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COVER NOTE

from : Poul Skytte Christoffersen, Ambassador, Permanent Representative of Denmark
date of receipt : 27 May 2002
to : Jaime Mayor Oreha, President of the Council of the European Union

Subject : Communication from Denmark concerning implementation in Danish law
pursuant to Article 5 of the Protocol on the position of Denmark

Delegations will find attached a copy of a letter on the above subject.

**PERMANENT REPRESENTATION OF DENMARK
TO THE EUROPEAN UNION
BRUSSELS**

BY COURIER

Mr Jaime Mayor Oreha
President of the Council of the European Union
Rue de la Loi 175
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Ref. No: 400.Y.1-0

27 May 2002

Communication from Denmark concerning implementation in Danish law pursuant to Article 5 of the Protocol on the position of Denmark.

At the meeting of the Justice, Home Affairs and Civil Protection Council on 28 May 2001 the Council adopted Council Regulation (EC) No 1091/2001 on freedom of movement with a long-stay visa and Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals.

The Council also adopted Council Decision 2001/420/EC on the adaptation of Parts V and VI and Annex 13 of the Common Consular Instructions on Visas and Annex 6a to the Common Manual with regard to long-stay visas valid concurrently as short-stay visas.

At the meeting of the Internal Market Council on 20 December 2001 the Council adopted Council Decision 2002/44/EC amending Part VII and Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual. The Decision concerns the levying of fees in connection with applications for visas.

The above four legal acts were adopted on the basis of Title IV of the Treaty establishing the European Community.

In accordance with Article 1 of the Protocol on the position of Denmark annexed to the Treaty on European Union and the Treaty establishing the European Community, Denmark does not take part in the adoption by the Council of proposed measures pursuant to Title IV of the Treaty establishing the European Community (however, see Article 4 of the Protocol on certain provisions concerning visas).

Denmark therefore did not participate in the Council's adoption of the above four acts, which are not binding upon or applicable in Denmark (see Article 2 of the Protocol).

In accordance with Article 5 of the Protocol on the position of Denmark, Denmark has to decide within a period of 6 months after the Council has decided on a proposal to build upon the Schengen *acquis* under the provisions of Title IV of the Treaty establishing the European Community, whether it will implement this decision in its national law. If it decides to do so, this decision will create an obligation under international law between Denmark and the other Member States referred to in Article 1 of the Protocol integrating the Schengen *acquis* into the framework of the European Union as well as Ireland or the United Kingdom if those Member States take part in the areas of cooperation in question.

Denmark announced at the Council meeting on 28 May 2001 that, in accordance with Article 5 of the Protocol on the position of Denmark, it would be presenting a bill with a view to implementing in Danish law the Council Regulation on freedom of movement with a long-stay visa and the Council Directive on the mutual recognition of decisions on the expulsion of third country nationals.

At the same time Denmark announced that it intended to implement in Danish law the Council Decision of 28 May 2001 on the adaptation of Parts V and VI and Annex 13 of the Common Consular Instructions on Visas and Annex 6a to the Common Manual with regard to long-stay visas valid concurrently as short-stay visas.

On that basis I hereby inform you that the abovementioned Regulation and Directive have been implemented in Danish law by means of law No 134 of 20 March 2002 on the amendment of the Aliens Act. The part of the law implementing the Regulation came into force on 22 March 2002; the part implementing the Directive will come into force on 2 December 2002 unless the Danish Minister for Integration Affairs decides that it should come into force before that date. The Commission is also being notified about the law.

The Council Decision of 28 May 2001 on the adaptation of Parts V and VI and Annex 13 of the Common Consular Instructions on Visas and Annex 6a to the Common Manual with regard to long-stay visas valid concurrently as short-stay visas has also been implemented in Danish law, but its implementation does not require changes to the law in Denmark. The provisions have applied to Denmark with effect from the same date as the above Regulation, i.e. 22 March 2002.

I would also inform you that in accordance with Article 5 of the Protocol on the position of Denmark, Denmark has decided to implement in Danish law the Council Decision of 20 December 2001 amending Part VII and Annex 12 to the Common Consular Instructions and Annex 14a to the Common Manual. The implementation of the Decision does not require changes to the law in Denmark. The provisions will apply in Denmark with effect from the date of this communication.

The above provisions are binding on Denmark under international law.

A copy of this letter has been sent to the Directorate-General for Justice and Home Affairs at the Commission and to Directorate-General H (Justice and Home Affairs) at the General Secretariat of the Council.

(Complimentary close).

(s.) P. Skytte Christoffersen
Ambassador, Permanent Representative

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