensyn til rejsens varighed, og at det kun giver ret til en enkelt rejse til Danmark eller til det land, hvor ansøgeren har fast bopæl, eller i særlige tilfælde til et andet land.</p> <p>Fra 1. januar 1985 udfærdiges pas til danske statsborgere, der ikke er bosiddende i Grønland eller på Færøerne på pasblanketter, der er udformet i overensstemmelse med EF-resolutionen af 23. juni 1981.</p>	<p>travelling/staying abroad, if the persons passport has been stolen, mislaid or is temporarily unavailable.</p> <p>2. A condition for issuing an EU emergency passport is that the form stipulates the period of validity in relation the trip and that it is only valid for a single entry into Denmark or that country where the applicant is resident or, in exceptional circumstances, another country.</p> <p>From 1 January 1985, a passport is issued for Danish citizens, those who are not residing in Greenland or the Faroe Islands in accordance with the standards set forth in EU Resolution of 23 June 1981.</p>		
Art. 5.1	<p>Right on Entry</p> <p>1. Without prejudice to the provisions on travel documents applicable to national border controls, Member States shall grant Union citizens right to enter their territory with a valid identity card or passport and shall grant family members who are not nationals of a Member State right to enter their territory with a valid passport.</p>	LBK nr. 808 af 06/08/2007 Bekendtgørelse af Udlændingeloven (Aliens Act) § 2	<p>§ 2. Udlændinge, der er statsborgere i et land, der er tilsluttet Den Europæiske Union eller er omfattet af aftalen om Det Europæiske Økonomiske Samarbejdsområde, kan indrejse og opholde sig her i landet i indtil 3 måneder fra indreisen eller, såfremt de pågældende er arbejdssøgende, i indtil 6 måneder fra indreisen.</p> <p><i>Stk. 2.</i> Udlændinge, der er omfattet af de regler, der er nævnt i stk. 4 (EU-reglerne), men som ikke er statsborgere i</p>	<p>Section 2. Aliens, who are nationals of a country Member of the European Union or comprised by the EEA Agreement, may enter and stay in Denmark until 3 months from the date of entry or until 6 months from the date of entry if the alien is seeking employment</p> <p>2. Aliens comprised by regulation provided in para. 4 (the EU-regulation), who are not citizens of one of the countries provided in para. 1 (third country nationals), can</p>	Y	<p>Effective transposition.</p> <p>In terms of third country nationals, they may enter for the same period as the persons mentioned in subsection 1, provided that they have their passport or other travel documents such as visa before entry, unless they are exempted from visa requirements according to Art 39(2).</p>

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			<p>et af de i stk. 1 nævnte lande (tredjelandstatsborgere), kan indrejse og opholde sig her i landet i samme tidsrum som de i stk. 1 nævnte personer. Tredjelandstatsborgere skal dog have deres pas eller anden rejselegitimation viseret før indreisen, medmindre de pågældende er fritaget for visum, jf. § 39, stk. 2.</p> <p><i>Stk. 3.</i> De begrænsninger, der følger af denne lov, finder kun anvendelse på udlændinge, der er omfattet af EU-reglerne, i det omfang det er foreneligt med disse regler.</p> <p><i>Stk. 4.</i> Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser til gennemførelse af Den Europæiske Unions regler om visumfritagelse og om ophævelse af indrejse- og opholdsbegrænsninger i forbindelse med arbejdskraftens frie bevægelighed, etablering og udveksling af tjenesteydelser m.v. Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser om registreringsbeviser og opholdskort efter § 6. Ministeren for flygtninge, indvandrere og integration kan herved fravige bestemmelserne i denne lov, i det omfang det følger af EU-reglerne.</p> <p><i>Stk. 5.</i> Ministeren for</p>	<p>enter and stay in Denmark for the same period of time as the persons stated in para. 1. However, third country nationals must have their passport or travel documents visaed before entering Denmark unless said persons are exempted from visa, cf. Article 39, para. 2.</p> <p>3. The restrictions pertaining to this law only apply to aliens comprised by EU regulation in so far as these restrictions are compatible with the EU regulations.</p> <p>4. The Minister of Refugee, Immigration and Integration Affairs provides regulation on the implementation the rules of the European Union on exemption of visa and repeal of restrictions of entry and stay regarding the free movement of labor, establishment and exchange of services etc. The Minister of Refugee, Immigration and Integration Affairs provides regulation on certificates of registration and residence cards pursuant to Article 6. The Minister of Refugee, Immigration and Integration Affairs can dispense with the rules of this Order in so far as this is a consequence of the EU regulations.</p> <p>5. The Minister of Refugee, Immigration and Integration Affairs can stipulate that the</p>		

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			flygtninge, indvandrere og integration kan fastsætte nærmere regler om, at stk. 1-3 og de i medfør af stk. 4 fastsatte bestemmelser med de nødvendige ændringer også skal anvendes i forhold til et tredjeland, der har indgået overenskomst eller et hertil svarende arrangement om visumfritagelse og om ophævelse af indrejse- og opholdsbegrænsninger med Den Europæiske Union eller dens medlemsstater.	rules provided in para. 1-3 and the consolidated rules pursuant to para. 4 applies equally to relations with a third country, which has entered into an agreement or an arrangement comparable to this with the European Union or the Member States of the European Union about exemptions to visa and repeal of restrictions of entry and stay.		
	No entry visa or equivalent formality may be imposed on Union citizens.	BEK 635 §13	§ 13. Følgende udlændinge er fritaget for visum: 1) Statsborgere i Finland, Island, Norge og Sverige, jf. udlændingelovens § 1. 2) Udlændinge, der er statsborgere i et land, der er tilsluttet Den Europæiske Union eller er omfattet af aftalen om Det Europæiske Økonomiske Samarbejdsområde, jf. udlændingelovens § 2, eller Schweiz. [...]	Art. 13 The following aliens are exempted from the visa requirements: 1). Citizens of Finland, Island, Norway and Sweden [...] 2). EU/EEA citizens or Switzerland [...] [...]	Y	Effective transposition. The Danish transposing legislation explicitly stipulates that EEA nationals are exempted from visa requirement. In that, the national transposing measure is broader, also encompassing other than those covered by Schengen agreement.
Art. 5.2	Family members who are not nationals of a Member State shall only be required to have an entry visa in accordance with Regulation (EC) No 539/2001 or, where appropriate, with national law. For the purposes of this Directive, possession of the valid residence card referred to in Article 10 shall exempt such family members from the visa requirement.	LBK nr. 808 af 06/08/2007 § 2, stk. 2	§ 2. Udlændinge, der er statsborgere i et land, der er tilsluttet Den Europæiske Union eller er omfattet af aftalen om Det Europæiske Økonomiske Samarbejdsområde, kan indrejse og opholde sig her i landet i indtil 3 måneder fra indrejsen eller, såfremt de pågældende er arbejdssøgende,	Section 2. Aliens, who are nationals of a country Member of the European Union or comprised by the EEA Agreement, may enter and stay in Denmark until 3 months from the date of entry or until 6 months from the date of entry if the alien is seeking employment 2. Aliens comprised by	N, Incomplete	Incomplete transposition. According to the transposing legislation, family members who are not nationals of a Member State are exempted from the visa requirement, if they are covered by the EU regulation.. The Danish legislation stipulates however that certain categories of third-country nationals (who are family

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			<p>i indtil 6 måneder fra indrejsen.</p> <p><i>Stk. 2.</i> Udlændinge, der er omfattet af de regler, der er nævnt i stk. 4 (EU-reglerne), men som ikke er statsborgere i et af de i stk. 1 nævnte lande (tredjelandstatsborgere), kan indrejse og opholde sig her i landet i samme tidsrum som de i stk. 1 nævnte personer. Tredjelandstatsborgere skal dog have deres pas eller anden rejselegitimation viseret før indrejsen, medmindre de pågældende er fritaget for visum, jf. § 39, stk. 2.</p> <p><i>Stk. 3.</i> De begrænsninger, der følger af denne lov, finder kun anvendelse på udlændinge, der er omfattet af EU-reglerne, i det omfang det er foreneligt med disse regler.</p> <p><i>Stk. 4.</i> Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser til gennemførelse af Den Europæiske Unions regler om visumfritagelse og om ophævelse af indrejse- og opholdsbegrænsninger i forbindelse med arbejdskraftens frie bevægelighed, etablering og udveksling af tjenesteydelser m.v. Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser om registreringsbeviser og opholdskort efter § 6. Ministeren for flygtninge,</p>	<p>regulation provided in para. 4 (the EU-regulation), who are not citizens of one of the countries provided in para. 1 (third country nationals), can enter and stay in Denmark for the same period of time as the persons stated in para. 1.</p> <p>However, third country nationals must have their passport or travel documents visaed before entering Denmark unless said persons are exempted from visa, cf. Article 39, para. 2.</p> <p>3. The restrictions pertaining to this law only apply to aliens comprised by EU regulation in so far as these restrictions are compatible with the EU regulations.</p> <p>4. The Minister of Refugee, Immigration and Integration Affairs provides regulation on the implementation of the rules of the European Union on exemption of visa and repeal of restrictions of entry and stay regarding the free movement of labor, establishment and exchange of services etc. The Minister of Refugee, Immigration and Integration Affairs provides regulation on certificates of registration and residence cards pursuant to Article 6. The Minister of Refugee, Immigration and Integration Affairs can dispense with the rules of this Order in so far as</p>		<p>members of EU-nationals) shall be required an entry visa to Denmark, which does not constitute a case of non-compliance, as it does not conflict with the objective of the Directive.</p> <p>However, as the Danish law does not prescribe that possession of a valid residence card will exempt family members who are third country nationals from the visa requirement, a case of incomplete transposition is concluded.</p> <p>N.B.: Although the transposing legislation does not refer to Regulation (EC) No 539/2001, the Regulation is directly applicable.</p>

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			<p>indvandrere og integration kan herved fravige bestemmelserne i denne lov, i det omfang det følger af EU-reglerne.</p> <p><i>Stk. 5.</i> Ministeren for flygtninge, indvandrere og integration kan fastsætte nærmere regler om, at stk. 1-3 og de i medfør af stk. 4 fastsatte bestemmelser med de nødvendige ændringer også skal anvendes i forhold til et tredjeland, der har indgået overenskomst eller et hertil svarende arrangement om visumfritagelse og om ophævelse af indrejse- og opholdsbegrænsninger med Den Europæiske Union eller dens medlemsstater.</p>	<p>this is a consequence of the EU regulations.</p> <p>5. The Minister of Refugee, Immigration and Integration Affairs can stipulate that the rules provided in para. 1-3 and the consolidated rules pursuant to para. 4 applies equally to relations with a third country, which has entered into an agreement or an arrangement comparable to this with the European Union or the Member States of the European Union about exemptions to visa and repeal of restrictions of entry and stay.</p>		
	<p>Member States shall grant such persons every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible and on the basis of an accelerated procedure.</p>	-	-	-	NT	<p>The obligation is not transposed.</p> <p>It follows from the official web site of the Ministry of Refugee, Immigration and Integration Affairs that a visa prior to entry if you come from a country with a visa requirement for entering Denmark In some countries, there is no Danish diplomatic mission to process visa applications. In such countries, Denmark will generally have an agreement with the diplomatic mission of another Schengen country to handle all visa applications for Denmark. The overwhelming majority of visa applications are processed and decided on by Danish diplomatic missions abroad. These cases will usually be</p>

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						<p>decided within a few days. Some cases, however, may take 10-12 days. Cases handled by the Immigration Service, including most applications to visit friends and family, have an average processing time of approximately ten weeks. The average processing time for other types of visas, e.g. business visas and visas for cultural visits, is four to six weeks. In the case of applications for business visas, the Immigration Service will normally send a questionnaire to the contact in Denmark. If there is sufficient information to make a decision after the contact has filled out the questionnaire, the processing time should be no more than 30 days. The average processing time for extension of a visa/temporary stay is currently one to two weeks. The Immigration Service calculates processing times based on the date the application was received. The times listed here are rough averages. Some cases will be processed faster, while others may take longer. In terms of charges, no exemptions from visas fees apply.</p>
Art. 5.3	3. The host Member State shall not place an entry or exit stamp in the passport of family members who are not nationals of a Member State provided that they present the residence card provided for in Article 10.	LBK no 808 of 06/08/2007, §38	<i>Stk. 7.</i> Politiet kan foretage stempeling af en udlændings pas eller anden rejselegitimation ved ind- eller udrejse eller ved afvisning eller udvisning. Ministeren for flygtninge, indvandrere og integration kan fastsætte nærmere regler om	Section 38. 7. The police may stamp an alien's passport or other travel document on entry or departure or on refusal of entry or on expulsion. The Ministry for Refugee, Immigration and Integration	N, Incomplete	<p>Incomplete transposition</p> <p>It is not explicitly stated in the Danish transposing legislation that the Member State shall not place a stamp in the passports of the Article 5(3) family members. The Danish transposing legislation</p>

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			<p>politiets stempling af pas og anden rejselegitimation.</p>	<p>Affairs stipulates the rules governing the stamping of passports or other travel documentation.</p>		<p>states that the police may stamp an alien's passport at the entry or exit or in relation to refusal of entry or on expulsion. The Minister may lay down more detailed rules on the stamping of passports and other travel documents by the police.</p> <p>According to Article 10 of Regulation 562/2006 (Schengen borders code), the travel documents of third-country nationals shall be systematically stamped on entry and exit. The travel documents of nationals of third countries who are members of the family of a Union citizen to whom Directive 2004/38/EC applies, but who do not present the residence card provided for in Article 10 of that Directive, shall be stamped on entry or exit. However, in accordance with Articles 1 and 2 of the Protocol on the Position of Denmark, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>
Art. 5.4	<p>4. Where a Union citizen, or a family member who is not a national of a Member State, does not have the necessary travel documents or, if required, the necessary visas, the Member State concerned shall, before turning them back, give such persons every reasonable opportunity to obtain the necessary documents or have them brought to them within a reasonable period of time or to corroborate or</p>	<p>LBK 808 § 39 (5)</p>	<p><i>Stk. 5.</i> Ministeren for flygtninge, indvandrere og integration fastsætter regler om udstedelse af særlig rejselegitimation til udlændinge, der ikke kan skaffe sig pas, eller som af andre grunde har behov for et sådant dokument. Særlig rejselegitimation til</p>	<p>5 The Ministry for Refugee, Immigration and Integration Affairs decides the regulations for issuing extraordinary travel documents to foreigners who are unable to obtain a passport or who for other reasons need travel documents. Extraordinary travel</p>	<p>N, Incomplete</p>	<p>Incomplete transposition</p> <p>The alien's right to prove that he or she is covered by the right of free movement and residence is not explicitly stated.</p>

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	prove by other means that they are covered by the right of free movement and residence.		udlændinge kan inddrages efter samme regler, som gælder om pas til danske statsborgere, eller når grundlaget for udstedelsen er bortfaldet.	documents can be revoked in accordance with the regulations applicable to Danish citizens or once the reason for said document becomes unnecessary.		
Art.5.5	5. The Member State may require the person concerned to report his/ her presence within its territory within a reasonable and non-discriminatory period of time. Failure to comply with this requirement may make the person concerned liable to proportionate and non-discriminatory sanctions.					The Danish law does not provide for a reporting requirement as such. A registration requirement applies instead.
Chapter III. RIGHT OF RESIDENCE						
Art. 6.1	Right of residence for up to three months 1. Union citizens shall have the right of residence on the territory of another Member State for a period of up to three months without any conditions or any formalities other than the requirement to hold a valid identity card or passport.	LBK nr. 808, §1, §2 section 1	§ 1. Statsborgere i Finland, Island, Norge og Sverige kan uden tilladelse indrejse og opholde sig her i landet. § 2. Udlændinge, der er statsborgere i et land, der er tilsluttet Den Europæiske Union eller er omfattet af aftalen om Det Europæiske Økonomiske Samarbejdsområde, kan indrejse og opholde sig her i landet i indtil 3 måneder fra indrejsen eller, såfremt de pågældende er arbejdssøgende, i indtil 6 måneder fra indrejsen. Stk. 2. Udlændinge, der er omfattet af de regler, der er nævnt i stk. 4 (EU-reglerne), men som ikke er statsborgere i et af de i stk. 1 nævnte lande (tredjelandstatsborgere), kan indrejse og opholde sig her i landet i samme tidsrum som de i stk. 1 nævnte personer. Tredjelandstatsborgere skal	Section 1. Nationals of Finland, Iceland, Norway, and Sweden may enter and stay in Denmark without permission. Section 2. Aliens, who are nationals of a country Member of the European Union or comprised by the EEA Agreement, may enter and stay in Denmark until 3 months from the date of entry or until 6 months from the date of entry if the alien is seeking employment 2. Aliens comprised by regulation provided in para. 4 (the EU-regulation), who are not citizens of one of the countries provided in para. 1 (third country nationals), can enter and stay in Denmark for the same period of time as the persons stated in para. 1. However, third country nationals must have their passport or travel documents	Y	Effective transposition. It follows from the official website of the Ministry of Refugee, Immigration and Integration Affairs, that EU/EEA citizens, as well as citizens of Switzerland, can reside in Denmark under the EU regulations on free movement of persons and services. No special conditions or any formalities other than the requirement to hold a valid identity card or passport are prescribed. Denmark has correctly exempted job seekers from the obligation to register for 6 months

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			<p>dog have deres pas eller anden rejselegitimation viseret før indrejsen, medmindre de pågældende er fritaget for visum, jf. § 39, stk. 2.</p> <p><i>Stk. 3.</i> De begrænsninger, der følger af denne lov, finder kun anvendelse på udlændinge, der er omfattet af EU-reglerne, i det omfang det er foreneligt med disse regler.</p> <p><i>Stk. 4.</i> Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser til gennemførelse af Den Europæiske Unions regler om visumfritagelse og om ophævelse af indrejse- og opholdsbegrænsninger i forbindelse med arbejdskraftens frie bevægelighed, etablering og udveksling af tjenesteydelser m.v. Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser om registreringsbeviser og opholdskort efter § 6. Ministeren for flygtninge, indvandrere og integration kan herved fravige bestemmelserne i denne lov, i det omfang det følger af EU-reglerne.</p> <p><i>Stk. 5.</i> Ministeren for flygtninge, indvandrere og integration kan fastsætte nærmere regler om, at stk. 1-3 og de i medfør af stk. 4 fastsatte bestemmelser med de nødvendige ændringer også</p>	<p>visaed before entering Denmark unless said persons are exempted from visa, cf. Article 39, para. 2.</p> <p>3. The restrictions pertaining to this law only apply to aliens comprised by EU regulation in so far as these restrictions are compatible with the EU regulations.</p> <p>4. The Minister of Refugee, Immigration and Integration Affairs provides regulation on the implementation the rules of the European Union on exemption of visa and repeal of restrictions of entry and stay regarding the free movement of labor, establishment and exchange of services etc. The Minister of Refugee, Immigration and Integration Affairs provides regulation on certificates of registration and residence cards pursuant to Article 6. The Minister of Refugee, Immigration and Integration Affairs can dispense with the rules of this Order in so far as this is a consequence of the EU regulations.</p> <p>5. The Minister of Refugee, Immigration and Integration Affairs can stipulate that the rules provided in para. 1-3 and the consolidated rules pursuant to para. 4 applies equally to relations with a third country, which has entered into an agreement or</p>		

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			skal anvendes i forhold til et tredjeland, der har indgået overenskomst eller et hertil svarende arrangement om visumfritagelse og om ophævelse af indrejse- og opholdsbegrænsninger med Den Europæiske Union eller dens medlemsstater.	an arrangement comparable to this with the European Union or the Member States of the European Union about exemptions to visa and repeal of restrictions of entry and stay.		
Art. 6.2	2. The provisions of paragraph 1 shall also apply to family members in possession of a valid passport who are not nationals of a Member State, accompanying or joining the Union citizen.	LBK nr. 808 of 06/08/2007, §§ 1 and 2 section 2	<p>§ 1. Statsborgere i Finland, Island, Norge og Sverige kan uden tilladelse indrejse og opholde sig her i landet.</p> <p>§ 2. Udlændinge, der er statsborgere i et land, der er tilsluttet Den Europæiske Union eller er omfattet af aftalen om Det Europæiske Økonomiske Samarbejdsområde, kan indrejse og opholde sig her i landet i indtil 3 måneder fra indrejsen eller, såfremt de pågældende er arbejdssøgende, i indtil 6 måneder fra indrejsen.</p> <p>Stk. 2. Udlændinge, der er omfattet af de regler, der er nævnt i stk. 4 (EU-reglerne), men som ikke er statsborgere i et af de i stk. 1 nævnte lande (tredjelandstatsborgere), kan indrejse og opholde sig her i landet i samme tidsrum som de i stk. 1 nævnte personer. Tredjelandstatsborgere skal dog have deres pas eller anden rejselegitimation viseret før indrejsen, medmindre de pågældende er fritaget for visum, jf. § 39, stk. 2.</p> <p>Stk. 3. De begrænsninger,</p>	<p>Section 1. Nationals of Finland, Iceland, Norway, and Sweden may enter and stay in Denmark without permission.</p> <p>Section 2. Aliens, who are nationals of a country Member of the European Union or comprised by the EEA Agreement, may enter and stay in Denmark until 3 months from the date of entry or until 6 months from the date of entry if the alien is seeking employment</p> <p>2. Aliens comprised by regulation provided in para. 4 (the EU-regulation), who are not citizens of one of the countries provided in para. 1 (third country nationals), can enter and stay in Denmark for the same period of time as the persons stated in para. 1. However, third country nationals must have their passport or travel documents visaed before entering Denmark unless said persons are exempted from visa, cf. Article 39, para. 2.</p> <p>3. The restrictions pertaining to this law only apply to</p>	Y	<p>Effective transposition.</p> <p>Section 2 applies to “aliens comprised by the EU Regulation who are not citizens of one of the countries in para. 1 (so third country nationals). The aliens comprised by the EU Regulation, who are not EU citizens, are per definition third country family members.</p> <p>Section then specifies that these persons can stay for the same period of time as the persons stated in paragraph 1, which is in line with the Directive (accompanying or joining).</p> <p>Finally, the legislation says that these persons need a visa, unless if they are exempt from the visa requirement in accordance with Article 39, which is also in line with the requirement of the Directive. It could be argued that the visa requirement is not anymore allowed, but generally an entry visa is valid for up to three months.</p>

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			<p>der følger af denne lov, finder kun anvendelse på udlændinge, der er omfattet af EU-reglerne, i det omfang det er foreneligt med disse regler.</p> <p><i>Stk. 4.</i> Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser til gennemførelse af Den Europæiske Unions regler om visumfritagelse og om ophævelse af indrejse- og opholdsbegrænsninger i forbindelse med arbejdskraftens frie bevægelighed, etablering og udveksling af tjenesteydelser m.v. Ministeren for flygtninge, indvandrere og integration fastsætter nærmere bestemmelser om registreringsbeviser og opholdskort efter § 6. Ministeren for flygtninge, indvandrere og integration kan herved fravige bestemmelserne i denne lov, i det omfang det følger af EU-reglerne.</p> <p><i>Stk. 5.</i> Ministeren for flygtninge, indvandrere og integration kan fastsætte nærmere regler om, at stk. 1-3 og de i medfør af stk. 4 fastsatte bestemmelser med de nødvendige ændringer også skal anvendes i forhold til et tredjeland, der har indgået overenskomst eller et hertil svarende arrangement om visumfritagelse og om ophævelse af indrejse- og</p>	<p>aliens comprised by EU regulation in so far as these restrictions are compatible with the EU regulations.</p> <p>4. The Minister of Refugee, Immigration and Integration Affairs provides regulation on the implementation the rules of the European Union on exemption of visa and repeal of restrictions of entry and stay regarding the free movement of labor, establishment and exchange of services etc. The Minister of Refugee, Immigration and Integration Affairs provides regulation on certificates of registration and residence cards pursuant to Article 6. The Minister of Refugee, Immigration and Integration Affairs can dispense with the rules of this Order in so far as this is a consequence of the EU regulations.</p> <p>5. The Minister of Refugee, Immigration and Integration Affairs can stipulate that the rules provided in para. 1-3 and the consolidated rules pursuant to para. 4 applies equally to relations with a third country, which has entered into an agreement or an arrangement comparable to this with the European Union or the Member States of the European Union about exemptions to visa and repeal of restrictions of entry and</p>		

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			opholdsbegrænsninger med Den Europæiske Union eller dens medlemsstater.	stay.		
Art.7.1 (a)	<p>Right of residence for more than three months</p> <p>All Union citizens shall have the right of residence on the territory of another Member State for a period of longer than three months if they:</p> <p>(a) are workers or self-employed persons in the host Member State; or</p>	Executive Order No. 300 , §3	<p>Arbejdstagere og selvstændige erhvervsdrivende</p> <p>§ 3. En EU-statsborger, der er arbejdstager eller selvstændig erhvervsdrivende, herunder tjenesteyder, her i landet, har ret til ophold her i landet ud over de tidsrum på 3 eller 6 måneder, der følger af udlændingelovens § 2, stk. 1, jf. dog stk. 2-4.</p> <p>Stk. 2. En arbejdstager, der er statsborger i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet eller Ungarn, har ret til ophold her i landet ud over de tidsrum på 3 eller 6 måneder, der følger af udlændingelovens § 2, stk. 1, hvis den pågældende er omfattet af udlændingelovens § 6, stk. 2, jf. stk. 4, eller udlændingelovens § 6, stk. 3.</p> <p>Stk. 3. En arbejdstager, der er statsborger i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet eller Ungarn, og som ikke er omfattet af stk. 2, har ret til ophold her i landet ud over de tidsrum på 3 eller 6 måneder, der følger af udlændingelovens § 2, stk. 1, hvis den pågældende er omfattet af udlændingelovens § 9 a, stk. 5</p>	<p>Employees and self-employees</p> <p>Section 3. EU citizens in Denmark, who are employees or self-employed including service providers, have the right to stay in Denmark longer than for a period of 3 or 6 months pursuant to the Alien Act, Article 2, para. 1, cf. however paras. 2-4.</p> <p>2. Employees who are citizens of Bulgaria, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, the Czech Republic or Hungary, have the right to stay in Denmark longer than for a period of 3 or 6 months pursuant to the Alien Act, Article 2, para. 1, provided that, Article 6, para. 2, cf. para. 4 or Article 6, para. 3 of the Alien Act apply.</p> <p>3. Employees who are citizens of Bulgaria, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, the Czech Republic or Hungary and not included in the scope of appliance of para. 2, have the right to stay in Denmark longer than for a period of 3 or 6 months pursuant to the Alien Act, Article 2, para. 1, provided that Article 9a, para. 5 and 6 of the Alien Act apply.</p>	Y	<p>Effective transposition.</p> <p>The provision of the Directive equally applies to all EU nationals, while the Danish transposing legislation applies transitional rules for employees from Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. The rules have been amended however 1 May 2008 stating that citizens of new Member States, who are employed in an ordinary position covered by a collective bargaining agreement, have a right to reside and work in Denmark. They do not need a residence and work permit but must apply for proof of registration with the Regional State Administration. Those employed in an ordinary position as a researcher, educator, key worker or specialist, will typically be on an individual contract. However, if the employer is otherwise party to a collective bargaining agreement, you still have a right to reside and work in Denmark. As such, you do not need a residence and work permit but must apply for proof of registration with the Regional State Administration. Furthermore, the employer must</p>

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		BEK nr. 264 §6	<p>og 6. <i>Stk. 4.</i> Stk. 2 og 3 finder ikke anvendelse, hvis den pågældende udlænding har haft uafbrudt tilknytning til det danske arbejdsmarked i de seneste 12 måneder. I sådanne tilfælde finder stk. 1 anvendelse.</p> <p>§ 6. Efter ansøgning udstedes der registreringsbevis eller opholdskort til udlændinge, der er omfattet af EU-reglerne, jf. § 2, stk. 4 og 5. Arbejdstagere, der er statsborgere i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet eller Ungarn, og som ikke er omfattet af stk. 2 eller 3, skal endvidere have arbejdstilladelse, jf. § 9 a.</p> <p><i>Stk. 2.</i> En udlænding, der er statsborger i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet eller Ungarn, har ret til ophold her i landet ud over de tidsrum, der følger af § 2, stk. 1, hvis den pågældende har indgået aftale eller fået tilbud om ordinær beskæftigelse hos en herværende arbejdsgiver, der har indgået en gældende dansk overenskomst, som vedrører det pågældende arbejde, og hvor der som aftalepart på lønmodtagersiden mindst er</p>	<p>4. Paras. 2 and 3 do not apply if the alien has had constant connection to the Danish labour market for at least 12 months. In such circumstances para. 1 applies.</p> <p>Section 6. Certificates of registration and residence cards are issued to aliens, comprised by the EU regulation on the basis of application, cf. Article 2, para. 4 and 5. Furthermore, employees, who are citizens of Bulgaria, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, the Czech Republic or Hungary and not included in the scope of appliance of para.2 and 3, must have a working permit, cf. Article 9 a.</p> <p>2. Employees who are citizens of Bulgaria, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, the Czech Republic or Hungary, have the right to stay in Denmark longer than for a period of 3 or 6 months pursuant to the Alien Act, Article 2, para. 1, provided that they have entered into an agreement with an employer or have received an offer of regular employment with a Danish employer, who has entered</p>		<p>sign a sworn declaration that you meet all the requirements to qualify for the regular EU regulations.</p> <p>It might be discussible, whether the Danish rules are in full conformity with the Directive's requirements, as they might be discriminatory. However, in view of the fact that they are softened by the rule in Section 3 para. 4 of Executive Order Nr. 300 stipulating that the rules do not apply, if a national of a new MS has had an uninterrupted link with the Danish labour market during the last twelve months. Further, it shall be kept in mind that the transitional rules apply to labour market. Therefore, the conclusion will be effective transposition.</p>

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			<p>tale om en lokal fagforening, som er medlem af en landsdækkende lønmodtagerorganisation.</p> <p><i>Stk. 3.</i> En udlænding, der er statsborger i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet eller Ungarn, har ret til ophold her i landet ud over de tidsrum, der følger af § 2, stk. 1, hvis den pågældende inden for et arbejdsområde, hvor løn- og ansættelsesvilkårene sædvanligvis alene er reguleret i en individuel ansættelseskontrakt, har indgået aftale eller fået tilbud om ordinær beskæftigelse hos en herværende arbejdsgiver som forsker, underviser, funktionær i en ledende stilling eller specialist m.v. og arbejdsgiveren har indgået en gældende dansk overenskomst, hvor der som aftalepart på lønmodtagersiden mindst er tale om en lokal fagforening, som er medlem af en landsdækkende lønmodtagerorganisation.</p> <p>Arbejdsgiveren skal over for statsforvaltningen afgive en erklæring på tro og love om, at ansættelsen sker på disse vilkår.</p> <p><i>Stk. 4.</i> Den herværende arbejdsgiver skal i de tilfælde, der er nævnt i stk. 2, udstede skriftlig dokumentation for</p>	<p>into a valid Danish collective agreement, which applies to the offered job and at least one local union, member of a national employment organisation, has been contract party to the collective agreement.</p> <p>3. Employees who are citizens of Bulgaria, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia, Slovenia, the Czech Republic or Hungary, have the right to stay in Denmark longer than for a period of 3 or 6 months pursuant to the Alien Act, Article 2, para. 1, provided that they entered into an agreement with an employer or have received an offer of regular employment with a Danish employer as a researcher, teacher, official in a leading position or as a specialist etc. in a field of work, where the salary and employment conditions usually is regulated by an individual employment contract, and the employer has entered into a valid Danish collective agreement, which applies to the offered job and at least one local union, member of a national employment organisation, has been contract party to the collective agreement.</p> <p>The employer must submit a statement to the public administration that the</p>		

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			<p>ansættelsesforholdet med oplysning om den overenskomst, der vedrører det pågældende arbejde. Dokumentation skal udstedes til udlændingen senest på tidspunktet for ansættelsesforholdets påbegyndelse.</p>	<p>employment is made on these conditions. 4. The Danish employer must issue a written statement on the conditions of employment along with information on the collective agreement, which applies to the job. The statement must be issued to the alien on the time of start of the employment at the latest.</p>		
Art.7.1 (b)	(b) have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State; or	Executive Order No.300 Article 6, 11	<p>Personer med tilstrækkelige midler § 6. En EU-statsborger, der råder over sådanne indtægter eller midler til sit underhold, at den pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde, har ret til ophold her i landet ud over de tidsrum på 3 eller 6 måneder, der følger af udlændingelovens § 2, stk. 1. Stk. 2. Opholdsret efter stk. 1 er betinget af, at den pågældende tegner en sygeforsikring, der dækker perioden, indtil den pågældende opnår ret til ydelser efter sundhedsloven. Familiemedlemmer til personer med tilstrækkelige midler § 11. Familiemedlemmer til en af § 6 omfattet EU-statsborger har ret til ophold her i landet ud over de tidsrum på 3 eller 6 måneder, der følger af udlændingelovens § 2, stk. 1 og 2, når de ledsager eller slutter sig til den pågældende og i</p>	<p>Individuals with sufficient funding Section 6. A European citizen with sufficient funds or income to finance his/her stay and who, subject to evaluation, is deemed not to be a burden to the social services has the right to remain in the country for longer than the three or six months stated in Article 2, para.1 of the Alien Act. 2. Residence permit pursuant to para. 1 is conditioned by the taking out of a health insurance by the alien, which applies until the alien obtains the right to services pursuant to the Health Code. Family members of individuals with sufficient means Section 11. Family members of a European citizen, included in the scope of appliance of Article 6, have the right to stay in Denmark</p>	Y	<p>Effective transposition. According to the transposing legislation, the right of residence may be extended for a longer period than three months, if an EU national (EEA national) has sufficient income or resources for his or her maintenance as well as his or her family members so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system. and has comprehensive health insurance that is valid in Denmark.</p>

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			forvejen har fast, lovligt ophold i et EU/EØS-land eller Schweiz. <i>Stk. 2.</i> Opholdsret efter stk. 1 er, medmindre ganske særlige grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og familiemedlemmernes underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.	longer than for a period of 3 or 6 months pursuant to the Alien Act, Article 2, para. 1 and 2, provided that they accompany or join the alien and have permanent legitimate residence in an EU/EEA country or Switzerland beforehand. 2. Unless otherwise stipulated in particular instances, a residence permit is conditioned by the EU citizen disposing of sufficient funds or income to finance his/her stay, including the stay of the family members, that the citizen is deemed not to be a burden to the social services on the basis of an evaluation.		
Art.7.1 (c)	(c) - are enrolled at a private or public establishment, accredited or financed by the host Member State on the basis of its legislation or administrative practice, for the principal purpose of following a course of study, including vocational training; <u>and</u>	Executive Order No. 300, §5, para. 1	Studerende § 5. En EU-statsborger, der er indskrevet ved en privat eller offentlig institution, der er godkendt af eller finansieres af det offentlige, med henblik på dér som hovedaktivitet at følge en videregående uddannelse eller en ungdomsuddannelse, herunder en erhvervsuddannelse, har ret til ophold her i landet ud over de tidsrum på 3 eller 6 måneder, der følger af udlændingelovens § 2, stk. 1.	Section 5 (1) An EU citizen who is enrolled at a private or public establishment that is accredited or financed by the public authorities for the principal purpose of following a course of study, including vocational training, shall have the right to reside in Denmark beyond the three or six months to which the citizen is entitled under Section 2(1) of the Aliens Act.	N, Incorrect	Incorrect transposition According to the transposing legislation, the right of residence may be extended for a longer period than three months, if an EU national is enrolled as a student at a recognised educational institution in Denmark, if he or she has sufficient income or resources for his or her maintenance so that it can be presumed that he/she will not become a burden on the social assistance system. Accordingly, as Denmark requires more than contemplated by the Directive, a case of non-conformity is concluded.

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	<p>- have comprehensive sickness insurance cover in the host Member State and assure the relevant national authority, by means of a declaration or by such equivalent means as they may choose, that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence; or</p>	<p>Executive Order No. 300, §5, para. 1</p> <p>Executive Order No. 300, §5, 10</p>	<p>Det er dog en betingelse, at den pågældende råder over sådanne indtægter eller midler til sit underhold, at den pågældende ikke kan antages at ville falde det offentlige til byrde.</p> <p>§5 [...]Det er dog en betingelse, at den pågældende råder over sådanne indtægter eller midler til sit underhold, at den pågældende ikke kan antages at ville falde det offentlige til byrde.</p> <p>Stk. 2. Opholdsret efter stk. 1 er endvidere betinget af, at den pågældende tegner en sygeforsikring, der dækker perioden, indtil den pågældende opnår ret til ydelser efter sundhedsloven.</p> <p>§ 10 Stk. 2. Opholdsret efter stk. 1 for familiemedlemmer omfattet af § 2, nr. 3-5, er, medmindre ganske særlige grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og de i § 2, nr. 3-5, nævnte personers underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p>	<p>Section 5. However, it is a condition that such citizens have sufficient income or funds for their sustenance in order to deem that the alien will not be a burden to the social services</p> <p>Section 5. However, it is a condition that such citizens have sufficient income or funds for their sustenance in order to deem that the alien will not be a burden to the social services.</p> <p>2. Residence permit pursuant to para. 1 is conditioned by the taking out of a health insurance by the alien, which applies until the alien obtains the right to services pursuant to the Health Code.</p> <p>Section 10 2. Residence permit of family members, included in the scope of appliance of Article 2, paras. 3-5, pursuant to para. 1 on, is conditioned by the EU citizen disposing of sufficient funds or income to finance his/her stay, including the stay of the family members, that the citizen is deemed not to be a burden to the social services on the basis of an evaluation, unless otherwise stipulated in particular instances.</p>	<p>N, Incorrect</p>	<p>Incorrect transposition</p> <p>The transposing legislation requires that EU nationals who are students to have sufficient income or resources for their maintenance and a comprehensive health insurance in order to obtain the right of residence for a longer period than three months.</p> <p>The wording "for family members" is covered by Article 7(2).</p> <p>The structure of the DK provision is to treat family members separately. Under the Directive only a declaration of resources is needed (covering both the student and the family member). Under the Danish legislation, students only need a declaration of resources (See Article 8(3)). However, when they want to exercise the right to family reunification, a declaration is not enough and the DK legislation requires an appraisal.</p>

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Art.7.1 (d)	(d) are family members accompanying or joining a Union citizen who satisfies the conditions referred to in points (a), (b) or (c).	Executive Order No. 300, §§ 8-10	<p>§ 8. Familiemedlemmer til en af § 3, stk. 1, 1. pkt., jf. dog 2. pkt., omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS- land eller Schweiz.</p> <p>Stk. 2. Opholdsret efter stk. 1 for familiemedlemmer omfattet af § 2, nr. 3-5, er, medmindre ganske særlige grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og de i § 2 stk. 1 nr. 3-5, nævnte personers underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p> <p>Stk. 3. Stk. 1 og 2 finder tilsvarende anvendelse for familiemedlemmer til statsborgere i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet og Ungarn.</p>	<p>8.(1) Family members of an EU citizen covered by the first sentence of Section 3(1) [workers] shall, without prejudice to the second sentence, have the right to reside in Denmark beyond the periods of three or six months they may reside under Section 2(1) and (2) of the Aliens Act when they are accompanying or joining the person concerned and already have a permanent, lawful residence in an EU/EEA Member State or Switzerland.</p> <p>(2) The right of residence under paragraph 1 of a family member covered by para. 1 indents 3-5 of Section 2 shall, unless there are very exceptional grounds, be conditional on the EU citizen having sufficient income or resources for the maintenance of the citizen and the persons mentioned in indents 3-5 of Section 2 so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system.</p> <p>(3) Paragraphs 1 and 2 shall apply <i>mutatis mutandis</i> to family members of nationals of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary who are not covered</p>	N, incorrect	<p>Family member of an EU national have a right of residence in the cases referred to in the Directive. The transposing legislation nuances that family members of nationals of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary should <i>de jure</i> and <i>de facto</i> have gainful work and income there from constituting more than a marginal supplement to the other income or resources of the persons concerned in order to obtain right of residence in the cases referred to in the Directive. However, the spirit of the Directive prohibits such differential treatment, it is the case of family reunification.</p> <p>Furthermore, the Directive does not contain a requirement of "and already have a permanent, lawful residence in an EU Member State". Hence, the Danish law establishes an additional condition. The <i>Akrich</i> rule applies. In addition, the transposing legislation is rather unclear, what is meant with "exceptional grounds" and "special appraisal". Accordingly, a case of non-conformity is concluded.</p> <p>N.B.: the relevant transposing provision refers to family members covered by indents. 3-5 of Article 2 are a principal person's other descendants who are dependants of the principal</p>

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			<p>som ikke er omfattet af § 3, stk. 1-3, men lovligt har faktisk, lønnet beskæftigelse, og indtægterne herfra fremstår som mere end et marginalt supplement til de pågældendes indtægter eller midler i øvrigt.</p> <p>10. Familiemedlemmer til en af § 5 omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS-land eller Schweiz.</p> <p>Stk. 2. Opholdsret efter stk. 1 er, medmindre ganske særlige grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og familiemedlemmernes underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p> <p>§ 11. Familiemedlemmer til en af § 6 omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af</p>	<p>by Art. 3 paras. 1-3, but <i>de jure</i> and <i>de facto</i> have gainful work and income therefrom constituting more than a marginal supplement to the other income or resources of the persons concerned.</p> <p>10.(1) Family members of an EU citizen covered by Section 5 [students] shall have the right to reside in Denmark beyond the period of three or six months they may reside in Denmark under Section 2(1) and (2) of the Aliens Act when they accompany or join the person concerned and already have permanent lawful residence in an EU/EEA state or Switzerland.</p> <p>(2) Unless there are very exceptional grounds, the right of residence under paragraph 1 of family members shall be conditional on the EU citizen having sufficient income or resources for the maintenance of the citizen and the family members so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system.</p> <p>11.(1) Family members of an EU citizen covered by Section 6 [non-economic activities] shall have the right to reside in Denmark beyond</p>		<p>person and a principal person spouse's other descendants who are dependants of the principal person; relatives in the ascending line of either a principal person or the principal person's spouse if they are dependent on the principal person; the principle person's other family members, if they are in the state where they come from are dependent on the principle person.</p> <p>N.B.: Section 5 deals with students, Section 6 deals with persons with sufficient resources</p>

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			<p>udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS-land eller Schweiz.</p> <p>Stk. 2. Opholdsret efter stk. 1 er, medmindre ganske særlige grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og familiemedlemmernes underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p>	<p>the period of three or six months they may reside in Denmark under Section 2(1) and (2) of the Aliens Act when they accompany or join the person concerned and already have permanent lawful residence in an EU/EEA state or Switzerland.</p> <p>(2) Unless there are very exceptional grounds, the right of residence under paragraph 1 of shall be conditional on the EU citizen having sufficient income or resources for the maintenance of the citizen and his or her family members so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system.</p>		
Art. 7.2	2. The right of residence provided for in paragraph 1 shall extend to family members who are not nationals of a Member State, accompanying or joining the Union citizen in the host Member State, provided that such Union citizen satisfies the conditions referred to in paragraph 1(a), (b) or (c).	Executive Order No. 300, §§ 8-10	<p>§ 8. Familiemedlemmer til en af § 3, stk. 1, 1. pkt., jf. dog 2. pkt., omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS- land eller Schweiz.</p> <p>Stk. 2. Opholdsret efter stk. 1 for familiemedlemmer omfattet af § 2, nr. 3-5, er, medmindre ganske særlige grunde taler</p>	<p>8.(1) Family members of an EU citizen covered by the first sentence of Section 3(1) shall, without prejudice to the second sentence, have the right to reside in Denmark beyond the periods of three or six months they may reside under Section 2(1) and (2) of the Aliens Act when they are accompanying or joining the person concerned and already have a permanent, lawful residence in an EU/EEA Member State or Switzerland.</p> <p>(2) The right of residence under paragraph 1 of a family member covered by para. 1 indents 3-5 of Section 2 shall,</p>	N, Incorrect	<p>Incorrect transposition</p> <p>The transposing provisions extend to non-EU nationals who are family members of EU citizens.</p> <p>However, the transposing Danish legislation stipulates additional conditions, which is in non-conformity with the Directive. Thus, it is prescribed "and already have a permanent, lawful residence in an EU Member State" - the requirement not included in the Directive.</p> <p>In addition, the Danish law is slightly unclear, what is meant with "very exceptional grounds".</p>

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			<p>derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og de i § 2 stk. 1 nr. 3-5, nævnte personers underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p> <p><i>Stk. 3.</i> Stk. 1 og 2 finder tilsvarende anvendelse for familiemedlemmer til statsborgere i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet og Ungarn, som ikke er omfattet af § 3, stk. 1-3, men lovligt har faktisk, lønnet beskæftigelse, og indtægterne herfra fremstår som mere end et marginalt supplement til de pågældendes indtægter eller midler i øvrigt.</p> <p>10. Familiemedlemmer til en af § 5 omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS-land eller Schweiz.</p> <p>Stk. 2. Opholdsret efter stk. 1 er, medmindre ganske særlige</p>	<p>unless there are very exceptional grounds, be conditional on the EU citizen having sufficient income or resources for the maintenance of the citizen and the persons mentioned in indents 3-5 of Section 2 so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system.</p> <p>(3) Paragraphs 1 and 2 shall apply <i>mutatis mutandis</i> to family members of nationals of Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, the Czech Republic and Hungary who are not covered by Art. 3 paras. 1-3, but <i>de jure</i> and <i>de facto</i> have gainful work and income therefrom constituting more than a marginal supplement to the other income or resources of the persons concerned.</p> <p>10.(1) Family members of an EU citizen covered by Section 5 shall have the right to reside in Denmark beyond the period of three or six months they may reside in Denmark under Section 2(1) and (2) of the Aliens Act when they accompany or join the person concerned and already have permanent lawful residence in an EU/EEA state or Switzerland.</p> <p>(2) Unless there are very</p>		<p>N.B.: Section 5 deals with students, Section 6 deals with persons with sufficient resources</p>

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			<p>grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og familiemedlemmernes underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p> <p>§ 11. Familiemedlemmer til en af § 6 omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS-land eller Schweiz.</p> <p>Stk. 2. Opholdsret efter stk. 1 er, medmindre ganske særlige grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og familiemedlemmernes underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p>	<p>exceptional grounds, the right of residence under paragraph 1 of family members shall be conditional on the EU citizen having sufficient income or resources for the maintenance of the citizen and the family members so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system.</p> <p>11.(1) Family members of an EU citizen covered by Section 6 (who are those?) shall have the right to reside in Denmark beyond the period of three or six months they may reside in Denmark under Section 2(1) and (2) of the Aliens Act when they accompany or join the person concerned and already have permanent lawful residence in an EU/EEA state or Switzerland.</p> <p>(2) Unless there are very exceptional grounds, the right of residence under paragraph 1 of shall be conditional on the EU citizen having sufficient income or resources for the maintenance of the citizen and his or her family members so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system.</p>		

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Art. 7.3 (a)	3. For the purposes of paragraph 1(a), a Union citizen who is no longer a worker or self-employed person shall retain the status of worker or self-employed person in the following circumstances: (a) he/she is temporarily unable to work as the result of an illness or accident;	Executive Order No 300, §3 para.2 .	§ 3. <i>Stk. 2.</i> En EU-statsborger, der hidtil har været omfattet af stk. 1, men nu ikke længere er erhvervsaktiv, bevarer sin status som arbejdstager eller selvstændig erhvervsdrivende, 1) hvis EU-statsborgeren er midlertidigt uarbejdsdygtig som følge af sygdom eller ulykke,	3.(2) An EU citizen who was previously covered by paragraph 1 but is no longer economically active shall retain the status of a worker or self-employed person in the following circumstances: 1) the citizen is temporarily unavailable to work as the result of an illness or accident;	Y	Effective transposition. According to the Danish transposing legislation, an EU national who is a worker or a self-employed person in Denmark retains his or her right of residence even if he or she suffers a temporary incapacity for work owing to illness or an accident. N.B.: the Danish word "uarbejdsdygtig" implies disable to work.
Art. 7.3 (b)	(b) he/she is in duly recorded involuntary unemployment after having been employed for more than one year and has registered as a jobseeker with the relevant employment office;	See above	2) hvis EU-statsborgeren er uforskyldt arbejdsløs efter at have haft lønnet beskæftigelse i mere end 1 år, hvilket er behørigt konstateret, og har tilmeldt sig arbejdsformidlingen som arbejdssøgende,	2) the citizen is in duly recorded involuntary unemployment after having been employed for more than one year and has registered as a job seeker with the relevant employment office;	Y	Effective transposition.
Art. 7.3 (c)	(c) he/she is in duly recorded involuntary unemployment after completing a fixed-term employment contract of less than a year or after having become involuntarily unemployed during the first twelve months and has registered as a job-seeker with the relevant employment office. In this case, the status of worker shall be retained for no less than six months;	See above	3) hvis EU-statsborgeren enten uforskyldt har mistet sit arbejde i løbet af de første 12 måneder, hvilket er behørigt konstateret, og har tilmeldt sig arbejdsformidlingen som arbejdssøgende eller er uforskyldt arbejdsløs efter udløbet af en tidsbegrænset ansættelseskontrakt af mindre end 1 års varighed, jf. dog stk. 3, eller <i>Stk. 3.</i> En EU-statsborger omfattet af stk. 2, nr. 3, bevarer sin status som arbejdstager eller selvstændig erhvervsdrivende i 6 måneder.	3) the citizen is in duly recorded involuntary unemployment after having lost his or her employment in the first twelve months and has registered as a job seeker with the relevant employment office or is in involuntary unemployment after completing a fixed-term employment contract of less than one year (subject, however, to paragraph 3), or (3) An EU citizen covered by indent 3 of paragraph 2 shall retain his or her status as a worker or self-employed person for six months.	Y	Effective transposition.

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Art.7.3 (d)	(d) he/she embarks on vocational training. Unless he/she is involuntarily unemployed, the retention of the status of worker shall require the training to be related to the previous employment.	See above	4) hvis EU-statsborgeren enten påbegynder en erhvervsuddannelse med forbindelse til den pågældendes tidligere erhvervsmæssige beskæftigelse eller er uforskyldt arbejdsløs og påbegynder en hvilken som helst erhvervsuddannelse.	4) the citizen embarks on vocational training related to the previous gainful work or is in involuntary unemployment and begins any kind of vocational training.	Y	Effective transposition.
Art. 7.4	4. By way of derogation from paragraphs 1(d) and 2 above, only the spouse, the registered partner provided for in Article 2(2)(b) and dependent children shall have the right of residence as family members of a Union citizen meeting the conditions under 1(c) above. Article 3(2) shall apply to his/her dependent direct relatives in the ascending lines and those of his/her spouse or registered partner.	LBK nr. 300, §10	<p>§ 10. Familiemedlemmer til en af § 5 omfattet EU-statsborger har ret til ophold her i landet ud over de 3 eller 6 måneder, de pågældende i medfør af udlændingelovens § 2, stk. 1 og 2, kan tage ophold i Danmark, når de ledsager eller slutter sig til den pågældende og i forvejen har fast, lovligt ophold i et EU/EØS land eller Schweiz.</p> <p>Stk. 2. Opholdsret efter stk. 1 er, medmindre ganske særlige grunde taler derimod, betinget af, at EU-statsborgeren råder over sådanne indtægter eller midler til sit og familiemedlemmernes underhold, at de pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde.</p>	<p>Section 10.(1) Family members of an EU citizen covered by Section 5 shall have the right to reside in Denmark beyond the period of three or six months they may reside in Denmark under Section 2(1) and (2) of the Aliens Act when they accompany or join the person concerned and already have permanent lawful residence in an EU/EEA state or Switzerland.</p> <p>(2) Unless there are very exceptional grounds, the right of residence under paragraph 1 of family members shall be conditional on the EU citizen having sufficient income or resources for the maintenance of the citizen and the family members so that it can be presumed, on the basis of a specific appraisal, that they will not become a burden on the social assistance system.</p>	Y, More favourable	<p>Effective transposition</p> <p>Denmark has not transposed the provision. However, as this means that the scope of family members of students is not limited to spouse and children, it is concluded that the transposing legislation is <i>de facto</i> more favourable than the provision of the Directive. (See Section 10 of LBK nr. 300, where the broad term "a family member of an EU citizen covered by Section 4 (students) is used).</p> <p>Furthermore, the transposing Danish legislation stipulates additional conditions, which is in non-conformity with the Directive. Thus, it is prescribed "and already have a permanent, lawful residence in an EU Member State" - the requirement not included in the Directive. In addition, the Danish law is slightly unclear, what is meant with "very exceptional grounds".</p>
Art. 8.1	Administrative formalities for Union citizens 1. Without prejudice to Article 5(5),	Order no. 300, § 21	§ 21. EU-statsborgere med ret til tidsbegrænset ophold efter denne bekendtgørelse skal ansøge om registreringsbevis	21. EU citizens who have a right of residence under this Order shall apply for a registration certificate not	Y	<p>Effective transposition.</p> <p>A Union citizen shall register within 3 months and submit an</p>

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	for periods of residence longer than three months, the host Member State may require Union citizens to register with the relevant authorities.		senest 3 måneder efter indrejsen, hvis opholdet forventes at vare mere end 3 måneder. Registreringsbeviset udstedes ikke for noget bestemt tidsrum. [...]	later than three months after arrival if it is expected that the duration of the residence will be more than three months. Registration certificate is not issued for any certain period [...]		application to the State Administration for a so-called Registration Certificate.
Art. 8.2	2. The deadline for registration may not be less than three months from the date of arrival. A registration certificate shall be issued immediately, stating the name and address of the person registering and the date of the registration. Failure to comply with the registration requirement may render the person concerned liable to proportionate and non-discriminatory sanctions.	Order no.300, §§ 21, 37	§ 21. EU-statsborgere med ret til tidsbegrænset ophold efter denne bekendtgørelse skal ansøge om opholdsdokument senest 3 måneder efter indrejsen, hvis opholdet forventes at vare mere end 3 måneder. Opholdsdokument efter 1. pkt. benævnes ”Bevis for registrering” og udstedes ikke for noget bestemt tidsrum. § 37. Afgørelsen om, hvorvidt et registreringsbevis efter § 21[...] bør udstedes eller afslås, træffes straks efter ansøgningens indgivelse.	Section 21. EU citizens who have a right of residence under this Order shall apply for a residence document not later than three months after arrival if it is expected that the duration of the residence will be more than three months. Residence documents pursuant to 1. sentence is named "Proof of registration" and is not issued for any certain period of time. Section 37. The decision, whether a registration certificate pursuant to Article 21 [...] is issued or refused, is made immediately after the submission of application.	Y	Effective transposition. The deadline in Denmark is 3 months after arrival. The requirement of immediate issue is effectively transposed. The requirements of stating the name and address of the person registering and the date of the registration, although this last aspect only constitutes a minor case of non-conformity (as "stating the name and address of the person registering and the date of the registration" is a standard procedure). Therefore, the overall conclusion is effective transposition. www.nyidanmark.dk. contains information about migration related issues. The forms for registration certificate are available and may be directly downloaded: http://www.nyidanmark.dk/NR/rdonlyres/27021B54-73CD-45DC-B53D-B6D57CF01F9F/0/ar6_ansoegning_arbejds_opholdstilladelse_nye_eu_land_e_endelig.pdf .
Art. 8.3	3. For the registration certificate to be issued, Member States may only require that — Union citizens to whom point (a)	Executive Order no. 300, §21.	§ 21. Udstedelse af registreringsbevis til en EU-statsborger omfattet af § 3 kan betinges af, at den pågældende	21.(1) The issue of a registration certificate to an EU citizen covered by Section 3 may be made	Y	Effective transposition.

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	of Article 7(1) applies present a valid identity card or passport, a confirmation of engagement from the employer or a certificate of employment, or proof that they are self-employed persons,		foreviser gyldigt identitetskort eller pas og enten fremlægger bevis for at udøve selvstændig erhvervsvirksomhed her i landet eller fremlægger en bekræftelse fra en arbejdsgiver eller et ansættelsesbrev som dokumentation for at have lønnet beskæftigelse her i landet.	conditional on the citizen presenting a valid identity card or passport and either presenting documentary evidence that the citizen is self-employed in Denmark or presenting a certificate from an employer or a certificate of employment establishing that the citizen has gainful work in Denmark.		
	— Union citizens to whom point (b) of Article 7(1) applies present a valid identity card or passport and provide proof that they satisfy the conditions laid down therein,	Order no. 300 §23	§23 <i>Stk. 3.</i> Udstedelse af registreringsbevis til en EU-statsborger omfattet af § 8, jf. § 2, stk. 1, nr. 3-5, § 9, stk. 1, nr. 3-5, § 10, jf. § 2, stk. 1, nr. 3-5, § 11, § 12, jf. § 2, stk. 1, nr. 3-5, kan betinges af, at hovedpersonen fremlægger dokumentation for at råde over sådanne indtægter eller midler til sit og familiemedlemmets underhold, at de pågældende ikke kan antages at ville falde det offentlige til byrde. Ved bedømmelsen heraf skal der tages hensyn til hovedpersonens og dennes families personlige situation. Kravet vil altid være opfyldt, hvis hovedpersonen og familiemedlemmet råder over indtægter eller midler, der svarer til summen af de ydelser, som de pågældende ville kunne modtage efter § 25, stk. 12, og § 34 i lov om aktiv socialpolitik.	23. (3) The issue of a registration certificate to an EU citizen covered by § 8, jf. § 2, stk. 1, nr. 3-5, § 9, stk. 1, nr. 3-5, § 10, jf. § 2, stk. 1, nr. 3-5, § 11, § 12, jf. § 2, stk. 1, nr. 3-5, may be made conditional on the requirement that the applicant produces documentation that he/she disposes of sufficient funds or income to finance his/her stay, including the stay of the family members, that the citizen is deemed not to be a burden on the social services. In the evaluation hereof regards must be had to the personal situation of the applicant and his/her family. The requirement shall always be considered to be met if the EU citizen has income or resources corresponding to those benefits for which he or she would be eligible under Sections 25(12) and 34 of the Active Social Policy Act.	Y	Effective transposition. The transposing Danish legislation states that in appraising whether the citizen's income and resources can be considered sufficient, account shall be taken of the citizen's personal situation (according to Article 8(4) of the Directive). Furthermore, the requirement shall always be considered to be met if the EU citizen has income or resources corresponding to those benefits for which he or she would be eligible under Sections 25(12) and 34 of the Active Social Policy Act (see below transposition of Article 8(4) of the Directive).

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	<p>— Union citizens to whom point (c) of Article 7(1) applies present a valid identity card or passport, provide proof of enrolment at an accredited establishment and of comprehensive sickness insurance cover and the declaration or equivalent means referred to in point (c) of Article 7(1). Member States may not require this declaration to refer to any specific amount of resources.</p>	<p>Order no. 300 §22</p>	<p>§22 <i>Stk. 3.</i> Udstedelse af registreringsbevis til en EU-statsborger omfattet af § 5 kan betinges af, at den pågældende foreviser gyldigt identitetskort eller pas og fremlægger dokumentation for at være tilmeldt en institution som nævnt i § 5, stk. 1, erklæring om eller anden tilsvarende dokumentation for at råde over sådanne indtægter eller midler til sit underhold, at den pågældende ikke kan antages at ville falde det offentlige til byrde, samt dokumentation for at være dækket af en sygeforsikring som nævnt i § 5, stk. 2.</p>	<p>22. (2) The issue of a residence document to an EU citizen covered by Section 5 may be made conditional on the citizen presenting a valid identity card or passport and presenting documentary evidence that the citizen is enrolled at a public or private establishment as specified in Section 5(1), a declaration or other equivalent documentary evidence that the person concerned has sufficient income or resources for his or her residence, so that it can be presumed that the person concerned will not become a burden on the social assistance system and documentary evidence of having comprehensive health insurance cover as mentioned in Section 5(2).</p>	<p>Y</p>	<p>Effective transposition.</p> <p>The transposing measure does not refer to any specific amount of resources.</p>
<p>Art. 8.4</p>	<p>4. Member States may not lay down a fixed amount which they regard as 'sufficient resources', but they must take into account the personal situation of the person concerned. In all cases this amount shall not be higher than the threshold below which nationals of the host Member State become eligible for social assistance, or, where this criterion is not applicable, higher than the minimum social security pension paid by the host Member State.</p>	<p>BEK Nr. 300, §22</p>	<p>§ 22 <i>Stk. 4</i> [...] Ved bedømmelsen af, hvilke indtægter og midler der må anses som tilstrækkelige, skal der tages hensyn til EU-statsborgerens personlige situation. Kravet vil altid være opfyldt, hvis EU-statsborgeren råder over indtægter eller midler, der svarer til summen af de ydelser, som den pågældende ville kunne modtage efter § 25, stk. 12, og § 34 i lov om aktiv socialpolitik.</p>	<p>Section 22.</p> <p>4. [...] In the assessment of what income and funds is to be regarded sufficient, regards must be had to the personal situation of the EU citizens. The requirement shall always be considered to be met if the EU citizen has income or resources corresponding to those benefits for which he or she would be eligible under Sections 25(12) and 34 of the Active Social Policy Act</p>	<p>Y</p>	<p>Effective transposition.</p> <p>The transposing measure requires that the personal situation of an EU national shall be taken into account.</p>

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Art. 8.5	5. For the registration certificate to be issued to family members of Union citizens, who are themselves Union citizens, Member States may require the following documents to be presented:	Order no.300, §23.	§ 23. Udstedelse af opholdsdokument til en EU-statsborger omfattet af §§ 8-12 kan betinges af, at den pågældende foreviser gyldigt identitetskort eller pas, bevis for registrering for den hovedperson, den pågældende slutter sig til eller ledsager, og dokumentation for, at der består den relevante familiemæssige tilknytning til hovedpersonen.	23.(1) The issue of a residence document to an EU citizen covered by Sections 8-12 may be made conditional on the citizen presenting a valid identity card or passport, a registration certificate for the principal person the citizen is joining or accompanying and documentary evidence of a relevant family link to the principal person.	Y	Effective transposition. For the registration certificate to be issued to family members of Union citizens, who are themselves Union citizens, Denmark requires a number of documents to be presented. N.B.: EU citizens covered by Sections 8-12 are family members to an EU citizen who is employed or self-employed, student, person with sufficient resources as well as pensioner respectively.
	(a) a valid identity card or passport;	Order no.300, §23.	§ 23. Udstedelse af opholdsdokument til en EU-statsborger omfattet af §§ 7-9 kan betinges af, at den pågældende foreviser gyldigt identitetskort eller pas, [...]	23.(1) The issue of a residence document to an EU citizen covered by Sections 7-9 may be made conditional on the citizen presenting a valid identity card or passport,(...)	Y	Effective transposition.
	(b) a document attesting to the existence of a family relationship or of a registered partnership;	Order no.300, §23.	§ 23. Udstedelse af opholdsdokument til en EU-statsborger omfattet af §§ 7-9 kan betinges af, at den pågældende foreviser [...] dokumentation for, at der består den relevante familiemæssige tilknytning til hovedpersonen.	23.(1) The issue of a residence document to an EU citizen covered by Sections 7-9 may be made conditional on the citizen presenting,(...) and documentary evidence of a relevant family link to the principal person.	Y	Effective transposition.
	(c) where appropriate, the registration certificate of the Union citizen whom they are accompanying or joining;	Order no.300, §23.	§ 23. Udstedelse af opholdsdokument til en EU-statsborger omfattet af §§ 7-9 kan betinges af, at den pågældende foreviser [...] bevis for registrering for den hovedperson, den pågældende slutter sig til eller ledsager, [...]	23.(1) The issue of a residence document to an EU citizen covered by Sections 7-9 may be made conditional on the citizen presenting,(...) a registration certificate for the principal person the citizen is joining or accompanying (...)	Y	Effective transposition.

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	(d) in cases falling under points (c) and (d) of Article 2(2), documentary evidence that the conditions laid down therein are met;	Order no.300, §23.	§ 23. Udstedelse af opholdsdokument til en EU-statsborger omfattet af §§ 7-9 kan betinges af, at den pågældende foreviser [...]dokumentation for, at der består den relevante familiemæssige tilknytning til hovedpersonen.	23.(1) The issue of a residence document to an EU citizen covered by Sections 7-9 may be made conditional on the citizen presenting,(...) and documentary evidence of a relevant family link to the principal person.	Y	Effective transposition.
	(e) in cases falling under Article 3(2)(a), a document issued by the relevant authority in the country of origin or country from which they are arriving certifying that they are dependants or members of the household of the Union citizen, or proof of the existence of serious health grounds which strictly require the personal care of the family member by the Union citizen;	Order no.300, §23.	Stk. 4. Udstedelse af registreringsbevis til en EU-statsborger omfattet af § 8, jf. § 2, stk. 1, nr. 6, § 9, jf. § 2, stk. 1, nr. 6, § 10, jf. § 2, stk. 1, nr. 6, § 11, jf. § 2, stk. 1, nr. 6, eller § 12, jf. § 2, stk. 1, nr. 6, kan betinges af, at hovedpersonen fremlægger dokumentation for, at alvorlige helbredsmæssige grunde gør det absolut nødvendigt, at hovedpersonen personligt plejer den pågældende.	(4) The issue of a residence certificate to an EU citizen covered by § 8, jf. § 2, stk. 1, nr. 6, § 9, jf. § 2, stk. 1, nr. 6, § 10, jf. § 2, stk. 1, nr. 6, § 11, jf. § 2, stk. 1, nr. 6, eller § 12, jf. § 2, stk. 1, nr. 6, may be made conditional on the principal person presenting documentary evidence that serious health grounds strictly require the personal care of the family member by the principal person.	Y	Effective transposition.
	(f) in cases falling under Article 3(2)(b), proof of the existence of a durable relationship with the Union citizen.	Order no.300, §23.	§ 23. Udstedelse af opholdsdokument til en EU-statsborger omfattet af §§ 7-9 kan betinges af, at den pågældende foreviser [...] og dokumentation for, at der består den relevante familiemæssige tilknytning til hovedpersonen.	23.(1) The issue of a residence document to an EU citizen covered by Sections 7-9 may be made conditional on the citizen presenting,(...) and documentary evidence of a relevant family link to the principal person.	Y	Effective transposition. Durable relationships is a family link.
Art. 9.1	Administrative formalities for family members who are not nationals of a Member State. 1. Member States shall issue a residence card to family members of a Union citizen who are not nationals of a Member State, where the planned period of residence is for more than	Order no. 300, § 25	§ 25. EU-statsborgeres familiemedlemmer, der er tredjelandstatsborgere og har ret til tidsbegrænset ophold efter denne bekendtgørelse, skal ansøge om opholdsdokument senest 3 måneder efter indrejsen, hvis opholdet forventes at vare mere	21. EU citizens' family members who are third-country nationals and have a right of residence under this Order shall apply for a residence document not later than three months after entry if the period of residence is expected to	N, Incorrect	Incorrect transposition The Danish legislation obliges a family member of an EU national who is not an EU national himself or herself and who has a right of residence to apply for a residence card within three months of arriving in Denmark.

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	three months.		end 3 måneder.	exceed three months.		However, the Directive stipulates that MS shall issue – the obligation to issue is thus not transposed.
Art.9.2	2. The deadline for submitting the residence card application may not be less than three months from the date of arrival.	Order no. 300, § 25	§ 25. skal ansøge om opholdsdokument senest 3 måneder efter indrejsen, hvis opholdet forventes at vare mere end 3 måneder.	25.shall apply for a residence document not later than three months after entry if the period of residence is expected to exceed three months....	Y	Effective transposition.
Art.9.3	3. Failure to comply with the requirement to apply for a residence card may make the person concerned liable to proportionate and non-discriminatory sanctions.	Act no. 808 of 08/07/2008 Art. 59	§ 59 Med bøde eller fængsel indtil 6 måneder straffes den udlænding, som....(..) 3) opholder sig i landet uden fornøden tilladelse ... Stk 4 <i>Stk. 4.</i> Med bøde eller fængsel indtil 2 år straffes den, som beskæftiger en udlænding uden fornøden arbejdstilladelse eller i strid med de for en arbejdstilladelse fastsatte betingelser.	59(1) An alien is liable to a fine or imprisonment for up to 6 months if he 3) stays in Denmark without the requisite permit (2) An alien is liable to a fine or imprisonment for up to one year if he works in Denmark without the requisite permit	N, Incorrect	Incorrect transposition As the sanction as prescribed by the Danish law may also include imprisonment, failure to comply with the requirement to apply for a residence card is a criminal offence. It is thus considered to be a case of non-conformity, as imprisonment is the most stringent sanction of all possible and is not proportionate.
Art.10.1	Issue of residence cards 1. The right of residence of family members of a Union citizen who are not nationals of a Member State shall be evidenced by the issuing of a document called 'Residence card of a family member of a Union citizen' no later than six months from the date on which they submit the application. A certificate of application for the residence card shall be issued immediately.	Order no. 300, §§ 25, 37	25. [...] Opholdsdokument efter 1. pkt. benævnes "Opholdskort for familiemedlem til en unionsborger" og udstedes for 5 år fra udstedelsestidspunktet eller for varigheden af hovedpersonens påtænkte ophold. § 37. <i>Stk. 2.</i> Afgørelsen om, hvorvidt et opholdsdokument efter § 25 bør udstedes eller afslås, træffes hurtigst muligt og senest 6 måneder efter ansøgningens indgivelse.	25. [...] The residence document referred to in the first sentence shall be named "Residence card for a family member of a Union citizen" and shall be valid for five years from the date of issue or for the duration of the principal person's planned residence. 37.(2) Decisions on whether a residence document under Section 25 shall be issued or refused shall be taken as quickly as possible and not later than six months	N, Incomplete and Incorrect	Incomplete and incorrect transposition Part of the Directive's provision is correctly transposed. However, the Directive requires the issuing of the residence card no later than 6 months from application. The national law refers to the taking of a decision as to whether it shall be issued within 6 months. Moreover, the requirement for certificate of application to be issued immediately is not transposed.

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				following the presentation of the application		
Art.10. 2 (a)	2. For the residence card to be issued, Member States shall require presentation of the following documents: (a) a valid passport;	Order no.300, § 23	§ 23. Udstedelse af opholdsdokument til en tredjelandsstatsborger omfattet af §§ 8-12 kan betinges af, at den pågældende foreviser gyldigt identitetskort eller pas [...]	22.(1) The issue of a residence certificate to a third-country national covered by Sections 8-12 may be made conditional on the person concerned presenting a valid identity card or passport, [...]	Y	Effective transposition.
Art.10. 2 (b)	(b) a document attesting to the existence of a family relationship or of a registered partnership;	Order no. 300, § 23	§ 23. Udstedelse af opholdsdokument til en tredjelandsstatsborger omfattet af §§ 8-12 kan betinges af, at den pågældende foreviser [...] dokumentation for, at der består den relevante familiemæssige tilknytning til hovedpersonen.	23.(1) The issue of a residence certificate to a third-country national covered by Sections 8-12 may be made conditional on the person concerned presenting a [...]documentary evidence of a relevant family link to the principal person.	Y	Effective transposition.
Art.10. 2 (c)	(c) the registration certificate or, in the absence of a registration system, any other proof of residence in the host Member State of the Union citizen whom they are accompanying or joining;	Order no. 300, § 23	§ 23. Udstedelse af opholdsdokument til en tredjelandsstatsborger omfattet af §§ 8-12 kan betinges af, at den pågældende foreviser [...] registreringsbevis eller opholdskort for den hovedperson, den pågældende slutter sig til eller ledsager, [...]	23.(1) The issue of a residence certificate to a third-country national covered by Sections 8-12 may be made conditional on the person concerned presenting[...],a registration certificate or a reside card of the principal person the person concerned is joining or accompanying [...]	Y	Effective transposition.
Art.10. 2 (d)	(d) in cases falling under points (c) and (d) of Article 2(2), documentary evidence that the conditions laid down therein are met;	Order no. 300, § 23	§ 22. Udstedelse af opholdsdokument til en tredjelandsstatsborger omfattet af §§ 8-12 kan betinges af, at den pågældende foreviser [...] dokumentation for, at der består den relevante familiemæssige tilknytning til hovedpersonen.	22.(1) The issue of a residence certificate to a third-country national covered by Sections 8-12 may be made conditional on the person concerned presenting [...]documentary evidence of a relevant family link to the principal person.	Y	Effective transposition.

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Art.10.2 (e)	(e) in cases falling under Article 3(2)(a), a document issued by the relevant authority in the country of origin or country from which they are arriving certifying that they are dependants or members of the household of the Union citizen, or proof of the existence of serious health grounds which strictly require the personal care of the family member by the Union citizen;	Order no. 300, § 23	§23 <i>Stk. 4.</i> Udstedelse af registreringsbevis til en EU-statsborger omfattet af § 8, jf. § 2, stk. 1, nr. 6, § 9, jf. § 2, stk. 1, nr. 6, § 10, jf. § 2, stk. 1, nr. 6, § 11, jf. § 2, stk. 1, nr. 6, eller § 12, jf. § 2, stk. 1, nr. 6, kan betinges af, at hovedpersonen fremlægger dokumentation for, at alvorlige helbredsmaessige grunde gør det absolut nødvendigt, at hovedpersonen personligt plejer den pågældende.	(4) The issue of a residence certificate to a third-country national covered by § 8, jf. § 2, stk. 1, nr. 6, § 9, jf. § 2, stk. 1, nr. 6, § 10, jf. § 2, stk. 1, nr. 6, § 11, jf. § 2, stk. 1, nr. 6, eller § 12, jf. § 2, stk. 1, nr. 6, may be made conditional on the principal person presenting documentary evidence that serious health grounds strictly require the personal care of the person concerned by the principal person.	Y	Effective transposition.
Art.10.2 (f)	(f) in cases falling under Article 3(2)(b), proof of the existence of a durable relationship with the Union citizen.	Order no. 300, § 23	§ 23. Udstedelse af opholdsdokument til en tredjelandstatsborger omfattet af §§ 8-12 kan betinges af, at den pågældende foreviser [...] dokumentation for, at der består den relevante familiemæssige tilknytning til hovedpersonen.	23.(1) The issue of a residence certificate to a third-country national covered by Sections 8-12 may be made conditional on the person concerned presenting [...] documentary evidence of a relevant family link to the principal person.	Y	Effective transposition.
Art.11.1	Validity of the residence card 1. The residence card provided for by Article 10(1) shall be valid for five years from the date of issue or for the envisaged period of residence of the Union citizen, if this period is less than five years.	Order no. 300, §25	§ 25. EU-statsborgeres familiemedlemmer, der er tredjelandstatsborgere og har ret til tidsbegrænset ophold efter denne bekendtgørelse, skal ansøge om opholdsdokument senest 3 måneder efter indrejsen, hvis opholdet forventes at vare mere end 3 måneder. Opholdsdokument efter 1. pkt. benævnes "Opholdskort for familiemedlem til en unionsborger" og udstedes for 5 år fra udstedelsestidspunktet eller for varigheden af hovedpersonens påtænkte	25. EU citizens' family members who are third-country nationals and have a right of residence under this Order shall apply for a residence document not later than three months after entry if the period of residence is expected to exceed three months. The residence document referred to in the first sentence shall be termed "Residence card for a family member of a Union citizen" and shall be valid for five years from the date of issue or for the duration of the	Y	Effective transposition. The Danish legislation stipulates that the "Residence card for a family member of a Union citizen" shall be valid for five years from the date of issue or for the duration of the principal person's planned residence.

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			ophold.	principal person's planned residence.		
Art.11.2	2. The validity of the residence card shall not be affected by temporary absences not exceeding six months a year, or by absences of a longer duration for compulsory military service or by one absence of a maximum of 12 consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another Member State or a third country.	Order no. 300, 19	§ 19. <i>Stk. 6.</i> Ophold som nævnt i stk. 1-4 anses ikke for afbrudt ved midlertidige ophold uden for landet, der ikke tilsammen overstiger 6 måneder om året, fravær af længere varighed som skyldes værnepligt, eller ét fravær af højst 12 måneders varighed som skyldes helt særlige grunde.	19.(9) "Residence" for the purposes of paragraphs 1-4 shall not be considered to be interrupted by temporary absences abroad not exceeding a total of six months a year, absences of a longer duration for compulsory military service, or one absence of a maximum of twelve months in wholly exceptional circumstances.	N, Incorrect	Incorrect transposition As a main rule, the Danish transposing legislation prescribes that the validity of the residence card shall not be affected by temporary absences not exceeding six months a year. As concerns longer absences (up to 12 months, as stipulated by the Directive), the transposing legislation requires "wholly exceptional circumstances", which narrows the objective of the Directive – this is stricter than the Directive's 'very important reasons'
Art.12.1	Retention of the right of residence by family members in the event of death or departure of the Union citizen 1. Without prejudice to the second subparagraph, the Union citizen's death or departure from the host Member State shall not affect the right of residence of his/her family members who are nationals of a Member State. Before acquiring the right of permanent residence, the persons concerned must meet the conditions laid down in points (a), (b), (c) or (d) of Article 7(1).	Order no. 300, §§ 14, 19	§ 14. En EU-statsborger, der har ret til at opholde sig her i landet som familiemedlem efter §§ 8-11, mister ikke retten til ophold ved hovedpersonens død eller udrejse af Danmark. 19 <i>Stk. 2.</i> En EU-statsborger, hvis ret til ophold her i landet følger af § 14, stk. 1, eller § 15, stk. 1, erhverver dog først de rettigheder, der følger af retten til tidsbegrænset ophold her i landet, når den pågældende tilvejebringer et selvstændigt opholdsgrundlag efter §§ 3-6 eller §§ 8-11.	14.(1) An EU citizen who has a right of residence in Denmark as a family member under Sections 8-11 shall not lose that right in the event of the death or departure from Denmark of the principal person. 19 (2) However, an EU citizen who has a right of residence in Denmark under Section 14(1) or 15(1) shall only acquire the rights flowing from the right of permanent residence in Denmark when the person concerned creates an independent basis for residence under Sections 3-6 or 8-11.	Y	Effective transposition. Cross-references as mentioned in the Danish transposing provisions: Section 8 - workers or self-employed Section 9 –outstationed Section 10- students Section 11 - persons with sufficient resources Section 3-6 being a family member

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Art.12.2	2. Without prejudice to the second subparagraph, the Union citizen's death shall not entail loss of the right of residence of his/her family members who are not nationals of a Member State and who have been residing in the host Member State as family members for at least one year before the Union citizen's death.	Order no. 300, §14	14, Stk. 2. En tredjelandstatsborger, der har ret til at opholde sig her i landet som familiemedlem efter §§ 7-9, mister ikke retten til ophold ved hovedpersonens død, hvis den pågældende har opholdt sig her i landet i mindst 1 år inden hovedpersonens død. [...]	14.(2) A third-country national who has a right of residence in Denmark as a family member under Sections 7-9 shall not lose that right in the event of the death of the principal person if the person concerned has resided in Denmark for at least one year before the death of the principal person. [...]	Y	Effective transposition
	Before acquiring the right of permanent residence, the right of residence of the persons concerned shall remain subject to the requirement that they are able to show that they are workers or self-employed persons or that they have sufficient resources for themselves not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State, or that they are members of the family, already constituted in the host Member State, of a person satisfying these requirements. 'Sufficient resources' shall be as defined in Article 8(4).	Order no. 300, §14	§14 [...] Opholdsretten vil dog herefter være betinget af, at tredjelandstatsborgeren er arbejdstager eller selvstændig erhvervsdrivende, at den pågældende råder over sådanne indtægter eller midler til sit underhold, at den pågældende ikke falder det offentlige til byrde, og tegner en sygeforsikring, der dækker perioden, indtil den pågældende opnår ret til ydelser efter sundhedsloven, eller at den pågældende er familiemedlem til en person, der opfylder disse krav.	14 [...] Nevertheless, that right shall remain subject to the requirement that the third-country national is a worker or self-employed person, has sufficient income or resources to support himself or herself, does not become a burden on the social assistance system, and takes out comprehensive health insurance covering the period until the person concerned qualifies for benefits under	N, Incomplete	The transposition provision does not refer to "they are members of the family, already constituted in the host Member State, of a person satisfying these requirements". In addition there is no reference to sufficient resources evaluation.
	Such family members shall retain their right of residence exclusively on a personal basis.		-	-	NT	Not transposed This provision has not been transposed. The transposition is incomplete.
Art.12.3	3. The Union citizen's departure from the host Member State or his/her death shall not entail loss of the right of residence of his/her children or of the parent who has actual custody of the children, irrespective of nationality, if	Order no. 300, §14	§ 14. Stk. 4. En tredjelandstatsborger, der er barn til en hovedperson, mister ikke retten til ophold her i landet ved hovedpersonens død eller udrejse af landet, hvis	14. (4) A third-country national who is a child of a principal person shall not lose the right of residence in Denmark in the event of the death or departure from	Y	Effective transposition.

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	the children reside in the host Member State and are enrolled at an educational establishment, for the purpose of studying there, until the completion of their studies.		barnet opholder sig her i landet og er tilmeldt en uddannelsesinstitution. Retten til ophold bevares, indtil barnet har afsluttet sin uddannelse. Den person, der har den faktiske forældremyndighed over barnet, har ret til ophold sammen med barnet.	Denmark of the principal person if the child is resident in Denmark and is enrolled at an educational establishment. The right of residence shall be retained until the child has completed his or her studies. The person who has actual custody of the child shall have the right to reside together with the child.		
Art.13.1	Retention of the right of residence by family members in the event of divorce, annulment of marriage or termination of registered partnership 1. Without prejudice to the second subparagraph, divorce, annulment of the Union citizen's marriage or termination of his/her registered partnership, as referred to in point 2(b) of Article 2 shall not affect the right of residence of his/her family members who are nationals of a Member State.	Order no. 300, §15	§ 15. En EU-statsborger, der har ret til at opholde sig her i landet som familiemedlem efter §§ 8-11, mister ikke retten til ophold ved hovedpersonens og dennes ægtefælles skilsmisse eller ophør af ægteskabet ved omstødelse.	15.(1) An EU citizen who has a right of residence in Denmark as a family member under Sections 8-11 shall not lose that right in the event of divorce or termination by annulment of the marriage of the principal person or his or her spouse.	Y	Effective transposition. In Danish law, a partner is treated like a spouse, but divorce and annulment presuppose marriage. Accordingly, a specific reference to the partner needs to be made here. However, analogous application is possible here, as the partnership may be registered pursuant to Danish legislation and likewise may result in dissolution.
	Before acquiring the right of permanent residence, the persons concerned must meet the conditions laid down in points (a), (b), (c) or (d) of Article 7(1).	Order no.300, §19	§19 Stk. 2. En EU-statsborger, hvis ret til ophold her i landet følger af § 14, stk. 1, eller § 15, stk. 1, erhverver dog først de rettigheder, der følger af retten til tidsbegrænset ophold her i landet, når den pågældende tilvejebringer et selvstændigt opholdsgrundlag efter §§ 3-6 eller §§ 8-11.	19 (2) However, an EU citizen who has a right of residence in Denmark under Section 14(1) or 15(1) shall only acquire the rights flowing from the right of permanent residence in Denmark when the person concerned creates an independent basis for residence under Sections 3-6 or 8-11.	Y	Effective transposition.
Art.13.2 (a)	2. Without prejudice to the second subparagraph, divorce, annulment of marriage or termination of the registered partnership referred to in	Order no. 300, § 15	§ 15. Stk. 2. En tredjelandstatsborger, der har ret til at opholde sig her i landet som familiemedlem efter §§ 8-	15. (2) A third-country national who has a right of residence in Denmark as a family member under	Y	Effective application. A partner is treated like a spouse in the Danish law but divorce and

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	point 2(b) of Article 2 shall not entail loss of the right of residence of a Union citizen's family members who are not nationals of a Member State where: (a) prior to initiation of the divorce or annulment proceedings or termination of the registered partnership referred to in point 2(b) of Article 2, the marriage or registered partnership has lasted at least three years, including one year in the host Member State; or		11, mister ikke retten til ophold ved hovedpersonens og dennes ægtefælles skilsmisse eller ophør af ægteskabet ved omstødelse, hvis 1) ægteskabet ved begyndelsen af proceduren til skilsmisse eller omstødelse har varet i mindst 3 år, heraf mindst 1 år her i landet,	Sections 8-11 shall not lose that right in the event of divorce or termination by annulment of the marriage of the principal person or his or her spouse if 1) prior to the initiation of the divorce or annulment proceedings, the marriage has lasted at least three years, of which at least one year was spent in Denmark,		annulment presuppose marriage. Accordingly, a specific reference to the partner needs to be made here. However, analogous application is possible here, as the partnership may be registered pursuant to Danish legislation and likewise may result in dissolution.
Art.13. 2 (b)	(b) by agreement between the spouses or the partners referred to in point 2(b) of Article 2 or by court order, the spouse or partner who is not a national of a Member State has custody of the Union citizen's children; or	Order no. 300, §15	2) forældremyndigheden til hovedpersonens børn ved aftale eller afgørelse er overdraget til en ægtefælle, der er tredjelandsstatsborger,	2) by agreement between the spouse or by court order, the spouse who is not a national of a Member State has custody of the principal person's children,	Y	Effective transposition. Supposedly here the partner is covered. The application by analogy.
Art.13. 2 (c)	(c) this is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage or registered partnership was subsisting; or	Order no. 300, §15	3) der foreligger en særlig vanskelig situation, herunder som følge af, at ægtefællen har været udsat for overgreb, misbrug eller anden overlast i hjemmet, mens ægteskabet bestod, eller	3) this is warranted by particularly difficult circumstance, such as the existence of domestic violence, abuse or other harm during the subsistence of the marriage, or	Y	Effective transposition. Here, registered partnership will be included in the word 'marriage'.
Art.13. 2 (d)	d) by agreement between the spouses or partners referred to in point 2 (b) of Article 2 or by court order, the spouse or partner who is not a national of a Member State has the right of access to a minor child, provided that the court has ruled that such access must be in the host Member State, and for as long as is required.	Order no. 300, §15	4) ægtefællen ved aftale eller afgørelse har ret til samvær med et mindreårigt barn, og dette samvær skal finde sted her i landet.	4) by agreement between the spouses or by court order, the spouse has a right of access to a minor child and such access must be provided in Denmark	Y	Effective transposition The Directive says 'provided that the court has ruled that such access must be in the host MS' – the national law states generally that such access must be provided in Denmark without requiring a court ruling to that effect so the national law is more favourable. N.B.: Although the last sentence "for as long as required" is not explicitly stated, it would be implied in the court order, thus the

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						conformity is not affected at this point.
	Before acquiring the right of permanent residence, the right of residence of the persons concerned shall remain subject to the requirement that they are able to show that they are workers or self-employed persons or that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State, or that they are members of the family, already constituted in the host Member State, of a person satisfying these requirements. 'Sufficient resources' shall be as defined in Article 8(4).	Order no. 300, § 15	§ 15. <i>Stk. 3.</i> Opholdsret, der bevares efter reglen i stk. 2, er efter skilsmissen eller ophøret af ægteskabet ved omstødelse betinget af, at tredjelandstatsborgeren er arbejdstager eller selvstændig erhvervsdrivende, at den pågældende råder over sådanne indtægter eller midler til sit underhold, at den pågældende ikke falder det offentlige til byrde, og tegner en sygeforsikring, der dækker perioden, indtil den pågældende opnår ret til ydelser efter sundhedsloven, eller at den pågældende er familiemedlem til en person, der opfylder disse krav.	15. (3) A right of residence that is retained under paragraph 2 after divorce or termination of marriage by annulment shall remain subject to the requirement that the third-country national is a worker or self-employed person, has sufficient income or resources to support the national, does not become a burden on the social assistance system, and takes out comprehensive health insurance covering the period until the person concerned qualifies for benefits	N, Incomplete	Incomplete transposition The national law is limited to cases of termination of marriage. The transposition is incomplete as it does not provide for the other persons covered by the Directive. This could perhaps constitute more favourable treatment in that such other persons need to fulfil these requirements before acquiring the right of permanent residence. However, here silence does not offer an adequate guarantee, unless it is clear that marriage covers registered partnerships too (the same way that spouse covers partner). See comments above on Article 8(4).
	Such family members shall retain their right of residence exclusively on personal basis.				NT	Not transposed The provision is not transposed.
Art.14.1	Retention of the right of residence Union citizens and their family members shall have the right of residence provided for in Article 6, as long as they do not become an unreasonable burden on the social assistance system of the host Member State.	Order no. 300, §6	§ 6. En EU-statsborger, der råder over sådanne indtægter eller midler til sit underhold, at den pågældende efter en konkret vurdering ikke kan antages at ville falde det offentlige til byrde, har ret til ophold her i landet ud over de 3 eller 6 måneder, den pågældende i medfør af udlændingelovens § 2, stk. 1, kan tage ophold i Danmark. <i>Stk. 2.</i> Opholdsret efter stk. 1 er betinget af, at den pågældende tegner en sygeforsikring, der dækker	Section 6. A European citizen with sufficient funds or income to finance his/her stay and who, subject to evaluation, is deemed not to be a burden to the social services has the right to remain in the country for longer than the three or six months stated in Article 2, para.1 of the Alien Act. 2. Residence permit pursuant to para. 1 is conditioned by the taking out of a health insurance by the alien, which applies until the alien obtains	N, Incorrect	Incorrect transposition The Directive refers to the right of residence for up to three months. According to the transposing legislation, the right of residence may be extended for a longer period than three months, if an EU national has sufficient income or resources for his or her maintenance and has comprehensive health insurance that is valid in Denmark. Accordingly, the transposing legislation does not stipulate that an EU citizen or a family member

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		LBK nr. 808 §25a para. 2	<p>perioden, indtil den pågældende opnår ret til ydelser efter sundhedsloven.</p> <p><i>Stk. 2.</i> Efter indrejsen kan en udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, desuden udvises, hvis:</p> <p>1) Der efter det, som er oplyst om udlændingens forhold, er grund til at antage, at udlændingen vil tage ophold eller arbejde her i landet uden fornøden tilladelse. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>2) Udlændingen ikke har de nødvendige midler til sit underhold her i landet og til hjemrejsen. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>3) Andre hensyn til den offentlige orden eller sikkerheds- eller sundhedsmæssige grunde tilsiger, at udlændingen ikke bør have ophold her i landet.</p>	<p>the right to services pursuant to the Health Code.</p> <p>Section 25 a.</p> <p>2. An alien, who has not legally resided in the country for the past 6 months, may be expelled, if</p> <p>- Reason exists to believe that the alien will stay or work in Denmark without permit, according to the informations given about the alien. Aliens included in the scope of appliance of Article 2, para. 1 or 2 cannot be expelled for these reasons.</p> <p>- An alien not in possession of the required financial means to sustain his/her residence and pay for a return journey. Aliens included in the scope of appliance of Article 2, para. 1 or 2 cannot be expelled for these reasons</p> <p>- Other regards to the public order or reasons of safety and health dictates that the alien should not stay in Denmark.</p>		<p>can be expelled before the three months on the grounds that they have become an unreasonable burden on the social assistance. This is in line with the Directive's provision.</p> <p>However, the requirement "subject to evaluation" as laid down in the national legislation grants a margin of discretion for authorities to determine whether a person in question is deemed not to be a burden to the social services. This creates an <i>a priori</i> test - an additional requirement not envisaged by the Directive. In addition, Denmark has not made use of the option under Article 24(2) not to grant social assistance benefits during the first three months of residence. Thus, the Danish transposition does not exclude the possibility that a person would be deemed an unreasonable burden on the social assistance system during the first three months.</p> <p>The overall conclusion is that Denmark has incorrectly transposed Article 14 (1) of the EU Residence Directive.</p> <p>The provision on the expulsion (Section 25a para. 2 of LBK nr. 808) opens a possibility for expulsion, if it may be assumed that an alien will become an unreasonable burden on the Danish social assistance system.</p>

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						However, the rule does not apply to EU citizens and third-country nationals covered by EU rules.
Art.14.2	2. Union citizens and their family Members shall have the right of residence provided for in Articles 7, 12 and 13 as long as they meet the conditions set out therein.	Order no. 300, §30	<p>§ 30. Tidsbegrænset opholdsret efter §§ 3-6, §§ 8-11, § 14, stk. 2 og 4, og § 15, stk. 2, jf. stk. 3, ophører, hvis den pågældende ikke længere opfylder de i disse bestemmelser nævnte betingelser.</p> <p><i>Stk. 2.</i> Tidsbegrænset opholdsret efter § 14, stk. 1, og § 15, stk. 1, ophører, hvis den pågældende opgiver sin bopæl her i landet eller har opholdt sig uden for landet i mere end 12 på hinanden følgende måneder.</p>	<p>Section 30. Temporary residence permit pursuant to Articles 3 to 6, 8-11, 14, para. 2 and 4, and Article 15, para. 2, cf. para. 3, ceases if the applicant no longer meets the requirements of the articles mentioned in this section.</p> <p>2. Temporary residence permit pursuant to Article 14, para. 1 and Article 15, para. 1 ceases if the applicant abandons his/her residence in Denmark or has been abroad in more than 12 months continuously.</p>	Y	<p>Effective transposition.</p> <p>The transposing national legislation regulates the equivalent situations as the provision of the Directive.</p> <p>Articles 3 to 6 cover workers, self-employed, persons who are outplaced, students and persons with sufficient resources. Article 8-11 cover family members to workers, self-employed, persons who are outplaced, students and persons with sufficient resources correspondingly. Article 14, para. 2 and 4 regulates the retention of the right of residence of family members to an EU citizen who has died or left the Member State. Article 15, para. 2, para. 3 regulates the retention of the right of residence of family members to an EU citizen in the case of divorce or annulment of marriage or termination of the registered partnership.</p>
	In specific cases where there is a reasonable doubt as to whether a Union citizen or his/her family members satisfies the conditions set out in Articles 7, 12 and 13, Member States may verify if these conditions are fulfilled. This verification shall not be carried out systematically.	-			NT	This provision has not been transposed.
Art.14.3	3. An expulsion measure shall not be the automatic consequence of a Union citizen's or his or her family member's recourse to the social assistance	Act no. 808 § 25 a, Chapter 4	<p>Kapitel 4 <i>Udvisning</i></p> <p>§ 22. En udlænding, som har haft lovligt ophold her i landet i mere end de sidste 9 år, og en</p>	<p>Chapter 14 - Expulsion</p> <p>Art. 22. An alien who has had legal residence in the country for more than 9 years and an</p>	N, Incorrect	<p>Incorrect transposition</p> <p>Expulsion is regulated in LBK 808, Chapter 4 in the following</p>

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	system of the host Member State.		<p>udlænding med opholdstilladelse efter § 7 eller § 8, stk. 1 eller 2, som har haft lovligt ophold her i landet i mere end de sidste 8 år, kan udvises, hvis</p> <p>1) udlændingen idømmes ubetinget straf af mindst 4 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>2) udlændingen for flere strafbare forhold idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>3) udlændingen idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, og tidligere her i landet er idømt ubetinget fængselsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have</p>	<p>alien with a residence permit in accordance with §7 or §8,(1 and 2), who have had legal residence in the country for more than 8 years can be expelled if</p> <p>1) the alien is sentenced to at least 4 years imprisonment or other form of punishment for the same period for a criminal act/offence.</p> <p>2) the alien is sentenced to at least 2 years imprisonment or to other form of punishment for several criminal acts/offences.</p> <p>3) The alien is sentenced to at least 2 years imprisonment or to other form of punishment for a criminal act/offence and who has previously been convicted of a criminal act/offence [...]</p>		<p>way: expulsion is possible on the grounds of public policy, security and health, as well as on the grounds of an alien's involvement into criminal activities (the expulsion decision is taken in the last mentioned case on the basis of length of punishment prescribed and the time period during which the alien has legally resided in Denmark).</p> <p>The transposing legislation uses the broad term "alien" also covering EU citizens. However, it is further stated in Article 25a indent.2 that an EU/EEA national may not be expelled from Denmark on the basis that he or she will stay or work in the country without a permit.</p> <p>The provisions of Section 25s state that the right of residence is lost if the conditions are not met, which includes becoming an unreasonable burden. Accordingly, a case of non-conformity is concluded.</p> <p>The requirement is that it can not be an automatic consequence. It is possible to not allow a person to stay if he becomes an unreasonable burden. This should just be assessed on the basis of the personal situation of the person concerned.</p>

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			<p>medført en straf af denne karakter,</p> <p>4) udlændingen efter lov om euforiserende stoffer eller straffelovens § 191 eller § 290, når udbyttet er opnået ved overtrædelse af lov om euforiserende stoffer eller straffelovens § 191, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>5) udlændingen efter § 59, stk. 7, eller straffelovens § 125 a idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>6) udlændingen efter bestemmelser i straffelovens kapitel 12 og 13 eller efter straffelovens § 119, stk. 1 og 2, § 123, § 180, § 181, § 183, stk. 1 og 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 og 3, jf. stk. 1, § 215, § 216, § 222, §§ 224 og 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286,</p>	<p>4) An alien who in accordance with the law on euphoric drugs or the penal code's §191 or §290 obtains profit through contravening said law and is sentenced to imprisonment or other form of punishment for this reason.</p> <p>5) Aliens in accordance with § 59, (7) or the penal code's §125 sentenced to imprisonment or other form of punishment for contravening this law,</p> <p>6) Aliens who in accordance with the penal code's articles 12 and 13 or § 119, stk. 1 and 2, § 123, § 180, § 181, § 183, stk. 1 and 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 and 3, jf. stk. 1, § 215, § 216, § 222, §§ 224 and 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286, § 288,</p>		

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			<p>§ 288, § 289, § 290, stk. 2, eller § 291, stk. 2, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter, eller</p> <p>7) udlændingen efter straffelovens §§ 260 eller 266 under henvisning til, at den pågældende har tvunget nogen til at indgå ægteskab mod eget ønske, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p> <p>§ 23. En udlænding, som har haft lovligt ophold her i landet i mere end de sidste 5 år, kan udvises</p> <p>1) af de grunde, der er nævnt i § 22,</p> <p>2) hvis udlændingen idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>3) hvis udlændingen for flere strafbare forhold idømmes ubetinget straf af mindst 1 års fængsel eller anden strafferetlig</p>	<p>§ 289, § 290, stk. 2, or § 291, stk. 2, are sentenced to imprisonment or other form of punishment or</p> <p>7) an alien pursuant to §§ 260 or 266 of Criminal Code on the basis of the person in question has made someone to enter into marriage against his/her will, is sentenced to imprisonment or other form of punishment [...]</p> <p>Art. 23. An alien who has legally resided here in the country for more than five foregoing years may be expelled</p> <p>1). on the grounds, as mentioned in section 22,</p> <p>2) if the alien was sentenced to unconditional penalty of at least two years imprisonment or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length.</p> <p>3) when an alien is convicted for several crimes and more</p>		

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			<p>retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, eller</p> <p>4) hvis udlændingen idømmes ubetinget straf af mindst 1 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, og tidligere her i landet er idømt ubetinget fængselsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p> <p>§ 24. Andre udlændinge kan udvises</p> <p>1) af de grunde, der er nævnt i §§ 22 eller 23, eller</p> <p>2) hvis udlændingen idømmes betinget eller ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p> <p>§ 24 a. Ved afgørelse om udvisning ved dom, navnlig</p>	<p>than 1 year imprisonment or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length</p> <p>4) when an alien is sentenced to imprisonment for at least one year or imilar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length</p> <p>Art 24. Other aliens may be expelled</p> <p>1). on the grounds, as mentioned in sections 22 or 23 or</p> <p>2) if the alien was sentenced to conditional and unconditional penalty or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length.</p> <p>Art. 24a In decisions on expulsion due to criminal</p>		

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			<p>efter § 22, nr. 4-7, skal der lægges vægt på, om udvisning må anses for særlig påkrævet på grund af</p> <ol style="list-style-type: none"> 1) grovheden af den begåede kriminalitet, 2) længden af den idømte frihedsstraf, 3) den fare, skade eller krænkelse, der var forbundet med den begåede kriminalitet, eller 4) tidligere domme for strafbart forhold. <p>§ 24 b. En udlænding kan udvises betinget, hvis der ikke findes at være fuldt tilstrækkeligt grundlag for at udvise den pågældende efter §§ 22-24, fordi udvisning må antages at virke særlig belastende, jf. § 26, stk. 1.</p> <p><i>Stk. 2.</i> Ved betinget udvisning skal der fastsættes en prøvetid. Prøvetiden beregnes fra tidspunktet for endelig dom i sagen eller, hvis den pågældende ikke har været til stede ved domsafsigelsen, fra dommens forkyndelse og udløber 2 år efter tidspunktet for løsladelse eller udskrivning fra hospital eller forvaring eller fra ophør af ophold i en sikret afdeling på en døgninstitution for børn og unge.</p> <p><i>Stk. 3.</i> En udlænding, der er idømt betinget udvisning efter stk. 1, kan udvises, hvis den pågældende i prøvetiden for den betingede udvisning begår</p>	<p>sentencing vis. § 22, nos. 4-7, weight must be placed on the fact that the expulsion is necessary due to:</p> <ol style="list-style-type: none"> 1) the nature of the crime 2) length of sentence 3) the danger, damage and violation in connection with the criminal act, or 4) previous convictions. <p>Art. 24b An alien can be conditionally expelled, if there is insufficient basis for expulsion under sections 22-24, because expulsion is deemed to be exceptionally traumatic in accordance with section 26 para.1.</p> <p>(2) During the conditional expulsion, a trial period shall be determined. The calculation of the trial period must run from the time of final court decision, or in case the alien was not present in court, run from the communication of the courts decision to alien, and run for a two year period after the alien was released on probation or released from hospital. . [...]</p> <p>(3) An alien under a conditioned expulsion may be expelled when during the trial period new criminal offences</p>		

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			<p>nyt strafbart forhold, som kan give anledning til udvisning efter §§ 22-24, og der inden prøvetidens udløb foretages rettergangsskridt, medmindre en afgørelse om udvisning må antages at virke særlig belastende, jf. § 26, stk. 1.</p> <p><i>Stk. 4.</i> Udvises en udlænding betinget, skal retten i forbindelse med dommens afsigelse vejlede udlændingen om betydningen heraf.</p> <p>§ 25. En udlænding kan udvises, hvis</p> <p>1) udlændingen må anses for en fare for statens sikkerhed, eller</p> <p>2) udlændingen må anses for en alvorlig trussel mod den offentlige orden, sikkerhed eller sundhed.</p> <p>§ 25 a. En udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, kan endvidere udvises, hvis</p> <p>1) udlændingen uden for de i §§ 22-24 nævnte tilfælde er dømt for overtrædelse af § 42 a, stk. 7, 2. pkt., jf. § 60, stk. 1, straffelovens §§ 119, 244, 266, 276-283 eller 290, toldlovens § 73, stk. 2, jf. stk. 1, nr. 1, eller lov om våben og eksplosivstoffer, eller udlændingen over for politiet har erkendt overtrædelsen eller er pågrebet under eller i umiddelbar tilknytning til udøvelsen af det strafbare</p>	<p>that may be the reason for expulsion are committed and provided that prosecution steps are taken before the trial period is expired, unless expulsion is deemed exceptionally traumatic.</p> <p>(4) When an alien is conditionally expelled the court must provide guidance on the udnærtsnading and importance of the sanction</p> <p>Art. 25 An alien may be expelled, if:</p> <p>1). the alien may be deemed to be a danger for state's security, or</p> <p>2). the alien may be deemed a serious threat for public order, security or health.</p> <p>25a An alien, who has not legally resided in the country for the past 6 months may be expelled, if</p> <p>1) aliens who irrespective of §§ 22-24 are convicted of contravening § 42 a, stk. 7, 2. pkt., jf. § 60, stk. 1, Criminal Code §§ 119, 244, 266, 276-283 or 290, Customs Duty Code § 73, stk. 2, jf. stk. 1, nr. 1, or the law on Weapons, explosives, or aliens who have admitted their guilt to the police or who have been apprehended in committing a criminal act, or</p>		

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			<p>forhold, eller</p> <p>2) udlændingen er dømt for ulovlig besiddelse af euforiserende stoffer, eller udlændingen over for politiet har erkendt ulovlig besiddelse eller brug af euforiserende stoffer, eller der i øvrigt foreligger en særlig bestyrket mistanke.</p> <p><i>Stk. 2.</i> Efter indrejsen kan en udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, desuden udvises, hvis:</p> <p>1) Der efter det, som er oplyst om udlændingens forhold, er grund til at antage, at udlændingen vil tage ophold eller arbejde her i landet uden fornøden tilladelse. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>2) Udlændingen ikke har de nødvendige midler til sit underhold her i landet og til hjemrejsen. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>3) Andre hensyn til den offentlige orden eller sikkerheds- eller sundhedsmæssige grunde tilsiger, at udlændingen ikke bør have ophold her i landet.</p> <p>§ 25 b. En udlænding kan udvises, hvis udlændingen</p>	<p>2) Aliens convicted for possession of euphoric drugs or who have admitted to possession or use of euphoric drugs or where there is suspicion that this is the case</p> <p>2 After entry, into the country, aliens who have resided is the resided in the country for more than months may be expelled if</p> <p>1) Information is received that the intend to remain or work without the necessary permission. Aliens subject to § 2, (1-2) can not be expelled for this reason.</p> <p>2 An alien not in possession of the required financial means to sustain his/her residence and pay for a return journey. Aliens affected by 1 or 2 may not be expelled without reason</p> <p>3) In consideration to public welfare, safety and/or health it can be decided that it is inadvisable for the alien to reside in the country</p> <p>Art. 25b An alien can be expelled if they do not hold</p>		

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			<p>opholder sig her i landet uden fornøden tilladelse.</p> <p>§ 25 c. En udlænding med opholdstilladelse efter § 9 f kan uden for de i §§ 22-24 nævnte tilfælde udvises, hvis udlændingen er dømt for overtrædelse af bestemmelser i straffelovens kapitel 12 og 13 eller straffelovens §§ 136, 140, 266, 266 a eller 266 b.</p>	<p>the required permits</p> <p>25c In cases other than those mentioned in Sections 22-24, an alien with residence permit in accordance with Section 9(f) may be expelled, if the alien is sentenced to punishment in accordance with Chapter 12 og 13 or §§ 136, 140, 266, 266 a or 266 b of Criminal Code.</p>		
Art.14.4 (a)	4. By way of derogation from paragraphs 1 and 2 and without prejudice to the provisions of Chapter VI, an expulsion measure may in no case be adopted against Union citizens or their family members if: (a) the Union citizens are workers or self-employed persons, or		-	-	NT	Not transposed
Art.14.4 (b)	(b) the Union citizens entered the territory of the host Member State in order to seek employment. In this case, the Union citizens and their family members may not be expelled for as long as the Union citizens can provide evidence that they are continuing to seek employment and that they have a genuine chance of being engaged.		-	-	NT	Not transposed
Art.15.1	Procedural safeguards The procedures provided for by Articles 30 and 31 shall apply by analogy to all decisions restricting free movement of Union citizens and their family members on grounds other than public policy, public security or public health.	Order no. 300, §§33-36	§ 33. Afgørelser i henhold til denne bekendtgørelse træffes uden for de af stk.2-3 omfattede tilfælde af statsforvaltningen på det sted her i landet, hvor udlændingen bor eller opholder sig. Har udlændingen ikke bopæl eller ophold her i landet, træffer statsforvaltningen på det sted,	33. (1) The decision on the issue and revocation of residence documents under this Order shall be taken, apart from the cases covered by paragraph 2, by the county government board (<i>statsamt</i>) of the locality in Denmark where the alien lives or resides. If the alien does not	N, Incomplete	Incomplete transposition The national law speaks of decisions on the issue and revocation of residence documents, which is equivalent to the Directive's 'decisions restricting free movement'. The transposing provisions only state who has the competence to

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			<p>hvor det må antages, at udlændingen vil tage eller har haft bopæl eller ophold her i landet, afgørelse i sagen. Kan det ikke fastslås, hvor udlændingen vil tage eller har haft bopæl eller ophold her i landet, træffer Statsforvaltningen Hovedstaden afgørelse i sagen. Udlændingesservice kan i særlige tilfælde bemyndige en anden statsforvaltning til at træffe afgørelse i de nævnte sager.</p> <p><i>Stk. 2.</i> Afgørelse om udstedelse af registreringsbevis efter § 3, stk. 3, og arbejdstilladelse efter udlændingelovens § 9 a, stk. 5 og 6, til statsborgere i Bulgarien, Estland, Letland, Litauen, Polen, Rumænien, Slovakiet, Slovenien, Tjekkiet og Ungarn samt udstedelse af registreringsbevis og udstedelse og inddragelse af opholdskort til disses familiemedlemmer efter § 8 træffes af Udlændingesservice.</p> <p><i>Stk. 3.</i> Afgørelse om udstedelse og inddragelse af registreringsbevis og opholdskort efter § 4 og § 13 træffes af Udlændingesservice.</p> <p><i>Stk. 4.</i> Udlændingesservice kan beslutte, at visse typer af sager om opholdsret efter bekendtgørelsen behandles af Udlændingesservice.</p> <p><i>Stk. 5.</i> Ansøgning om registreringsbevis eller</p>	<p>live or reside in Denmark, the decision in the case shall be taken by the county government board of the locality where it must be presumed that the alien will live or reside or has lived or resided in Denmark. If it cannot be determined where the alien will live or reside or has lived or resided in Denmark, the Copenhagen Government Board shall take the decision. In exceptional cases the Aliens Board may authorise another county government board to take a decision in the specified cases.</p> <p>(2) The Aliens Board shall adopt decisions on the issue and revocation of residence documents for workers who are nationals of Estonia, Latvia, Lithuania, Poland Slovakia, Slovenia, the Czech or Hungary and of residence documents of members of their families.</p> <p>(3) The Aliens Board may determine that it shall deal with certain categories of cases concerning the right of residence of EU citizens and members of their families.</p> <p>(4) Applications for residence documents shall be presented to the authority that has jurisdiction to take a decision in the matter under paragraphs 1, 2 or 3.</p>		<p>take decisions and appeal, but nothing is said about the procedural guarantees in Art 30-31 shall apply by analogy to all decisions restricting free movement of Union citizens and their family members on grounds other than public policy, public security or public health. The Danish law does not fully ensure that procedural guarantees in Art. 30-31 (see reasoning under Art. 30-31). It is therefore concluded a case of incomplete transposition.</p>

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			<p>opholdskort indgives til den myndighed, der træffer afgørelse i sagen.</p> <p>§ 34. Statsforvaltningens afgørelse efter § 33, stk. 1, kan påklages til Udlændingesservice. Påklages en afgørelse efter § 33, stk. 1, inden 7 dage efter, at den er meddelt den pågældende, har udlændingen ret til at blive her i landet, indtil klagesagen er afgjort.</p> <p>Stk. 2. Udlændingesservices afgørelse kan ikke indbringes for anden administrativ myndighed.</p> <p>§ 35. Udlændingesservices afgørelse efter § 33, stk. 2 og 3, kan påklages til Ministeriet for Flygtninge, Indvandrere og Integration. Påklages en afgørelse efter § 33, stk. 2 og 3, inden 7 dage efter, at den er meddelt den pågældende, har udlændingen ret til at blive her i landet, indtil klagesagen er afgjort.</p> <p>§ 36. Udlændingesservice kan fastsætte nærmere regler for og træffe bestemmelse om behandlingen af de i § 33, stk. 1, nævnte sager. Ministeren for flygtninge, indvandrere og integration kan fastsætte nærmere regler for og træffe bestemmelse om behandlingen af de i § 33, stk. 2 og 3, nævnte sager.</p>	<p>34.(1) An appeal shall lie to the Aliens Board against decisions of a county government board under Section 29(1). If a decision under Section 29(1) is appealed within seven days after it has been notified to the person concerned the alien shall have the right to remain in Denmark until the appeal is decided.</p> <p>(2) No appeal to any other administrative authority shall lie against decisions of the Aliens Authority.</p> <p>35. An appeal shall lie to the Ministry of Refugee, Immigration and Integration Affairs against decisions of the Aliens Board under Section 29(2) and (3). If a decision under Section 29(2) and (3) is appealed within seven days after it has been notified to the person concerned the alien shall have the right to remain in Denmark until the appeal is decided.</p> <p>36. The Aliens Board may adopt detailed rules and decisions on the procedure for dealing with the cases mentioned in Section 29(1). The Ministry of Refugee, Immigration and Integration Affairs may adopt detailed</p>		

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				rules and decisions on the procedure for dealing with the cases mentioned in Section 29(2) and (3).		
Art.15.2	2. Expiry of the identity card or passport on the basis of which the person concerned entered the host Member State and was issued with a registration certificate or residence card shall not constitute a ground for expulsion from the host Member State.	LBK 808 Kap. 4	<p>§ 22. En udlænding, som har haft lovligt ophold her i landet i mere end de sidste 9 år, og en udlænding med opholdstilladelse efter § 7 eller § 8, stk. 1 eller 2, som har haft lovligt ophold her i landet i mere end de sidste 8 år, kan udvises, hvis</p> <p>1) udlændingen idømmes ubetinget straf af mindst 4 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>2) udlændingen for flere strafbare forhold idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>3) udlændingen idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, og tidligere her i</p>	<p>Chapter 14 - Expulsion</p> <p>Art. 22. An alien who has had legal residence in the country for more than 9 years and an alien with a residence permit in accordance with §7 or §8,(1 and 2), who have had legal residence in the country for more than 8 years can be expelled if</p> <p>1) the alien is sentenced to at least 4 years imprisonment or other form of punishment for the same period for a criminal act/offence.</p> <p>2) the alien is sentenced to at least 2 years imprisonment or to other form of punishment for several criminal acts/offences.</p> <p>3) The alien is sentenced to at least 2 years imprisonment or to other form of punishment for a criminal act/offence and who has previously been convicted of a criminal act/offence [...]</p>	Y	<p>Effective transposition.</p> <p>The provision has not been reflected in the national transposing legislation. However, as the expulsion grounds listed in Chapter 4 of LBK no. 808 is exhaustive and do not include expiry of the identity card or passport as an expulsion ground, it is concluded <i>a contrario</i> that Denmark has effectively transposed the provision.</p> <p>The question is whether Article 25b of the Danish Aliens Act stipulating that an alien can be expelled if they do not hold the required permits might affect the transposition of Article 15(2). The provision refers to the permit itself, but not to the identity card or passport on the basis of which the person concerned entered Denmark. The Danish legal regime considers a certificate of registration simply as a proof of the rights you already hold according to the EU regulations on free movement. Therefore, it may be concluded that no conformity issue arises in this respect, especially not with respect to Article 15(2).</p>

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			<p>landet er idømt ubetinget fængselsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>4) udlændingen efter lov om euforiserende stoffer eller straffelovens § 191 eller § 290, når udbyttet er opnået ved overtrædelse af lov om euforiserende stoffer eller straffelovens § 191, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>5) udlændingen efter § 59, stk. 7, eller straffelovens § 125 a idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>6) udlændingen efter bestemmelser i straffelovens kapitel 12 og 13 eller efter straffelovens § 119, stk. 1 og 2, § 123, § 180, § 181, § 183, stk. 1 og 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 og 3, jf. stk. 1,</p>	<p>4) An alien who in accordance with the law on euphoric drugs or the penal code's §191 or §290 obtains profit through contravening said law and is sentenced to imprisonment or other form of punishment for this reason.</p> <p>5) Aliens in accordance with § 59, (7) or the penal code's §125 sentenced to imprisonment or other form of punishment for contravening this law,</p> <p>6) Aliens who in accordance with the penal code's articles 12 and 13 or § 119, stk. 1 and 2, § 123, § 180, § 181, § 183, stk. 1 and 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 and 3, jf. stk. 1, § 215, § 216, § 222, §§ 224</p>		

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			<p>§ 215, § 216, § 222, §§ 224 og 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286, § 288, § 289, § 290, stk. 2, eller § 291, stk. 2, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter, eller</p> <p>7) udlændingen efter straffelovens §§ 260 eller 266 under henvisning til, at den pågældende har tvunget nogen til at indgå ægteskab mod eget ønske, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p> <p>§ 23. En udlænding, som har haft lovligt ophold her i landet i mere end de sidste 5 år, kan udvises</p> <p>1) af de grunde, der er nævnt i § 22,</p> <p>2) hvis udlændingen idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have</p>	<p>and 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286, § 288, § 289, § 290, stk. 2, or § 291, stk. 2, are sentenced to imprisonment or other form of punishment or</p> <p>7). an alien pursuant to §§ 260 or 266 of Criminal Code on the basis of the person in question has made someone to enter into marriage against his/her will, is sentenced to imprisonment or other form of punishment [...]</p> <p>Art. 23. An alien who has legally resided here in the country for more than five foregoing years may be expelled</p> <p>1). on the grounds, as mentioned in section 22,</p> <p>2) if the alien was sentenced to unconditional penalty of at least two years imprisonment or similar penalty that implies or gives a possibility to imprisonment, for</p>		

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			<p>medført en straf af denne varighed, 3) hvis udlændingen for flere strafbare forhold idømmes ubetinget straf af mindst 1 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, eller 4) hvis udlændingen idømmes ubetinget straf af mindst 1 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, og tidligere her i landet er idømt ubetinget fængselsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter. § 24. Andre udlændinge kan udvises 1) af de grunde, der er nævnt i §§ 22 eller 23, eller 2) hvis udlændingen idømmes betinget eller ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne</p>	<p>infringement of a law that would imply a punitive measure of the afore mentioned length. 3) when an alien is convicted for several crimes and more than 1 year imprisonment or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length 4) when an alien is sentenced to imprisonment for at least one year or imilar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned lengt Section 24. Other aliens may be expelled 1). on the grounds, as mentioned in sections 22 or 23 or 2) if the alien was sentenced to conditional and unconditional penalty or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that</p>		

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			<p>karakter.</p> <p>§ 24 a. Ved afgørelse om udvisning ved dom, navnlig efter § 22, nr. 4-7, skal der lægges vægt på, om udvisning må anses for særlig påkrævet på grund af</p> <ol style="list-style-type: none"> 1) grovheden af den begåede kriminalitet, 2) længden af den idømte frihedsstraf, 3) den fare, skade eller krænkelse, der var forbundet med den begåede kriminalitet, eller 4) tidligere domme for strafbart forhold. <p>§ 24 b. En udlænding kan udvises betinget, hvis der ikke findes at være fuldt tilstrækkeligt grundlag for at udvise den pågældende efter §§ 22-24, fordi udvisning må antages at virke særlig belastende, jf. § 26, stk. 1.</p> <p><i>Stk. 2.</i> Ved betinget udvisning skal der fastsættes en prøvetid. Prøvetiden beregnes fra tidspunktet for endelig dom i sagen eller, hvis den pågældende ikke har været til stede ved domsafsigelsen, fra dommens forkyndelse og udløber 2 år efter tidspunktet for løsladelse eller udskrivning fra hospital eller forvaring eller fra ophør af ophold i en sikret afdeling på en døgninstitution for børn og unge. Er betinget udvisning sket ved betinget</p>	<p>would imply a punitive measure of the aforementioned length.</p> <p>Art. 24a In decisions on expulsion due to criminal sentencing vis. § 22, nos. 4-7, weight must be placed on the fact that the expulsion is necessary due to:</p> <ol style="list-style-type: none"> 1) the nature of the crime 2) length of sentence 3) the danger, damage and violation in connection with the criminal act, or 4) previous convictions. <p>Art. 24b An alien can be conditionally expelled, if there is insufficient basis for expulsion under sections 22-24, because expulsion is deemed to be exceptionally traumatic in accordance with section 26 para.1.</p> <p>(2) During the conditional expulsion, a trial period shall be determined. The calculation of the trial period must run from the time of final court decision, or in case the alien was not present in court, run from the communication of the courts decision to alien, and run for a two year period after the alien was released on probation or released from hospital.</p>		

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			<p>dom om frihedsberøvelse eller dom til ambulans behandling med mulighed for frihedsberøvelse, udløber prøvetiden 2 år efter tidspunktet for endelig dom i sagen eller, hvis den pågældende ikke har været til stede ved domsafsigelsen, 2 år efter dommens forkyndelse.</p> <p><i>Stk. 3.</i> En udlænding, der er idømt betinget udvisning efter stk. 1, kan udvises, hvis den pågældende i prøvetiden for den betingede udvisning begår nyt strafbart forhold, som kan give anledning til udvisning efter §§ 22-24, og der inden prøvetidens udløb foretages rettergangsskridt, medmindre en afgørelse om udvisning må antages at virke særlig belastende, jf. § 26, stk. 1.</p> <p><i>Stk. 4.</i> Udvises en udlænding betinget, skal retten i forbindelse med dommens afsigelse vejlede udlændingen om betydningen heraf.</p> <p>§ 25. En udlænding kan udvises, hvis</p> <p>1) udlændingen må anses for en fare for statens sikkerhed, eller</p> <p>2) udlændingen må anses for en alvorlig trussel mod den offentlige orden, sikkerhed eller sundhed.</p> <p>§ 25 a. En udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, kan endvidere udvises, hvis</p>	<p>(3) An alien under a conditioned expulsion may be expelled when during the trial period new criminal offences that may be the reason for expulsion are committed and provided that prosecution steps are taken before the trial period is expired, unless expulsion is deemed exceptionally traumatic.</p> <p>(4) When an alien is conditionally expelled the court must provide guidance on the udnertsnading and importance of the sanction</p> <p>Art. 25 An alien may be expelled, if:</p> <p>1). the alien may be deemed to be a danger for state's security, or</p> <p>2). the alien may be deemed a serious threat for public order, security or health.</p> <p>25a An alien, who has not legally resided in the country for the past 6 months may be expelled, if</p>		

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			<p>1) udlændingen uden for de i §§ 22-24 nævnte tilfælde er dømt for overtrædelse af § 42 a, stk. 7, 2. pkt., jf. § 60, stk. 1, straffelovens §§ 119, 244, 266, 276-283 eller 290, toldlovens § 73, stk. 2, jf. stk. 1, nr. 1, eller lov om våben og eksplosivstoffer, eller udlændingen over for politiet har erkendt overtrædelsen eller er pågrebet under eller i umiddelbar tilknytning til udøvelsen af det strafbare forhold, eller</p> <p>2) udlændingen er dømt for ulovlig besiddelse af euforiserende stoffer, eller udlændingen over for politiet har erkendt ulovlig besiddelse eller brug af euforiserende stoffer, eller der i øvrigt foreligger en særlig bestyrket mistanke.</p> <p><i>Stk. 2.</i> Efter indrejsen kan en udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, desuden udvises, hvis:</p> <p>1) Der efter det, som er oplyst om udlændingens forhold, er grund til at antage, at udlændingen vil tage ophold eller arbejde her i landet uden fornøden tilladelse. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>2) Udlændingen ikke har de nødvendige midler til sit</p>	<p>1) aliens who irrespective of §§ 22-24 are convicted of contravening § 42 a, stk. 7, 2. pkt., jf. § 60, stk. 1, Criminal Code §§ 119, 244, 266, 276-283 or 290, Customs Duty Code § 73, stk. 2, jf. stk. 1, nr. 1, or the law on Weapons, explosives, or aliens who have admitted their guilt to the police or who have been apprehended in committing a criminal act, or</p> <p>2) Aliens convicted for possession of euphoric drugs or who have admitted to possession or use of euphoric drugs or where there is suspicion that this is the case</p> <p>2 After entry, into the country, aliens who have resided in the country for more than months may be expelled if</p> <p>1) Information is received that the intent to remain or work without the necessary permission. Aliens subject to § 2, (1-2) can not be expelled for this reason.</p> <p>2 An alien not in possession of the required financial means to sustain his/her residence and pay for a return journey. Aliens affected by 1</p>		

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			<p>underhold her i landet og til hjemrejsen. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>3) Andre hensyn til den offentlige orden eller sikkerheds- eller sundhedsmæssige grunde tilsiger, at udlændingen ikke bør have ophold her i landet.</p> <p>§ 25 b. En udlænding kan udvises, hvis udlændingen opholder sig her i landet uden fornøden tilladelse.</p> <p>§ 25 c. En udlænding med opholdstilladelse efter § 9 f kan uden for de i §§ 22-24 nævnte tilfælde udvises, hvis udlændingen er dømt for overtrædelse af bestemmelser i straffelovens kapitel 12 og 13 eller straffelovens §§ 136, 140, 266, 266 a eller 266 b.</p>	<p>or 2 may not be expelled without reason.</p> <p>3) In consideration to public welfare, safety and/or health it can be decided that it is inadvisable for the alien to reside in the country</p> <p>Art. 25b An alien can be expelled if they do not hold the required permits.</p> <p>25c An alien with residence permit in accordance with art. 9 f may supplementary to the situations covered by arts. 22-24 be expelled when the alien is sconvicted for criminal offences covered by Chapter 12 and 13 and §§ 136, 140, 266, 266a, or 266b of the penal Code.</p>		
Art.15.3	3. The host Member State may not impose a ban on entry in the context of an expulsion decision to which paragraph 1 applies.	See above	See above	See above	N, Incomplete	<p>Incomplete transposition</p> <p>The provision has not been reflected in the national transposing legislation. In practice, as the situations when a ban on entry applies are quoted exhaustively in the national legislation (not covering those in the context of an expulsion decision to which paragraph 1 applies), it is concluded <i>a contrario</i> that Denmark has effectively transposed the provision. However, as this provision of the Directive should have expressly been transposed to</p>

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						the national legislation, the Danish transposition is to be regarded as incomplete.
Chapter IV. RIGHT OF PERMANENT RESIDENCE						
<i>Section I. Eligibility</i>						
Art.16.1	General rule for Union citizens and their family members 1. Union citizens who have resided legally for a continuous period of five years in the host Member State shall have the right of permanent residence there. This right shall not be subject to the conditions provided for in Chapter III.	Order no. 300, §19	§ 19. En EU-statsborger, der har haft lovligt ophold her i landet uafbrudt i 5 år, har ret til tidsubegrænset ophold her i landet. Ingen af de i kapitel 2 og 3 nævnte bestemmelser kan begrænse denne ret.	19.(1) An EU citizen who has lawfully resided in Denmark for five years without interruption shall have the right of permanent residence in Denmark. None of the provisions of Chapters 2 and 3 may limit this right.	Y	Effective transposition.
Art.16.2	2. Paragraph 1 shall apply also to family members who are not nationals of a Member State and have legally resided with the Union citizen in the host Member State for a continuous period of five years.	Order no. 300, §§ 19, 20	§19 Stk. 3. Stk. 1 finder tilsvarende anvendelse for en tredjelandstatsborger, der har haft lovligt ophold her i landet efter § 4, stk. 2, uafbrudt i 5 år. Stk. 4. Stk. 1 finder tilsvarende anvendelse for en tredjelandstatsborger, der har haft lovligt ophold her i landet efter §§ 8-11 uafbrudt i 5 år og i hele denne periode har boet sammen med hovedpersonen. §20 Personer, der har ret til at opholde sig her i landet efter §§ 7, 12 og 14, stk. 3, har dog uden yderligere betingelser ret til tidsubegrænset ophold.	§19 (3) Paragraph 1 shall apply <i>mutatis mutandis</i> to a third-country national who has lawfully resided in Denmark under Sections 7-9 for an uninterrupted period of five years. (4) Paragraph 1 shall apply <i>mutatis mutandis</i> to a third-country national who has a right of residence in Denmark under Sections 8-11 when the person concerned has lawfully resided in Denmark and cohabited with the principal person for an uninterrupted period of five years. 20. Nevertheless, persons who have a right of residence in Denmark under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.	N, Incorrect	Incorrect transposition Cohabited throughout the whole of that period with the principal person –seems more onerous than legal residence which does not necessarily imply uninterrupted cohabitation.
Art.16.3	3. Continuity of residence shall not be affected by temporary absences not exceeding a total of six months a year,	Order no. 300, § 19	§19 Stk. 6. Ophold som nævnt i stk. 1-4 anses ikke for afbrudt ved midlertidige ophold uden	(5) "Residence" for the purposes of paragraphs 1-4 shall not be considered to be	N, Incorrect	Incorrect transposition "Wholly exceptional

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	or by absences of a longer duration for compulsory military service, or by one absence of a maximum of 12 consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another Member State or a third country.		for landet, der ikke tilsammen overstiger 6 måneder om året, fravær af længere varighed som skyldes værnepligt, eller ét fravær af højst 12 måneders varighed som skyldes helt særlige grunde.	interrupted by temporary absences abroad not exceeding a total of six months a year, absences of a longer duration for compulsory military service, or one absence of a maximum of twelve months in wholly exceptional circumstances.		circumstances" is more onerous than important reasons. Vocational training, child birth and so on are not to be regarded as wholly exceptional circumstances.
Art.16.4	4. Once acquired, the right of permanent residence shall be lost only through absence from the host Member State for a period exceeding two consecutive years.	Order no. 300, §31	§ 31. Tidsubegrænset opholdsret efter §§ 19-20ophører, hvis den pågældende har opholdt sig uden for landet i mere end 2 på hinanden følgende år.	31. The right of permanent residence under Sections 19-20 shall terminate if the person concerned resides outside Denmark for more than two successive years.	Y	Effective transposition.
Art.17.1(a)	Exemptions for persons no longer working in the host Member State and their family members 1. By way of derogation from Article 16, the right of permanent residence in the host Member State shall be enjoyed before completion of a continuous period of five years of residence by: (a) workers or self-employed persons who, at the time they stop working, have reached the age laid down by the law of that Member State for entitlement to an old age pension or workers who cease paid employment to take early retirement, provided that they have been working in that Member State for at least the preceding twelve months and have resided there continuously for more than three years.	Order no. 300, §§ 7, 20	§ 7. Følgende personer har ret til ophold her i landet ud over de 3 eller 6 måneder, den pågældende i medfør af udlændingelovens § 2, stk. 1, kan tage ophold i Danmark: 1) En EU-statsborger, der ophører med lønnet beskæftigelse eller selvstændig erhvervsvirksomhed, efter at den pågældende har opnået den i lov om folkepension fastsatte alder for oppebærelse af folkepension eller ophører med lønnet beskæftigelse og går på førtidspension, forudsat at den pågældende har haft lønnet beskæftigelse eller har udøvet selvstændig erhvervsvirksomhed her i landet i de sidste 12 måneder forud herfor samt uafbrudt har haft fast ophold her i landet i de sidste 3 år forud	7.(1) The following persons shall have the right to reside in Denmark beyond the periods of three or six months to which they are entitled under Art. 2(1) of the Aliens Act: 1) An EC citizen who ceases gainful work or self-employment after attaining the age set in the National Pensions Act to qualify for the national pension or ceases gainful work and takes an early retirement pension, provided that the person concerned has had gainful work or been a self-employed person in Denmark in the preceding twelve months and has resided without interruption in Denmark for the preceding three years; 20. Persons who have a right of residence in Denmark	Y	Effective transposition. The substantive elements of the provision are correctly transposed but here the Directive talks about a right of permanent residence, whereas Danish law seems to limit it to residence for more than 3 or 6 months. However, this has effectively been cured by Section 20 clarifying that persons who have a right of residence in Denmark under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.

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			herfor. § 20. Personer, der har ret til at opholde sig her i landet efter §§ 7, 12 og 14, stk. 3, har dog uden yderligere betingelser ret til tidsubegrænset ophold.	under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.		
	If the law of the host Member State does not grant the right to an old age pension to certain categories of self-employed persons, the age condition shall be deemed to have been met once the person concerned has reached the age of 60;		-	-	Y	Effective transposition. As Denmark grants an old age pension to self-employed persons, it is concluded that the provision has been effectively transposed,
Art.17.1 (b)	(b) workers or self-employed persons who have resided continuously in the host Member State for more than two years and stop working there as a result of permanent incapacity to work. If such incapacity is the result of an accident at work or an occupational disease entitling the person concerned to a benefit payable in full or in part by an institution in the host Member State, no condition shall be imposed as to length of residence;	Order no. 300, §§ 7, 20	§7 2) En EU-statsborger, der på grund af vedvarende arbejdsudygtighed må ophøre med lønnet beskæftigelse eller selvstændig erhvervsvirksomhed, såfremt den pågældende i de sidste 2 år forud herfor uafbrudt har haft fast ophold her i landet. Der stilles dog ikke krav til opholdets varighed, hvis arbejdsudygtigheden skyldes en arbejdsulykke eller en erhvervs sygdom, der giver ret til en vedvarende ydelse, der helt eller delvis udredes af en dansk myndighed. § 20. Personer, der har ret til at opholde sig her i landet efter §§ 7, 12 og 14, stk. 3, har dog uden yderligere betingelser ret til tidsubegrænset ophold.	7. 2) An EU citizen who, by reason of permanent unfitness for work, must cease gainful work or self-employment provided that the citizen has resided in Denmark without interruption for the preceding two years. Nevertheless, no requirements as to the duration of residence shall apply if the unfitness for work arises from an occupational accident or disease conferring entitlement to permanent benefits that are paid, wholly or in part, by a Danish authority; 20. Persons who have a right of residence in Denmark under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.	Y	Effective transposition. See comments above on Article 17(1)(a).
Art.17.1 (c)	(c) workers or self-employed persons who, after three years of continuous employment and residence in the host Member State, work in an employed or self-employed capacity in another	Order no. 300, §§ 7, 20	§7 3) En EU-statsborger, der efter 3 års fast ophold og lønnet beskæftigelse eller selvstændig erhvervsvirksomhed her i landet har lønnet beskæftigelse	7. 3) an EU citizen who, after three years' permanent residence and gainful work or self-employment in Denmark, has gainful work or is self-	Y	Effective transposition. See comments above on Article 17(1)(a).

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	Member State, while retaining their place of residence in the host Member State, to which they return, as a rule, each day or at least once a week.		<p>eller udøver selvstændig erhvervsvirksomhed på en anden medlemsstats område, men bibeholder sin bopæl her i landet, hvortil den pågældende som regel vender hjem mindst en gang om ugen.</p> <p>§ 20. Personer, der har ret til at opholde sig her i landet efter §§ 7, 12 og 14, stk. 3, har dog uden yderligere betingelser ret til tidsubegrænset ophold.</p>	<p>employed in another Member State while retaining his residence in Denmark to which the citizen returns as a rule at least once a week.</p> <p>20. Persons who have a right of residence in Denmark under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.</p>		
	For the purposes of entitlement to the rights referred to in points (a) and (b), periods of employment spent in the Member State in which the person concerned is working shall be regarded as having been spent in the host Member State.	Order no.300, §§7, 20	<p>§7. <i>Stk. 3.</i> Beskæftigelses- eller virksomhedsperioder, som en person, der er omfattet af stk. 1, nr. 3, har haft i en anden medlemsstat, betragtes med henblik på erhvervelse af de rettigheder, der er omhandlet i stk. 1, nr. 1 og 2, som tilbragt her i landet.</p> <p>§ 20. Personer, der har ret til at opholde sig her i landet efter §§ 7, 12 og 14, stk. 3, har dog uden yderligere betingelser ret til tidsubegrænset ophold.</p>	<p>7. (3) Periods of employment or activity completed by persons covered by indent 3 of paragraph 1 in another Member State shall be regarded as having been completed in Denmark for the purposes of the acquisition of the rights mentioned in indents 1 and 2 of paragraph 1.</p> <p>20. Persons who have a right of residence in Denmark under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.</p>	Y	<p>Effective transposition.</p> <p>See comments above on Article 17(1)(a). indents 1 and 2 transposes (a) and (b)</p>
	Periods of involuntary unemployment duly recorded by the relevant employment office, periods not worked for reasons not of the person's own making and absences from work or cessation of work due to illness or accident shall be regarded as periods of employment.	Order no. 300, §§7, 20	<p>§7 <i>Stk. 2.</i> Perioder med uforskyldt arbejdsløshed, der er behørigt bekræftet af den kompetente arbejdsformidling, og perioder uden arbejde, som den pågældende person ikke har indflydelse på, samt fravær fra arbejde eller ophør heraf på grund af sygdom eller ulykke betragtes som perioder med beskæftigelse.</p>	<p>7. (2) Periods of involuntary unemployment, duly recorded by the relevant employment office, and periods of unemployment for reasons not of the person's own making and absence from or cessation of work due to disease or accident shall be regarded as periods of employment.</p> <p>20. Persons who have a right</p>	Y	<p>Effective transposition.</p> <p>See comments above on Article 17(1)(a).</p>

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			§ 20. Personer, der har ret til at opholde sig her i landet efter §§ 7, 12 og 14, stk. 3, har dog uden yderligere betingelser ret til tidsubegrænset ophold.	of residence in Denmark under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.		
Art.17.2	2. The conditions as to length of residence and employment laid down in point (a) of paragraph 1 and the condition as to length of residence laid down in point (b) of paragraph 1 shall not apply if the worker's or the self-employed person's spouse or partner as referred to in point 2(b) of Article 2 is a national of the host Member State or has lost the nationality of that Member State by marriage to that worker or self-employed person.	Order no. 300, §§7 and 20	§7 Stk. 4. I de i stk. 1, nr. 1 og 2, nævnte tilfælde stilles der ikke krav til opholdets varighed eller varigheden af den lønnede beskæftigelse eller den selvstændige erhvervsvirksomhed, hvis lønmodtagerens eller den selvstændige erhvervsdrivendes ægtefælle har dansk indfødsret eller har mistet denne ved indgåelse af ægteskabet. § 20. Personer, der har ret til at opholde sig her i landet efter §§ 7, 12 og 14, stk. 3, har dog uden yderligere betingelser ret til tidsubegrænset ophold.	7. (4) In the cases mentioned in indents 1 and 2 of paragraph 1 no requirement shall apply concerning the duration of residence or of gainful work or self-employment if the spouse of the worker or self-employed person holds Danish citizenship or lost Danish citizenship on marriage. 20. Persons who have a right of residence in Denmark under Sections 7, 12 and 14(3) shall have a right of permanent residence without fulfilling further conditions.	Y	Effective transposition. See comments above on Article 17(1)(a). indents 1 and 2 transposes (a) and (b)
Art.17.3	3. Irrespective of nationality, the family members of a worker or a self-employed person who are residing with him in the territory of the host Member State shall have the right of permanent residence in that Member State, if the worker or self-employed person has acquired himself the right of permanent residence in that Member State on the basis of paragraph 1.	-			NT	Not transposed The Danish law does not mention "the right of permanent residence", but retention of the right to stay in DK..
Art.17.4 (a)	4. If, however, the worker or self-employed person dies while still working but before acquiring permanent residence status in the host Member State on the basis of paragraph 1, his family members who are residing with him in the host	-			NT	Not transposed The Danish law does not mention "the right of permanent residence", but retention of the right to stay in DK.

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	Member State shall acquire the right of permanent residence there, on condition that: (a) the worker or self-employed person had, at the time of death, resided continuously on the territory of that Member State for two years; or					
Art.17.4 (b)	(b) the death resulted from an accident at work or an occupational disease; or	-			NT	Not transposed The Danish law does not mention "the right of permanent residence", but retention of the right to stay in DK.
Art.17.4 (c)	(c) the surviving spouse lost the nationality of that Member State following marriage to the worker or self-employed person.	-			NT	Not transposed The Danish law does not mention "the right of permanent residence", but retention of the right to stay in DK.
Art.18	Acquisition of the right of permanent residence by certain family members who are not nationals of a Member State. Without prejudice to Article 17, the family members of a Union citizen to whom Articles 12(2) and 13(2) apply, who satisfy the conditions laid down therein, shall acquire the right of permanent residence after residing legally for a period of five consecutive years in the host Member State.	Order no. 300, §19	§ 19. En EU-statsborger, der har haft lovligt ophold her i landet uafbrudt i 5 år, har ret til tidsbegrænset ophold her i landet. Ingen af de i kapitel 2 og 3 nævnte bestemmelser kan begrænse denne ret. <i>Stk. 4.</i> Stk. 1 finder tilsvarende anvendelse for en tredjelandstatsborger, der har haft lovligt ophold her i landet efter §§ 8-11 uafbrudt i 5 år og i hele denne periode har boet sammen med hovedpersonen.	19.(1) An EU citizen who has lawfully resided in Denmark for five years without interruption shall have the right of permanent residence in Denmark. None of the provisions of Chapters 2 and 3 may limit this right. (4) Paragraph 1 shall apply <i>mutatis mutandis</i> to a third-country national who has a right of residence in Denmark under Sections 8-11 when the person concerned has lawfully resided in Denmark for an uninterrupted period of five years.	Y	Effective transposition. The reference to 8-11 allows the family member who retained the right of residence to acquire the right of permanent residence. These people have retained the right of residence as worker, self-employed and so on which are the situations described in sections 8-11. The only problem is that it will not apply to family members who retained the right of residence because they were members of a family already constituted in DK since this option has not been transposed under DK law.
Chapter IV. RIGHT OF PERMANENT RESIDENCE						
<i>Section I. Administrative formalities</i>						
Art.19.	Document certifying permanent	Order no. 300, §28	§ 28. Der udstedes efter	28. Upon application a	Y	Effective transposition.

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1	residence for Union citizens 1. Upon application Member States shall issue Union citizens entitled to permanent residence, after having verified duration of residence, with a document certifying permanent residence.		ansøgning bevis for ret til tidsubegrænset ophold til en EU-statsborger, der opfylder betingelserne herfor efter denne bekendtgørelse.	document shall be issued certifying that EU citizens who meet the conditions in this Order have a right of permanent residence.		
Art.19.2	2. The document certifying permanent residence shall be issued as soon as possible.	Order no. 300, §37	§ 37. <i>Stk. 3.</i> Afgørelsen om, hvorvidt et opholdsdokument efter § 28 bør udstedes eller afslås, træffes hurtigst muligt efter ansøgningens indgivelse.	37.(3) Decisions on whether a residence document under Section 28 shall be issued or refused shall be taken as quickly as possible following the presentation of the application	N, Incorrect	Incorrect transposition The Directive requires the document to be issued as soon as possible.. The national law says that decisions on whether (if at all) the document shall be issued or refused shall be taken as quickly as possible. This is not equivalent. No practical information is available at www.nyidanmark.dk
Art.20.1	Permanent residence card for family members who are not nationals of a Member State 1. Member States shall issue family members who are not nationals of a Member State entitled to permanent residence with a permanent residence card within six months of the submission of the application. The permanent residence card shall be renewable automatically every 10 years.	Order no. §§ 29, 37 Art 25	§ 29. Der udstedes efter ansøgning tidsubegrænset opholdskort til en tredjelandsstatsborger, der opfylder betingelserne for tidsubegrænset ophold efter denne bekendtgørelse. Det tidsubegrænsede opholdskort fornyes automatisk hvert 10. år. § 37. <i>Stk. 4.</i> Afgørelsen om, hvorvidt et opholdsdokument efter § 29 bør udstedes eller afslås, træffes hurtigst muligt og senest 6 måneder efter ansøgningens indgivelse.	29.(1) Upon application a permanent residence card shall be issued to third-country nationals who meet the conditions for permanent residence under this Order. The permanent residence card shall be renewable automatically every ten years. 37.(4) Decisions on whether a residence document under Section 29 shall be issued or refused shall be taken as quickly as possible and not later than six months following the presentation of the application.	Y	Effective transposition. However, see comments above.
Art.20.2	2. The application for a permanent residence card shall be submitted before the residence card expires. Failure to comply with the	Act no. 808 of 06/08/2007 Art. 59	<i>Stk. 2.</i> Ansøgning om tidsubegrænset opholdskort efter stk. 1 skal indgives, før den pågældendes opholdskort	(2) The application for a permanent residence card for the purposes of Section 1 shall be submitted before the expiry	N, Incorrect	Incorrect transposition The sanction is not proportionate as this is a criminal offence under

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	requirement to apply for a permanent residence card may render the person concerned liable to proportionate and non-discriminatory sanctions.		<p>udstedt efter § 21 udløber.</p> <p>§ 59 Med bøde eller fængsel indtil 6 måneder straffes den udlænding, som.....(..)</p> <p>3) opholder sig i landet uden fornøden tilladelse</p> <p>...</p> <p>Stk 2 Med bøde eller fængsel indtil et år straffes den udlænding, der arbejder her i landet uden fornøden tilladelse.</p>	<p>of the residence card issued under Section 21.</p> <p>59(1) An alien is liable to a fine or imprisonment for up to 6 months if he</p> <p>3) stays in Denmark without the requisite permit</p> <p>(2) An alien is liable to a fine or imprisonment for up to one year if he works in Denmark without the requisite permit</p>		<p>Danish law.</p> <p>No sanctions are laid down for Danish nationals for not having a passport, which indicates that the sanctions of Section 59 of LBK nr. 808 are also discriminatory.</p>
Art.20.3	3. Interruption in residence not exceeding two consecutive years shall not affect the validity of the permanent residence card.	BEK Nr. 300, § 31	§ 31. Tidsbegrænset opholdsret efter §§ 19-20 ophører, hvis den pågældende har opholdt sig uden for landet i mere end 2 på hinanden følgende år.	31. The right of permanent residence under Sections 16 and 17 shall terminate if the person concerned resides outside Denmark for more than two successive years.	N, Incorrect	<p>Incorrect transposition</p> <p>The Directive says that it shall not affect validity of the card whereas the national provision says that such interruption shall terminate the right. This is not in conformity (according to Article 16(4) of the Directive).</p>
Art. 21	Continuity of residence For the purposes of this Directive, continuity of residence may be attested by any means of proof in use in the host Member State. Continuity of residence is broken by any expulsion decision duly enforced against the person concerned.		-	-	NT	<p>Not transposed</p> <p>This provision has not been explicitly reflected in the transposing legislation.</p>
Chapter V. PROVISIONS COMMON TO THE RIGHT OF RESIDENCE AND THE RIGHT OF PERMANENT RESIDENCE						
Art. 22	Territorial scope The right of residence and the right of permanent residence shall cover the whole territory of the host Member State.	LBK nr. 808, §66	§ 66. Loven gælder ikke for Færøerne og Grønland, men kan ved kongelig anordning helt eller delvis sættes i kraft for disse landsdele med de afvigelser, som de særlige færøske eller grønlandske forhold tilsiger.	Section 66 The law does not apply in the Faroe Islands and Greenland, but may partially or fully apply also in these parts of the county following the King's order taking into account special conditions of the Faroe Islands and Greenland.	N, Incomplete	<p>Incomplete transposition</p> <p>The right has not been reflected in the transposing legislation, (however it applies to the whole territory of Denmark. Greenland and Faroe Islands are excluded).</p>

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	Member States may impose territorial restrictions on the right of residence and the right of permanent residence only where the same restrictions apply to their own nationals.		-	-	Y	Effective transposition. The right to impose territorial restrictions has not been used in the transposing legislation.
Art.23	Related rights Irrespective of nationality, the family members of a Union citizen who have the right of residence or the right of permanent residence in a Member State shall be entitled to take up employment or selfemployment there.	LBK nr. 300, §18	§ 18. En person, der har ret til ophold her i landet efter denne bekendtgørelse, er fritaget for krav om arbejdstilladelse, jf. udlændingelovens § 14, stk. 1, nr. 2.	18. Persons who have the right of residence in Denmark under this Order are exempt from the requirement of obtaining a work permit (see indent 2 of Section 14(1) of the Aliens Act).	Y	Effective transposition.
Art.24.1	Equal treatment 1. Subject to such specific provisions as are expressly provided for in the Treaty and secondary law, all Union citizens residing on the basis of this Directive in the territory of the host Member State shall enjoy equal treatment with the nationals of that Member State within the scope of the Treaty. The benefit of this right shall be extended to family members who are not nationals of a Member State and who have the right of residence or permanent residence.	Act no 1460 of 12/12/2007	Art.3 Enhver, der opholder sig lovligt her i landet, har ret til hjælp efter denne lov.	Art 3 Any person, legally resident in the country, is entitled to legal assistance in accordance with this law	N, Ambiguous	Ambiguous transposition The principle of equal treatment is deeply rooted in the Danish Administration Act. Equal cases thus needs equal treatment, based on a concrete assessment of each individual case. The principle of equal treatment is inter alia transposed in Act no 1460 of 12/12/2007 Art. 3, which states that anyone who legally resides in Denmark, has the right to receive assistance on certain conditions in the Act on Active Social Policy. However, it has not been checked whether all legislation regulating social rights included a similar provision. In this respect, it shall be noted that the fact the Danish system applies two different sets of rules for "old MS" and "new MS" <i>per se</i> appears to be discriminatory. However, it may be argued here that the principle of equal treatment is one of the

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						oldest and basic uncodified principles rooted in the Danish legal system in particular and the Nordic legal tradition in general, and is implied in the legislation.
Art.24.2	2. By way of derogation from paragraph 1, the host Member State shall not be obliged to confer entitlement to social assistance during the first three months of residence or, where appropriate, the longer period provided for in Article 14(4)(b), nor shall it be obliged, prior to acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.		-	-	Y, More favourable	More favourable treatment The provision is not reflected in national transposing legislation. Therefore, it is more favourable.
Art.25.1	General provisions concerning residence documents 1. Possession of a registration certificate as referred to in Article 8, of a document certifying permanent residence, of a certificate attesting submission of an application for a family member residence card, of a residence card or of a permanent residence card, may under no circumstances be made a precondition for the exercise of a right or the completion of an administrative formality, as entitlement to rights may be attested by any other means of proof.		-	-	NT	Not transposed The provision is not reflected in national transposing legislation.
Art.25.2	2. All documents mentioned in paragraph 1 shall be issued free of charge or for a charge not exceeding				Y	Effective transposition. No information is obtainable at the

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	that imposed on nationals for the issuing of similar documents.					official homepage of the Ministry of Refugee, Immigration and Integration Affairs. Nor does it reflected in the legislation. It does not follow from the information on application that the applicant shall pay anything.
Art.26	Checks Member States may carry out checks on compliance with any requirement deriving from their national legislation for non-nationals always to carry their registration certificate or residence card, provided that the same requirement applies to their own nationals as regards their identity card. In the event of failure to comply with this requirement, Member States may impose the same sanctions as those imposed on their own nationals for failure to carry their identity card.		-	-	n/a	The provision is not transposed in the Danish transposing legislation. In practice, there is no obligation to carry an identity card in the street (according to the Ministry of Integration).
Chapter VI. RESTRICTIONS ON THE RIGHT OF ENTRY AND THE RIGHT OF RESIDENCE ON GROUNDS OF PUBLIC POLICY, PUBLIC SECURITY OR PUBLIC HEALTH						
Art.27.1	General principles 1. Subject to the provisions of this Chapter, Member States may restrict the freedom of movement and residence of Union citizens and their family members, irrespective of nationality, on grounds of public policy, public security or public health. These grounds shall not be invoked to serve economic ends.	Aliens Act no 808 of 06/08/2007 § 25	§ 25. En udlænding kan udvises, hvis 1) udlændingen må anses for en fare for statens sikkerhed, eller 2) udlændingen må anses for en alvorlig trussel mod den offentlige orden, sikkerhed eller sundhed.	Art. 25 An alien may be expelled, if: 1). the alien may be deemed to be a danger for state's security, or 2). the alien may be deemed a serious threat for public order, security or health. Regarding expulsion for commission of a crime see Article 33 of the Directive.	N, Incorrect and Incomplete	Incomplete and incorrect transposition The transposing legislation mentions the following expulsion grounds: <ul style="list-style-type: none"> • threat for state security • serious threat for public order, security or health The Danish Law does not contain provisions regulating special measures concerning the movement and residence of EU citizens which are justified on grounds of public policy, public security or public health, but apply general legislation relating to

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						<p>aliens (Aliens Act). National legislation makes it possible to establish a systematic and automatic connection between a criminal conviction and a measure ordering expulsion, therefore, is not in conformity with the Directive (Case C-50/06 Commission v. Kingdom of the Netherlands).</p> <p>Further, the Directive's provision lays down a possibility to restrict the freedom of movement and residence of Union citizens and their family members, rather than establishes the rule for expulsion. Finally, the requirement " these grounds shall not be invoked to serve economic ends" has not been transposed.</p> <p>There is no known Danish case law on the new Directive neither is administrative practice known. The case law concerning expulsion concerns general aliens law and is abundant. However, only few of these cases deal with expulsion of individuals protected by the Directive. Therefore, it is very difficult to know how the provision will be interpreted in practice after the entry into force of the Directive.</p>
Art.27.2	2. Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned. Previous criminal convictions shall	Aliens Act no 808 of 06/08/2007 §§ 26, 46, 52	§ 26. Ved afgørelsen om udvisning skal der tages hensyn til, om udvisningen må antages at virke særlig belastende, navnlig på grund af 1) udlændingens tilknytning til det danske samfund,	26 The decision on expulsion must take into account the factors that may be assumed to be particularly burdensome because of: 1) the alien's affiliation to Danish society;	N, Incomplete	Incomplete transposition First, it shall be stated that the Danish transposing measure does not specifically deal with expulsion of individuals protected by the Directive, but is addressed

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	not in themselves constitute grounds for taking such measures.		<p>2) udlændingens alder, helbredstilstand og andre personlige forhold, 3) udlændingens tilknytning til herboende personer, 4) udvisningens konsekvenser for udlændingens herboende nære familiemedlemmer, herunder i relation til hensynet til familiens enhed, 5) udlændingens manglende eller ringe tilknytning til hjemlandet eller andre lande, hvor udlændingen kan ventes at tage ophold, og 6) risikoen for, at udlændingen uden for de i § 7, stk. 1 og 2, eller § 8, stk. 1 og 2, nævnte tilfælde vil lide overlast i hjemlandet eller andre lande, hvor udlændingen kan ventes at tage ophold.</p> <p><i>Stk. 2.</i> En udlænding skal udvises efter § 22, nr. 4-7, og § 25, medmindre de i stk. 1 nævnte forhold taler afgørende derimod.</p> <p>§ 46. Afgørelser i henhold til denne lov træffes med de undtagelser, der fremgår af § 9, stk. 19 og 20, §§ 46 a-49, § 50, § 50 a, § 51, stk. 2, 2. pkt., § 56 a, stk. 1-4, § 58 i og § 58 j, jf. dog § 58 d, 2. pkt., af Udlændingetjenesten.</p> <p><i>Stk. 2.</i> Udlændingetjenestens afgørelser kan, bortset fra de i § 9 g, stk. 1, § 11 d, § 32 a, § 33, § 42 a, stk. 7, 1. pkt., § 42 a, stk. 8, 1. pkt., § 42 b, stk. 1, 3 og 7-9, § 42 d, stk. 2, § 46 e,</p>	<p>2) the alien's age and state of health and other personal relations; 3) the alien's relation to others living in Denmark 4) the consequences for the expellee's family, and the effect on the family as a whole. 5) the aliens connection to their homeland or country where they will take up residence. 6 the risk that the alien will suffer injury as per 7(1-2) or 8 (1-2) in their homeland or other country</p> <p>2. An alien shall be expelled in accordance with §22 (4-7) and 25, unless those instances stated in 1 apply.</p> <p>46. (1) Decisions pursuant to this Act are made by the Danish Immigration Service, except as provided by sections 9(19) and (20), 46a to 49, 50, 50a, 51(2), second sentence, and 56a(1) to (4), 58d, 2. (2) Apart from the decisions mentioned in sections 9 g (1), 11(d), 32a, 33, 42a(7), first sentence, 42a(8), first sentence, 42b(1), (3) and (7) to (9), 42d(2), 46e, 53a and 53b, the decisions of the</p>		<p>to aliens in general. This constitutes an issue per se (see reasoning above).</p> <p>Further, the transposing legislation does not explicitly require that the principle of proportionality shall be observed. This is an unwritten principle according to the Danish legal tradition. Besides, it follows indirectly from Art. 26 of Aliens Act regulating the factors that shall be taken into consideration, when taking an expulsion decision in general and applies by analogy to expulsion decisions taken on grounds of public policy or public security. However, this does not fully transpose the Directive's provision, as the national transposing measure does not explicitly refer to the principle of proportionality. Expulsion on the grounds of state security is decided administratively (by the Immigration Service), but not by Court (see Aliens Act §§46 and 52).</p> <p>Besides, the Danish law does not explicitly prescribe that previous criminal convictions shall not in themselves constitute grounds for taking expulsion measures. On the contrary, the Danish transposing provisions contain a comprehensive catalogue of expulsion possibilities on the basis of pr Therefore, it is concluded that the transposition is incomplete.</p>

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			<p>§ 53 a og § 53 b nævnte afgørelser, påklages til ministeren for flygtninge, indvandrere og integration. Udlændingesservices beslutning om, at der ikke er særlige grunde til at antage, at en uledsaget udlænding, der inden det fyldte 18. år har indgivet ansøgning om opholdstilladelse i medfør af § 7, ikke bør gennemgå en asylsagsprocedure, jf. § 9 c, stk. 3, nr. 1, kan ikke påklages til ministeren for flygtninge, indvandrere og integration.</p> <p><i>Stk. 3.</i> Udlændingesservices beslutning om betaling af udgifter forbundet med tilvejebringelsen af oplysninger til brug for behandlingen af en sag efter denne lov, jf. § 40, stk. 2, kan ikke påklages.</p> <p><i>Stk. 4.</i> Ministeren for flygtninge, indvandrere og integration kan træffe bestemmelse om og fastsætte nærmere regler for Udlændingesservices behandling af de af stk. 1 og 2 omfattede sager.</p> <p>§ 52. Endelige administrative afgørelser efter § 46 kan inden 14 dage efter, at afgørelsen er meddelt udlændingen, af denne kræves indbragt til prøvelse for den ret, hvor udlændingen har bopæl, eller, hvis udlændingen ikke har bopæl noget sted i riget, for Københavns Byret.</p>	<p>Danish Immigration Service can be appealed to the Minister of Refugee, Immigration and Integration Affairs [...]</p> <p>(3) Decisions of the Danish Immigration Service on payment of expenses incidental to the provision of information for the examination of a case under this Act, cf. section 40(2), cannot be appealed.</p> <p>(4) The Minister of Refugee, Immigration and Integration Affairs may make decisions on and lay down more detailed provisions for the processing by the Danish Immigration Service of the cases comprised by subsections (1) and (2).</p> <p>§ 52 Final administrative in accordance with § 46 decisions may within 14 days after the communication of the decision to the alien be required appealed by the alien at the court of his residence. If the alien has no residence the City Court of Copenhagen is</p>		

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			<p>hvis afgørelsen går ud på:</p> <p>1) nægtelse af opholdstilladelse med mulighed for varigt ophold efter § 9, stk. 1, nr. 2,</p> <p>2) bortfald, inddragelse eller nægtelse af forlængelse af en sådan tilladelse,</p> <p>3) udvisning efter § 25 b af en udlænding, som er omfattet af EU-reglerne, jf. § 2, eller</p> <p>4) udvisning efter § 25 a af en udlænding, som:</p> <p>a) er statsborger i et andet nordisk land og har fast bopæl her i landet eller</p> <p>b) er omfattet af EU-reglerne, jf. § 2.</p> <p><i>Stk. 2.</i> Sagen indbringes for retten af Udlændingesservice, der fremsender sagens akter med oplysning om den påklagede afgørelse, en kort redegørelse for de omstændigheder, der påberåbes, samt sagens bevisligheder.</p> <p><i>Stk. 3.</i> Retten drager omsorg for sagens oplysning og træffer selv bestemmelse om afhøring af udlændingen og vidner, om tilvejebringelse af andre bevismidler og om, hvorvidt sagen skal behandles mundtligt. Udebliver udlændingen uden lovligt forfald, afgør retten, om afgørelsen kan prøves uden udlændingens tilstedeværelse, eller om sagen skal afvises eller udsættes.</p>	<p>the relevant court, when the decision that is appealed concerns:</p> <p>1) denial of residence</p> <p>2) expiry, retention or denial of prolongation of residence permit</p> <p>3) expulsion of an EU citizen</p> <p>4) expulsion of a an alien who</p> <p>a) is a citizen from another Nordic Country and has permanent residence in Denmark or</p> <p>b) citizens covered by EU legislation</p> <p>(2) Appeal cases are submitted to the Danish Immigration Services, who forwards any relevant documentation .</p> <p>(3) The court is responsible for the preparation of documentation and decides ex officio whether witness presentations are needed anmd whether the case is done in the presence of the appellant. In case the appelæant does not show the court decides whether the case may be decided without the appellant's presence.</p> <p>(4) In case the appellant fulfills the requirements of the Procedural Code the court may decide to convente to the appellant a pro bono lawyer, unless the appellant himself</p>		

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			<p><i>Stk. 4.</i> Såfremt retten finder det fornødent og udlændingen opfylder de økonomiske betingelser efter retsplejelovens § 325, beskikkes der en advokat for udlændingen, medmindre denne selv har antaget en sådan.</p> <p><i>Stk. 5.</i> Retten kan, når der er særlig anledning dertil, pålægge udlændingen helt eller delvis at betale sagsomkostninger.</p> <p><i>Stk. 6.</i> Sagens indbringelse for retten har ikke opsættende virkning, medmindre retten træffer bestemmelse herom.</p> <p><i>Stk. 7.</i> Retten afgør ved kendelse, om sagen skal afvises, eller om afgørelsen skal opretholdes eller ophæves. Kendelsen kan påkæres efter reglerne i retsplejelovens kapitel 37.</p>	<p>has engaged a lawyer (5) the court may decide to impose expenses wholly or in part on the appellant (6) There is no injunctive effect of appealing a case unless the court decides otherwise (7) The courts decided whether the case is rejected and/or whether the decision of the first instance is sustained or reversed.</p>		
	The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted.		-	-	N, Incomplete	Incomplete transposition ECHR is incorporated into Danish law by LBK Nr. 750 of 19-10-1998, but there is no explicit transposition.
Art.27.3	3. In order to ascertain whether the person concerned represents a danger for public policy or public security, when issuing the registration certificate or, in the absence of a registration system, not later than three months from the date of arrival of the person concerned on its				NT	Not transposed Denmark has not transposed this provision.

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	territory or from the date of reporting his/her presence within the territory, as provided for in Article 5(5), or when issuing the residence card, the host Member State may, should it consider this essential, request the Member State of origin and, if need be, other Member States to provide information concerning any previous police record the person concerned may have. Such enquiries shall not be made as a matter of routine. The Member State consulted shall give its reply within two months.					
Art.27.4	4. The Member State which issued the passport or identity card shall allow the holder of the document who has been expelled on grounds of public policy, public security, or public health from another Member State to re-enter its territory without any formality even if the document is no longer valid or the nationality of the holder is in dispute.	-			NT	Not transposed Denmark has not transposed this obligation.
Art.28	Protection against expulsion 1. Before taking an expulsion decision on grounds of public policy or public security, the host Member State shall take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into the host Member State and the extent of his/her links with the country of origin.	Aliens Act no 808 of 06/08/2007, Sections 2, 24a and 26	§ 24 a. Ved afgørelse om udvisning ved dom, navnlig efter § 22, nr. 4-7, skal der lægges vægt på, om udvisning må anses for særlig påkrævet på grund af 1) grovheden af den begåede kriminalitet, 2) længden af den idømte frihedsstraf, 3) den fare, skade eller krænkelse, der var forbundet med den begåede kriminalitet, eller 4) tidligere domme for strafbart forhold.	24a In decisions on expulsion due to criminal sentencing vis. § 22, nos. 4-7, weight must be placed on the fact that the expulsion is especially necessary due to: 1) the nature of the crime 2) length of sentence 3) the danger, damage and violation in connection with the criminal act, or 4) previous convictions.	N, Incorrect	Incorrect transposition The Danish law prescribes that the following shall be observed, when deciding on expulsion: <ul style="list-style-type: none"> • the art of the criminal conduct; • the length of the punishment; • danger, injury; • previous convictions Besides, the following considerations have been transposed: <ul style="list-style-type: none"> • how long the individual concerned has resided

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			<p>§ 26. Ved afgørelsen om udvisning skal der tages hensyn til, om udvisningen må antages at virke særlig belastende, navnlig på grund af</p> <ol style="list-style-type: none"> 1) udlændingens tilknytning til det danske samfund, 2) udlændingens alder, helbredstilstand og andre personlige forhold, 3) udlændingens tilknytning til herboende personer, 4) udvisningens konsekvenser for udlændingens herboende nære familiemedlemmer, herunder i relation til hensynet til familiens enhed, 5) udlændingens manglende eller ringe tilknytning til hjemlandet eller andre lande, hvor udlændingen kan ventes at tage ophold, og 6) risikoen for, at udlændingen uden for de i § 7, stk. 1 og 2, eller § 8, stk. 1 og 2, nævnte tilfælde vil lide overlast i hjemlandet eller andre lande, hvor udlændingen kan ventes at tage ophold. <p><i>Stk. 2.</i> En udlænding skal udvises efter § 22, nr. 4-7, og § 25, medmindre de i stk. 1 nævnte forhold taler afgørende derimod.</p> <p>§2 [...] Ministeren for flygtninge, indvandrere og integration kan herved fravige bestemmelserne i denne lov, i det omfang det følger af EU-</p>	<p>26 The decision on expulsion must take into account the factors that may be assumed to be particularly burdensome because of:</p> <ol style="list-style-type: none"> 1) the alien's affiliation to Danish society. 2) the alien's age and state of health and other personal relations 3) the alien's relation to others living in Denmark 4) the consequences for the expellee's family, and the effect on the family as a whole. 5) the aliens connection to their homeland or country where they will take up residence. 6 the risk that the alien will suffer injury as per 7(1-2) or 8 (1-2) in their homeland or other country <p>2. An alien shall be expelled in accordance with §22 (4-7) and 25, unless those instances stated in 1 apply.</p> <p>Art. 2 [...] Minister for immigration, refugee and integration may lay down derogation from this Law to the extend that follows from</p>		<p>on its territory (indent. 1 of Art. 26)</p> <ul style="list-style-type: none"> • his/her age, state of health, family and economic situation (indent. 2 of Art. 26), • social and cultural integration in Denmark (indent. 1 of Art. 26), , • and the extent of his/her links with the country of origin (indent. 5 of Art. 26) <p>However, Art. 26 para. 2 lays down the main rule stipulating that an alien shall be expelled, unless the circumstances stipulated in para. 1 definitely tell against it. This is a stringent rule in effect resulting into more expulsion that envisaged by the Directive. On the other hand, Art. 2 of Aliens Act gives a possibility for Minister for immigration, refugee and integration to derogate from the national rules. No information is available on the practice. Therefore, the conclusion is that the broad competence to expel aliens does not safeguard the rights of the individuals protected by the Directive.</p>

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			reglerne.	EU law.		
	2. The host Member State may not take an expulsion decision against Union citizens or their family members, irrespective of nationality, who have the right of permanent residence on its territory, except on serious grounds of public policy or public security.	LBK Nr. 808, §25	<p>§ 25. En udlænding kan udvises, hvis</p> <p>1) udlændingen må anses for en fare for statens sikkerhed, eller</p> <p>2) udlændingen må anses for en alvorlig trussel mod den offentlige orden, sikkerhed eller sundhed.</p>	<p>25. An alien may be expelled if</p> <p>1) they represent a danger to the states safety or</p> <p>2 are seen as a serious threat to public safety, public policy and health</p>	N, Incorrect	<p>Incorrect transposition</p> <p>It follows explicitly from the national legislation that an alien may be expelled if they represent a serious threat to public safety or public policy. Thus, the national transposing measure establishes a mandatory rule, which in effect results into more expulsion than foreseen by the Directive. Therefore, the transposition is incorrect.</p>
	3. An expulsion decision may not be taken against Union citizens, except if the decision is based on imperative grounds of public security, as defined by Member States, if they: (a) have resided in the host Member State for the previous 10 years; or	LBK Nr. 808, §22	<p>§ 22. En udlænding, som har haft lovligt ophold her i landet i mere end de sidste 9 år, og en udlænding med opholdstilladelse efter § 7 eller § 8, stk. 1 eller 2, som har haft lovligt ophold her i landet i mere end de sidste 8 år, kan udvises, hvis</p> <p>1) udlændingen idømmes ubetinget straf af mindst 4 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>2) udlændingen for flere strafbare forhold idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne</p>	<p>Art. 22. An alien who has had legal residence in the country for more than 9 years and an alien with a residence permit in accordance with §7 or §8,(1 and 2), who have had legal residence in the country for more than 8 years can be expelled if</p> <p>1) the alien is sentenced to at least 4 years imprisonment or other form of punishment for the same period for a criminal act/offence.</p> <p>2) the alien is sentenced to at least 2 years imprisonment or to other form of punishment for several criminal acts/offences.</p> <p>3) The alien is sentenced to at least 2 years imprisonment or to other form of punishment for a criminal act/offence and who has previously been convicted of a criminal act/offence [...]</p> <p>4) An alien who in accordance</p>	N, Incorrect and Incomplete	<p>Incorrect and incomplete transposition</p> <p>The transposing legislation does not prescribe that special rules shall apply, if an alien has resided in the host Member State for the previous 10 years. "Imperative grounds of public security" has not been transposed.</p>

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			<p>varighed, 3) udlændingen idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, og tidligere her i landet er idømt ubetinget fængselsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter, 4) udlændingen efter lov om euforiserende stoffer eller straffelovens § 191 eller § 290, når udbyttet er opnået ved overtrædelse af lov om euforiserende stoffer eller straffelovens § 191, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter, 5) udlændingen efter § 59, stk. 7, eller straffelovens § 125 a idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne</p>	<p>with the law on euphoric drugs or the penal code's §191 or §290 obtains profit through contravening said law and is sentenced to imprisonment or other form of punishment for this reason. 5) Aliens in accordance with § 59, (7) or the penal code's §125a sentenced to imprisonment or other form of punishment for contravening this law, 6) Aliens who in accordance with the penal code's articles 12 and 13 or § 119, stk. 1 and 2, § 123, § 180, § 181, § 183, stk. 1 and 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 and 3, jf. stk. 1, § 215, § 216, § 222, §§ 224 and 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286, § 288, § 289, § 290, stk. 2, or § 291, stk. 2, are sentenced to imprisonment or other form of punishment or 7). an alien pursuant to §§ 260 or 266 of Criminal Code on the basis of the person in question has made someone to enter into marriage against his/her will, is sentenced to imprisonment or other form of punishment</p>		

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			<p>karakter,</p> <p>6) udlændingen efter bestemmelser i straffelovens kapitel 12 og 13 eller efter straffelovens § 119, stk. 1 og 2, § 123, § 180, § 181, § 183, stk. 1 og 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 og 3, jf. stk. 1, § 215, § 216, § 222, §§ 224 og 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286, § 288, § 289, § 290, stk. 2, eller § 291, stk. 2, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter, eller</p> <p>7) udlændingen efter straffelovens §§ 260 eller 266 under henvisning til, at den pågældende har tvunget nogen til at indgå ægteskab mod eget ønske, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p>			

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	(b) are a minor, except if the expulsion is necessary for the best interests of the child, as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989.				NT	Not transposed.
Art. 29.1	Public health 1. The only diseases justifying measures restricting freedom of movement shall be the diseases with epidemic potential as defined by the relevant instruments of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to nationals of the host Member State.		§ 25. En udlænding kan udvises, ... 2) udlændingen må anses for en alvorlig trussel mod den offentlige orden, sikkerhed eller sundhed. § 25 a. En udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, kan endvidere udvises, hvis ... 3) Andre hensyn til den offentlige orden eller sikkerheds- eller sundhedsmæssige grunde tilsiger, at udlændingen ikke bør have ophold her i landet.	25. An alien may be expelled if 1) they represent a danger to the states safety or 2) are seen as a threat to public safety and health 25a. 25a An alien, who has not legally resided in the country for the past 6 months may be expelled, if 3) In consideration to public welfare, safety and/or health it can be decided that it is inadvisable for the alien to reside in the country	N, Incomplete	Incomplete transposition The provision has not been appropriately reflected in the Danish transposing legislation, as it does not state that the only diseases justifying measures restricting freedom of movement shall be the diseases with epidemic potential as defined by the relevant instruments of the World Health Organisation and other infectious diseases or contagious parasitic diseases.
Art.29. 2	2. Diseases occurring after a three-month period from the date of arrival shall not constitute grounds for expulsion from the territory.		-	-	NT	Not transposed.
Art.29. 3	3. Where there are serious indications that it is necessary, Member States may, within three months of the date of arrival, require persons entitled to the right of residence to undergo, free of charge, a medical examination to certify that they are not suffering from any of the conditions referred to in paragraph 1. Such medical examinations may not be required as a matter of routine.			-	NT	Not transposed The requirement has not been transposed.

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Art.30.1	Notification of decisions 1. The persons concerned shall be notified in writing of any decision taken under Article 27(1), in such a way that they are able to comprehend its content and the implications for them.	Administration Act LBK 1365 of 07/12/2007	§ 22. En afgørelse skal, når den meddeles skriftligt, være ledsaget af en begrundelse, medmindre afgørelsen fuldt ud giver den pågældende part medhold.	22. A decision shall, when issued in writing, be accompanied with grounds for the decision unless the decision is in the involved party's favour	N Incomplete	Incomplete transposition The main rule in the Danish legislation is that the persons concerned shall be notified in writing. However, the requirement that the decision shall be given "in such a way that they are able to comprehend its content and the implications for them" has not been transposed.
Art.30.2	2. The persons concerned shall be informed, precisely and in full, of the public policy, public security or public health grounds on which the decision taken in their case is based, unless this is contrary to the interests of State security.	Administration Act LBK 1365 of 07/12/2007	§ 24. En begrundelse for en afgørelse skal indeholde en henvisning til de retsregler, i henhold til hvilke afgørelsen er truffet. I det omfang, afgørelsen efter disse regler beror på et administrativt skøn, skal begrundelsen tillige angive de hovedhensyn, der har været bestemmende for skønsudøvelsen. <i>Stk. 2.</i> Begrundelsen skal endvidere om fornødent indeholde en kort redegørelse for de oplysninger vedrørende sagens faktiske omstændigheder, som er tillagt væsentlig betydning for afgørelsen.	Section 24. Other aliens may be expelled 1). on the grounds, as mentioned in sections 22 or 23 or 2) if the alien was sentenced to conditional and unconditional penalty or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length.	Y	Effective transposition. The transposing provision does not explicitly reflect the reference to the grounds of public policy, public security or public health. However, this is transposed through the general (broad) requirement to precisely and in full inform the persons concerned about the grounds for a decision.
Art.30.3	3. The notification shall specify the court or administrative authority with which the person concerned may lodge an appeal, the time limit for the appeal and, where applicable, the time allowed for the person to leave the territory of the Member State. Save in duly substantiated cases of urgency, the time allowed to leave the territory shall be not less than one month from the date of	-			NT	Not transposed

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	notification.					
Art.31.1	<p>Procedural safeguards</p> <p>1. The persons concerned shall have access to judicial and, where appropriate, administrative redress procedures in the host Member State to appeal against or seek review of any decision taken against them on the grounds of public policy, public security or public health.</p>	Aliens Act no. 808, Section 46	<p>§ 46. Afgørelser i henhold til denne lov træffes med de undtagelser, der fremgår af § 9, stk. 19 og 20, §§ 46 a-49, § 50, § 50 a, § 51, stk. 2, 2. pkt., § 56 a, stk. 1-4, § 58 i og § 58 j, jf. dog § 58 d, 2. pkt., af Udlændingesservice.</p> <p><i>Stk. 2.</i> Udlændingesservices afgørelser kan, bortset fra de i § 9 g, stk. 1, § 11 d, § 32 a, § 33, § 42 a, stk. 7, 1. pkt., § 42 a, stk. 8, 1. pkt., § 42 b, stk. 1, 3 og 7-9, § 42 d, stk. 2, § 46 e, § 53 a og § 53 b nævnte afgørelser, påklages til ministeren for flygtninge, indvandrere og integration. Udlændingesservices beslutning om, at der ikke er særlige grunde til at antage, at en uledsaget udlænding, der inden det fyldte 18. år har indgivet ansøgning om opholdstilladelse i medfør af § 7, ikke bør gennemgå en asylsagsprocedure, jf. § 9 c, stk. 3, nr. 1, kan ikke påklages til ministeren for flygtninge, indvandrere og integration.</p> <p><i>Stk. 3.</i> Udlændingesservices beslutning om betaling af udgifter forbundet med tilvejebringelsen af oplysninger til brug for behandlingen af en sag efter denne lov, jf. § 40, stk. 2, kan ikke påklages.</p> <p><i>Stk. 4.</i> Ministeren for flygtninge, indvandrere og integration kan træffe</p>	<p>46. (1) Decisions pursuant to this Act are made by the Danish Immigration Service, except as provided by sections 9(19) and (20), 46a to 49, 50, 50a, 51(2), second sentence, and 56a(1) to (4), 58d, 2.</p> <p>(2) Apart from the decisions mentioned in sections 9 g (1), 11(d), 32a, 33, 42a(7), first sentence, 42a(8), first sentence, 42b(1), (3) and (7) to (9), 42d(2), 46e, 53a and 53b, the decisions of the Danish Immigration Service can be appealed to the Minister of Refugee, Immigration and Integration Affairs [...]</p> <p>(3) Decisions of the Danish Immigration Service on payment of expenses incidental to the provision of information for the examination of a case under this Act, cf. section 40(2), cannot be appealed.</p> <p>(4) The Minister of Refugee, Immigration and Integration Affairs may make decisions on and lay down more detailed provisions for the processing by the Danish Immigration Service of the cases comprised by subsections (1) and (2).</p>	N, Ambiguous	<p>Ambiguous transposition.</p> <p>In accordance with the Danish legal tradition, many of basic principles have not been codified, but still apply in practice. Here, the general rule of unlimited right to judicial and administrative review will apply, as the Aliens Act does not specifically prescribe any limitations.</p> <p>Article 3 of the Danish Constitution stipulates that legislative authority shall be vested in the King and the Folketing conjointly, executive authority shall be vested in the King, judicial authority shall be vested in the courts of justice - the principle of division of powers. Furthermore, Article 63 of the Danish Constitution prescribes that the courts of justice shall be empowered to decide any question relating to the scope of the executive's authority; though any person wishing to question such authority shall not, by taking the case to the courts of justice, avoid temporary compliance with orders given by the executive authority.</p>

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			bestemmelse om og fastsætte nærmere regler for Udlændingesservices behandling af de af stk. 1 og 2 omfattede sager.			
Art.31.2	2. Where the application for appeal against or judicial review of the expulsion decision is accompanied by an application for an interim order to suspend enforcement of that decision, actual removal from the territory may not take place until such time as the decision on the interim order has been taken, except: — where the expulsion decision is based on a previous judicial decision; or — where the persons concerned have had previous access to judicial review; or — where the expulsion decision is based on imperative grounds of public security under Article 28(3).				NT	Not transposed This requirement has not been reflected in the transposing Danish legislation. However, under Danish law, appeals have suspensory effect.
Art.31.3	3. The redress procedures shall allow for an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed measure is based. They shall ensure that the decision is not disproportionate, particularly in view of the requirements laid down in Article 28.				N, Ambiguous	Ambiguous transposition. Although this has not been explicitly reflected in the Danish law, it is reflected in uncodified administrative and procedural principles that the redress procedures shall allow for an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed measure is based. Furthermore, the principle of proportionality is one of the basic administrative principles followed by the Danish authorities.

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Art.31.4	4. Member States may exclude the individual concerned from their territory pending the redress procedure, but they may not prevent the individual from submitting his/her defence in person, except when his/her appearance may cause serious troubles to public policy or public security or when the appeal or judicial review concerns a denial of entry to the territory.				NT	<p>Not transposed</p> <p>Broadly speaking, this provision ensures right to fair trial in conjunction with right to be heard - these basic rights are not codified in Denmark, however followed by the Danish authorities in practice.</p> <p>Nonetheless, a gap in the transposing legislation is concluded, as the provision intends to guarantee the individual the right to submit his/her defence in person in a particular situation, more precise when the individual in question is excluded from the territory of the MS This situation is not reflected in the Danish transposing legislation.</p>
Art.32.1	<p>Duration of exclusion orders</p> <p>1. Persons excluded on grounds of public policy or public security may submit an application for lifting of the exclusion order after a reasonable period, depending on the circumstances, and in any event after three years from enforcement of the final exclusion order which has been validly adopted in accordance with Community law, by putting forward arguments to establish that there has been a material change in the circumstances which justified the decision ordering their exclusion.</p>				NT	Not transposed.
	The Member State concerned shall reach a decision on this application within six months of its submission.				NT	<p>Not transposed</p> <p>The requirement has not been transposed.</p>

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Art.32.2	2. The persons referred to in paragraph 1 shall have no right of entry to the territory of the Member State concerned while their application is being considered.				NT	Not transposed The requirement has not been transposed.
Art.33.1	Expulsion as a penalty or legal consequence 1. Expulsion orders may not be issued by the host Member State as a penalty or legal consequence of a custodial penalty, unless they conform to the requirements of Articles 27, 28 and 29.	LBK 808 Chapter 4	<p>§ 22. En udlænding, som har haft lovligt ophold her i landet i mere end de sidste 9 år, og en udlænding med opholdstilladelse efter § 7 eller § 8, stk. 1 eller 2, som har haft lovligt ophold her i landet i mere end de sidste 8 år, kan udvises, hvis</p> <p>1) udlændingen idømmes ubetinget straf af mindst 4 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>2) udlændingen for flere strafbare forhold idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>3) udlændingen idømmes ubetinget straf af mindst 2 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne</p>	<p>Chapter 14 - Expulsion Art. 22. An alien who has had legal residence in the country for more than 9 years and an alien with a residence permit in accordance with §7 or §8,(1 and 2), who have had legal residence in the country for more than 8 years can be expelled if</p> <p>1) the alien is sentenced to at least 4 years imprisonment or other form of punishment for the same period for a criminal act/offence.</p> <p>2) the alien is sentenced to at least 2 years imprisonment or to other form of punishment for several criminal acts/offences.</p> <p>3) The alien is sentenced to at least 2 years imprisonment or to other form of punishment for a criminal act/offence and who has previously been convicted of a criminal act/offence [...]</p> <p>4) An alien who in accordance with the law on euphoric drugs or the penal code's §191 or §290 obtains profit through contravening said law and is sentenced to imprisonment or other form of punishment for this reason.</p> <p>5) Aliens in accordance with</p>	N, Incorrect	<p>Incorrect transposition</p> <p>An EU citizen may also be expelled from Denmark on the basis that he or she is a danger for state's security or a serious danger for public order, security or health.</p> <p>The Danish law allows for expulsion orders to be issued as a penalty or legal consequence of a custodial penalty. The Danish case law on the expulsion of individuals covered by EU residence rules tends to incorporate a stringent approach reflected in the Danish legislation (Chapter 4 of Aliens Act) which does not seem in line with the Directive.</p> <p>In the High Court ruling of 28 february 2007 no. U.2007.1340H, it was decided a non- EU national who has resided in Denmark for a longer period (over 9 years) and who has children UK citizens and children DK citizens should be expelled for ever on the basis of criminal conviction (homicide 10 years imprisonment).</p> <p>It was ruled in High Court ruling of 17 October 2005 no. U 2006.212 H (T3) that French national who has resided in</p>

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			<p>varighed, og tidligere her i landet er idømt ubetinget fængselsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>4) udlændingen efter lov om euforiserende stoffer eller straffelovens § 191 eller § 290, når udbyttet er opnået ved overtrædelse af lov om euforiserende stoffer eller straffelovens § 191, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>5) udlændingen efter § 59, stk. 7, eller straffelovens § 125 a idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter,</p> <p>6) udlændingen efter bestemmelser i straffelovens kapitel 12 og 13 eller efter straffelovens § 119, stk. 1 og 2, § 123, § 180, § 181, § 183,</p>	<p>§ 59, (7) or the penal code's §125 sentenced to imprisonment or other form of punishment for contravening this law,</p> <p>6) Aliens who in accordance with the penal code's articles 12 and 13 or § 119, stk. 1 and 2, § 123, § 180, § 181, § 183, stk. 1 and 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 and 3, jf. stk. 1, § 215, § 216, § 222, §§ 224 and 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286, § 288, § 289, § 290, stk. 2, or § 291, stk. 2, are sentenced to imprisonment or other form of punishment or</p> <p>7). an alien pursuant to §§ 260 or 266 of Criminal Code on the basis of the person in question has made someone to enter into marriage against his/her will, is sentenced to imprisonment or other form of punishment [...]</p>		<p>Denmark for 6 years shall be expelled on the basis of criminal conviction (robbery, 4 years imprisonment).</p> <p>It was ruled in High Court ruling of 25 August 2006 no. U.2007.1340H that French national who has a Danish wife and 2 children Danish citizens imprisonment shall be expelled on the basis of criminal conviction (imprisonment for 5½ years for drugs crime).²</p> <p>In all these cases, seriousness of the crime and length of the conviction have weighted more than other factors (such as length of residence in Denmark, EU citizenship and family ties).</p>

² The list of High Court Judgments is available at <http://www.rigsadvokaturen.dk/Default.aspx?id=178&recordid178=858>

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			<p>stk. 1 og 2, § 183 a, § 184, stk. 1, § 186, stk. 1, § 187, stk. 1, § 192 a, § 193, stk. 1, § 210, stk. 1 og 3, jf. stk. 1, § 215, § 216, § 222, §§ 224 og 225, jf. §§ 216 og 222, § 230, § 235, § 237, § 245, § 245 a, § 246, § 250, § 252, stk. 1 og 2, § 261, stk. 2, § 262 a, § 276, jf. § 286, §§ 278-283, jf. § 286, § 288, § 289, § 290, stk. 2, eller § 291, stk. 2, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter, eller</p> <p>7) udlændingen efter straffelovens §§ 260 eller 266 under henvisning til, at den pågældende har tvunget nogen til at indgå ægteskab mod eget ønske, idømmes ubetinget frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p> <p>§ 23. En udlænding, som har haft lovligt ophold her i landet i mere end de sidste 5 år, kan udvises</p> <p>1) af de grunde, der er nævnt i § 22,</p> <p>2) hvis udlændingen idømmes ubetinget straf af mindst 2 års</p>	<p>Art. 23. An alien who has legally resided here in the country for more than five foregoing years may be expelled</p> <p>1). on the grounds, as mentioned in section 22,</p> <p>2) if the alien was sentenced</p>		

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			<p>fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed,</p> <p>3) hvis udlændingen for flere strafbare forhold idømmes ubetinget straf af mindst 1 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, eller</p> <p>4) hvis udlændingen idømmes ubetinget straf af mindst 1 års fængsel eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne varighed, og tidligere her i landet er idømt ubetinget fængselsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p> <p>§ 24. Andre udlændinge kan udvises</p> <p>1) af de grunde, der er nævnt i §§ 22 eller 23, eller</p> <p>2) hvis udlændingen idømmes betinget eller ubetinget</p>	<p>to unconditional penalty of at least two years imprisonment or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length.</p> <p>3) when an alien is convicted for several crimes and more than 1 year imprisonment or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length</p> <p>4) when an alien is sentenced to imprisonment for at least one year or imilar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length</p> <p>Art 24. Other aliens may be expelled</p> <p>1). on the grounds, as mentioned in sections 22 or 23 or</p> <p>2) if the alien was sentenced</p>		

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			<p>frihedsstraf eller anden strafferetlig retsfølge, der indebærer eller giver mulighed for frihedsberøvelse, for en lovovertrædelse, der ville have medført en straf af denne karakter.</p> <p>§ 24 a. Ved afgørelse om udvisning ved dom, navnlig efter § 22, nr. 4-7, skal der lægges vægt på, om udvisning må anses for særlig påkrævet på grund af</p> <ol style="list-style-type: none"> 1) grovheden af den begåede kriminalitet, 2) længden af den idømte frihedsstraf, 3) den fare, skade eller krænkelse, der var forbundet med den begåede kriminalitet, eller 4) tidligere domme for strafbart forhold. <p>§ 24 b. En udlænding kan udvises betinget, hvis der ikke findes at være fuldt tilstrækkeligt grundlag for at udvise den pågældende efter §§ 22-24, fordi udvisning må antages at virke særlig belastende, jf. § 26, stk. 1.</p> <p><i>Stk. 2.</i> Ved betinget udvisning skal der fastsættes en prøvetid. Prøvetiden beregnes fra tidspunktet for endelig dom i sagen eller, hvis den pågældende ikke har været til</p>	<p>to conditional and unconditional penalty or similar penalty that implies or gives a possibility to imprisonment, for infringement of a law that would imply a punitive measure of the afore mentioned length.</p> <p>Art. 24a In decisions on expulsion due to criminal sentencing vis. § 22, nos. 4-7, weight must be placed on the fact that the expulsion is necessary due to:</p> <ol style="list-style-type: none"> 1) the nature of the crime 2) length of sentence 3) the danger, damage and violation in connection with the criminal act, or 4) previous convictions. <p>Art. 24b An alien can be conditionally expelled, if there is insufficient basis for expulsion under sections 22-24, because expulsion is deemed to be exceptionally traumatic in accordance with section 26 para.1.</p> <p>(2) During the conditional expulsion, a trial period shall be determined. The calculation of the trial period must run from the time of</p>		

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			<p>stede ved domsafsigelsen, fra dommens forkyndelse og udløber 2 år efter tidspunktet for løsladelse eller udskrivning fra hospital eller forvaring eller fra ophør af ophold i en sikret afdeling på en døgninstitution for børn og unge. Er betinget udvisning sket ved betinget dom om frihedsberøvelse eller dom til ambulans behandling med mulighed for frihedsberøvelse, udløber prøvetiden 2 år efter tidspunktet for endelig dom i sagen eller, hvis den pågældende ikke har været til stede ved domsafsigelsen, 2 år efter dommens forkyndelse.</p> <p><i>Stk. 3.</i> En udlænding, der er idømt betinget udvisning efter stk. 1, kan udvises, hvis den pågældende i prøvetiden for den betingede udvisning begår nyt strafbart forhold, som kan give anledning til udvisning efter §§ 22-24, og der inden prøvetidens udløb foretages rettergangsskridt, medmindre en afgørelse om udvisning må antages at virke særlig belastende, jf. § 26, stk. 1.</p> <p><i>Stk. 4.</i> Udvises en udlænding betinget, skal retten i forbindelse med dommens afsigelse vejlede udlændingen om betydningen heraf.</p> <p>§ 25. En udlænding kan udvises, hvis</p> <p>1) udlændingen må anses for en</p>	<p>final court decision, or in case the alien was not present in court, run from the communication of the courts decision to alien, and run for a two year period after the alien was released on probation or released from hospital. . [...]</p> <p>(3) An alien under a conditioned expulsion may be expelled when during the trial period new criminal offences that may be the reason for expulsion are committed and provided that prosecution steps are taken before the trial period is expired, unless expulsion is deemed exceptionally traumatic.</p> <p>(4) When an alien is conditionally expelled the court must provide guidance on the udnertsning and importance of the sanction</p> <p>Art. 25 An alien may be expelled, if:</p> <p>1). the alien may be deemed</p>		

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			<p>fare for statens sikkerhed, eller</p> <p>2) udlændingen må anses for en alvorlig trussel mod den offentlige orden, sikkerhed eller sundhed.</p> <p>§ 25 a. En udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, kan endvidere udvises, hvis</p> <p>1) udlændingen uden for de i §§ 22-24 nævnte tilfælde er dømt for overtrædelse af § 42 a, stk. 7, 2. pkt., jf. § 60, stk. 1, straffelovens §§ 119, 244, 266, 276-283 eller 290, toldlovens § 73, stk. 2, jf. stk. 1, nr. 1, eller lov om våben og eksplosivstoffer, eller udlændingen over for politiet har erkendt overtrædelsen eller er pågrebet under eller i umiddelbar tilknytning til udøvelsen af det strafbare forhold, eller</p> <p>2) udlændingen er dømt for ulovlig besiddelse af euforiserende stoffer, eller udlændingen over for politiet har erkendt ulovlig besiddelse eller brug af euforiserende stoffer, eller der i øvrigt foreligger en særlig bestyrket mistanke.</p> <p><i>Stk. 2.</i> Efter indrejsen kan en udlænding, som ikke har haft lovligt ophold her i landet i længere tid end de sidste 6 måneder, desuden udvises, hvis:</p>	<p>to be a danger for state's security, or</p> <p>2). the alien may be deemed a serious threat for public order, security or health.</p> <p>25a An alien, who has not legally resided in the country for the past 6 months may be expelled, if</p> <p>1) aliens who irrespective of §§ 22-24 are convicted of contravening § 42 a, stk. 7, 2. pkt., jf. § 60, stk. 1, Criminal Code §§ 119, 244, 266, 276-283 or 290, Customs Duty Code § 73, stk. 2, jf. stk. 1, nr. 1, or the law on Weapons, explosives, or aliens who have admitted their guilt to the police or who have been apprehended in committing a criminal act, or</p> <p>2) Aliens convicted for possession of euphoric drugs or who have admitted to possession or use of euphoric drugs or where there is suspicion that this is the case</p> <p>2 After entry, into the country, aliens who have resided is the resided in the country for more than months may be expelled if</p>		

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			<p>1) Der efter det, som er oplyst om udlændingens forhold, er grund til at antage, at udlændingen vil tage ophold eller arbejde her i landet uden fornøden tilladelse. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>2) Udlændingen ikke har de nødvendige midler til sit underhold her i landet og til hjemrejsen. Udlændinge, der er omfattet af § 2, stk. 1 eller 2, kan dog ikke udvises af denne grund.</p> <p>3) Andre hensyn til den offentlige orden eller sikkerheds- eller sundhedsmæssige grunde tilsiger, at udlændingen ikke bør have ophold her i landet.</p> <p>§ 25 b. En udlænding kan udvises, hvis udlændingen opholder sig her i landet uden fornøden tilladelse.</p> <p>§ 25 c. En udlænding med opholdstilladelse efter § 9 f kan uden for de i §§ 22-24 nævnte tilfælde udvises, hvis udlændingen er dømt for overtrædelse af bestemmelser i straffelovens kapitel 12 og 13 eller straffelovens §§ 136, 140, 266, 266 a eller 266 b.</p> <p>§ 26. Ved afgørelsen om udvisning skal der tages hensyn til, om udvisningen må antages</p>	<p>1) Information is received that the intend to remain or work without the necessary permission. Aliens subject to § 2, (1-2) can not be expelled for this reason.</p> <p>2 An alien not in possession of the required financial means to sustain his/her residence and pay for a return journey. Aliens affected by 1 or 2 may not be expelled without reason</p> <p>3) In consideration to public welfare, safety and/or health it can be decided that it is inadvisable for the alien to reside in the country</p> <p>Art. 25b An alien can be expelled if they do not hold the required permits</p> <p>art 25c An alien with residence permit unde art 9 f may supplementary to the instances mentioned in arts. 22-24 be expelled when convicted for criminal offences under chapters 12-13 and §§ 136, 140, 266, 266a and 266b.of the Penal Code</p> <p>Art 26. When an expulsion decision is adopted consideration of whether the</p>		

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			<p>at virke særlig belastende, navnlig på grund af</p> <ol style="list-style-type: none"> 1) udlændingens tilknytning til det danske samfund, 2) udlændingens alder, helbredstilstand og andre personlige forhold, 3) udlændingens tilknytning til herboende personer, 4) udvisningens konsekvenser for udlændingens herboende nære familiemedlemmer, herunder i relation til hensynet til familiens enhed, 5) udlændingens manglende eller ringe tilknytning til hjemlandet eller andre lande, hvor udlændingen kan ventes at tage ophold, og 6) risikoen for, at udlændingen uden for de i § 7, stk. 1 og 2, eller § 8, stk. 1 og 2, nævnte tilfælde vil lide overlast i hjemlandet eller andre lande, hvor udlændingen kan ventes at tage ophold. <p><i>Stk. 2.</i> En udlænding skal udvises efter § 22, nr. 4-7, og § 25, medmindre de i stk. 1 nævnte forhold taler afgørende derimod.</p>	<p>decision may be exceptionally traumatic, especially taking into consideration:</p> <ol style="list-style-type: none"> 1) the aliens ties with Denmark 2) the age, health state and other personal needs, 3) the ties to resident persons 4) the consequences of expulsion to the resident family members, including that of the family union 5) the lack of ties to his/her home country, or other countries in which he/she is expected to reside. 6) the risk that the alien may suffer personal injury or dangers in his home country or the country in which he/she is expected to reside <p>(2) An alien must be expelled in accordance with § 22(4 to 7) and § 25 unless grounds mentioned in subsection 1 profoundly opposes expulsion</p>		
Art.33.2	2. If an expulsion order, as provided for in paragraph 1, is enforced more than two years after it was issued, the Member State shall check that the individual concerned is currently and genuinely a threat to public policy or public security and shall assess whether there has been any material change in the circumstances since the				NT	Not transposed.

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	expulsion order was issued.					
Art.34	Publicity Member States shall disseminate information concerning the rights and obligations of Union citizens and their family members on the subjects covered by this Directive, particularly by means of awareness-raising campaigns conducted through national and local media and other means of communication.		-	-	Y	Effective transposition. There is no provision to this effect. However, this provision regards implementation in practice. It should be noted that the Ministry of Integration has a web portal where most of the requirements can be found. www.nyidanmark.dk
Art.35	Abuse of rights Member States may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Directive in the case of abuse of rights or fraud, such as marriages of convenience. Any such measure shall be proportionate and subject to the procedural safeguards provided for in Articles 30 and 31.	LBK 808, Section 35	§ 32. Hvis en persons opholdsret ophører efter §§ 30-31, træffer rette myndighed, jf. § 33, afgørelse om, hvorvidt den pågældende fortsat kan opholde sig her i landet. Udlændingelovens § 26, stk. 1, finder tilsvarende anvendelse. Opholdskort for udstationerede tredjelandsstatsborgere, jf. § 24, og opholdskort for familiemedlemmer, jf. §§ 25 og 29, inddrages, hvis der træffes afgørelse om, at indehaveren ikke længere har ret til at opholde sig her i landet. Stk. 2. Stk. 1 finder tilsvarende anvendelse ved misbrug af rettigheder, hvis grundlaget for udstedelsen af en persons registreringsbevis eller opholdskort var urigtigt, eller den pågældende har opnået registreringsbeviset eller opholdskortet ved svig, herunder i kraft af et proformaægteskab.	§ 32 When a person's resident right expires under §§ 30-31 decision on whether the person may still reside in Denmark must be taken by the relevant authority. § 26 of the Aliens Act apply to these circumstances. Resident permits issued to 3. country citizens and family members are withdrawn in case the principal person is expelled or no longer may legally reside in Denmark (2) The above rules apply in case of abuse of rights, when the issuance of permits is based on false information or the person has obtained the permit by forgery and/or by shame marriage.	N, Incomplete	Incomplete transposition Denmark has effectively adopted the necessary measures to refuse, terminate or withdraw any right conferred by this Directive in the case of abuse of rights or fraud, including marriages of convenience (Danish, proformaægteskab/English, a sham marriage). Such sanctions as revocation of residence card for a family member or termination of the right of residence may come into play. However, the Danish law does not explicitly require that such measures shall be proportionate and subject to the procedural safeguards provided for in Articles 30 and 31. In fact, as shown before, these provisions have not been properly transposed by DK and although these decisions are subject to the same guarantees as the decisions taken on the basis of Article 27 and 28, since the procedural guarantees are not

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						satisfied the transposition is incomplete. In terms of administrative practice, various circumstances are taken into consideration by the Foreign Service, when taking a decision on the revocation of the residence case/determining whether shame marriage is at hand. A case from 2006 illustrates reasons to presume that the genuine purpose of the marriage was to obtain a residence permit. Applicant and the resident of Denmark had just met. They communicated via dictionary, signs and with the help of the applicant's sister. The couple decided to get married after 2-4 weeks acquaintance. The age difference between the applicant and the resident of Denmark is 26. With reference to these circumstances, there were reasons to presume that the crucial purpose of the marriage was to obtain a residence permit.
Art.36	<p>Sanctions</p> <p>Member States shall lay down provisions on the sanctions applicable to breaches of national rules adopted for the implementation of this Directive and shall take the measures required for their application.</p> <p>The sanctions laid down shall be effective and proportionate. Member States shall notify the Commission of these provisions not later than 30 April 2006 and as promptly as possible in the case of any subsequent</p>	LBK 808, Chapter 9	<p>§ 59. Med bøde eller fængsel indtil 6 måneder straffes den udlænding, som:</p> <p>[...] 2) Indrejser her i landet i strid med et indrejseforbud eller et tilhold meddelt i henhold til tidligere udlændingelove. Bestemmelsen i 1. pkt. gælder ikke ved indrejse fra eller udrejse til et Schengenland, medmindre der undtagelsesvis sker kontrol ved en sådan grænse i medfør af Schengengrænsekodexens</p>	<p>Part IX</p> <p><i>Penalty provisions</i></p> <p>59. (1) An alien is liable to a fine or imprisonment for up to 6 months if he: -</p> <p>[...]</p> <p>(ii) enters Denmark in violation of an entry prohibition or in disobedience of an order made under an earlier Danish Aliens Act;</p> <p>(iii) stays in Denmark or works without the</p>	N, Incomplete	<p>Incomplete transposition</p> <p>The Danish law prescribes sanctions for breaches of national rules adopted for the implementation of this Directive. These sanctions may either be financial penalty or imprisonment.</p> <p>However, the transposing legislation does not explicitly refer to the proportionality principle to be observed. Furthermore, in terms of imprisonment, it is an</p>

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	changes.		artikel 23, jf. § 38, stk. 2. 3) Opholder sig her i landet uden fornøden tilladelse. [...]	requisite permit;		exceptionally stringent measure, which does not reflect the spirit of the Directive. For analysis of other sanctions, please see comments in the relevant provisions of the Directive.
Art.37	More favourable national provisions The provisions of this Directive shall not affect any laws, regulations or administrative provisions laid down by a Member State which would be more favourable to the persons covered by this Directive.				Y	Effective transposition.
Art.38	1. Articles 10 and 11 of Regulation (EEC) No 1612/68 shall be repealed with effect from 30 April 2006. 2. Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC shall be repealed with effect from 30 April 2006. 3. References made to the repealed provisions and Directives shall be construed as being made to this Directive.				NT	Not transposed.
Art.39	No later than 30 April 2008 the Commission shall submit a report on the application of this Directive to the European Parliament and the Council, together with any necessary proposals, notably on the opportunity to extend the period of time during which Union citizens and their family members may reside in the territory of the host Member State without any conditions. The Member States shall provide the				n/a	Transposition is not required.

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	Commission with the information needed to produce the report.					
Art.40	<p>Transposition</p> <p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 April 2006.</p>		<p>§ 34. Bekendtgørelsen træder i kraft den 30. april 2006.</p> <p>Stk. 2. Bekendtgørelse nr. 1255 af 28. november 2005 om ophold i Danmark for udlændinge, der er omfattet af Den Europæiske Unions regler eller aftale om Det Europæiske Økonomiske Samarbejdsområde (EU/EØS-bekendtgørelsen), ophæves for EU-statsborgere.</p>	<p>34.(1) This Order shall enter into force on 30 April 2006.</p> <p>(2) Order No 1255 of 28 November 2005 on the residence in Denmark of aliens who are covered by the European Union rules or the EEA Agreement (the EU/EEA Order) shall no longer apply to EU citizens.</p>	Y	<p>Effective transposition.</p> <p>The Danish transposing Act entered into force on 30 April 2006, thus on time.</p>
	When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.		-	-	Y	<p>Effective transposition.</p> <p>The transposing Danish legislation contains reference to Directive 2004/38/EC.</p>
	2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive together with a table showing how the provisions of this Directive correspond to the national provisions adopted.					