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Practical planning and implementation of escorted returns by air

It follows from section 30(1) of the Aliens Act that an alien not entitled to stay in Denmark (any longer) must leave the country. If the alien does not leave Denmark voluntarily, the police must make arrangements for his departure, cf. section 30(2), first sentence, of the Act.

The National Police Aliens Department has the overall responsibility for the return by air of asylum-seekers and other aliens not entitled to stay in Denmark (any longer).

Guidelines for escorted returns are set out below to ensure the safe and secure implementation of returns by air with due regard for staff security and the rights and personal integrity of the deportee.

The guidelines have been prepared on the basis of Danish legislation and international conventions.

The guidelines only deal with the planning and practical implementation of escorted returns by air. They do not deal with questions on how to make the necessary preparations for being able to implement the return in the form of identification and determination of the alien's nationality and the issue of necessary travel documents, including an EU laissez-passer, or entry and transit permits.

1.0 PREPARATIONS FOR THE RETURN

1.1 Planning of an escorted return

Returns are planned by the National Police Aliens Department, which also books tickets at the travel agency (Carlson Wagonlit) in the Budget and Logistics Department of the Danish National Police.

Itineraries of escorted returns should be planned so that direct flights are used to the extent possible, and there should be as few and as short transit stopovers as possible. In special cases the journey may be planned so as to avoid any entry or stay in the country of destination for security reasons.

When the tickets are booked, the airline should be notified that the traveller in question is a deportee who will be escorted by police officers during the journey.



1.2 Security assessment

If a deportee who is to leave Denmark and who must be returned by air is unwilling to leave voluntarily, the National Police Aliens Department decides, on the basis of a security assessment, whether a police escort will be required for the return.

The case officer must make the security assessment on a special form – “Security assessment in connection with return by air”.

The security assessment, which takes a personal interview with the deportee as its point of departure, comprises a list of issues to be considered in connection with the return. The security assessment includes information on the deportee’s sex, age and previous conduct, such as threats, previous resistance in connection with transport/arraignment in court/return, escape risk, information on the deportee’s health – both physical and mental – such as suicide threats, handicaps, etc. Any need for assistance from a doctor and/or a nurse during the return is also assessed.

If the case proceedings, of the case in question, take place in one of the police districts as well as in the National Police Aliens Department, the police district’s case officer is requested to draw up a provisional security assessment, under the guidance of the Aliens Department’s case officer, if necessary.

The security assessment is submitted to the case officer’s own section management for deciding, whether the deportee should be escorted or not, and if so, how many escorts would be needed. The security assessment must not be more than a week old, at the maximum, and it will be enclosed to the itinerary when it is submitted to the management.

If it is concluded, in the light of the security assessment, that escorts are required for the return by air, the National Police Aliens Department is always responsible for the return and will handle the further case proceedings.

Returns by air usually take place on regular commercial flights. In the event a security assessment indicates that a return cannot take place on a regular flight, the Deputy National Commissioner or the Chief Superintendent of the National Police Aliens Department may decide to use a chartered aircraft.

When using a chartered aircraft, a work place assessment (WPA) must be carried out for the particular aircraft. Every time a WPA is being carried out, a check list must be drawn up.



1.3. Appointment of escorts

The appointment of escorts should take into account the security assessment, the need for specialist knowledge concerning the return destination, the duration of the journey and any transit stopovers, circumstances at the return destination, the need for actual negotiations with local authorities about entry, the deportee's sex and any special factors or circumstances. At least one of the escorts must be a police officer from the Aliens Department, and at least one of the escorts must be of the same sex as the deportee to be returned. The escorts must be able to speak and understand English.

One police officer among the escorts is appointed to be in charge of the return and of the debriefing of the National Police Aliens Department as well as the reporting to the Aliens Department's knowledge bank – the officer in charge. The officer in charge of the return must master English at negotiating level and must have completed a course in carrying out escorted air returns (self-defence course and first-aid course) any possible brush-up courses as well as the course "Specialist in dignified and sustainable returns".

1.4 Notification

All case proceedings must have been completed and notices given to the relevant authorities before the time of the return. In asylum cases, the Danish Immigration Service, the Refugee Appeals Board and the Ministry of Refugees, Immigration and Integration Affairs should be notified as close to the time of departure as possible to ensure that no pending applications or requests for reopening prevent the return.

This means that the Danish Immigration Service, the Refugee Appeals Board and the Ministry of Refugees, Immigration and Integration Affairs must be notified via e-mail of the date of return no later than 2 weeks before a planned return – or immediately, if the return is planned to take place at less than 2 weeks' notice. Returns (transfers/repatriation) pursuant to the Dublin Regulation are not covered by this notification scheme.

In return cases heard in manifestly unfounded procedures, where asylum applicants have received a final refusal from the Danish Immigration Service, the Refugee Appeals Board will not be notified.

The case officer will contact the immigration authorities via e-mail. The authorities will respond to the notification from the National Police Aliens Department 1-2 days after having received the notification, irrespective of any circumstances which may cause a postponement of the date of return. A return cannot be effected unless the National Police Aliens Department has received a response from the immigration authorities. If necessary, the National Police



Aliens Department will send a reminder to the immigration authorities to make sure that the notification of return has been received.

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If in direct relation to a return the National Police Aliens Department is notified by the deportee or his/her representative that the deportee has submitted a renewed application to the immigration authorities, and this is not documented in the case, the case worker in the relevant immigration authority will be contacted by telephone and asked to confirm or deny this information and to inform whether this will have any impact on the planned return.

If the immigration authorities confirm that obstacles to the individual return case exist, and that the return deadline has been postponed so that the return cannot be effected, the Planning office will add the case to the list of planned returns that is sent to the Ministry of Integration on a daily basis.

The head of department is responsible for ensuring that all relevant and necessary case proceedings, notices and inquiries have been made before the time of return. The relevant authorities of the country of destination, and in case of transit also the relevant authorities of the transit country, must be informed of the time of arrival. In special cases, a Danish mission in the country of destination must be informed of the return and the time of arrival in order to be able to assist the escorting police officers in any negotiations with the local authorities. Please note that the bilateral re-admission agreements that Denmark has concluded with a number of countries may specify particular formalised procedures for notification of returns.

1.5 Collection/summoning of the alien

The officer in charge of the return must ensure that the deportee is collected from the institution or local prison housing the deportee well before the return and is transported to Copenhagen Airport. As a principal rule, the deportee must be collected by the police officers serving as escorts on the return trip.

The officer in charge of the return must also ensure that a deportee to be returned with escorts is searched thoroughly before the return to deprive the deportee of items that may be used to harm the deportee himself or others or for escape. Luggage brought by the deportee during the transport to the airport and in the cabin must also be checked thoroughly for such items.

At all escorted returns by air, the form "Notification of deportee" must be filled in. The form must state the identity of the escorts and the reason for the escorted return. The form will give three standard reasons in connection with escorted returns and the actual reason in the case in question must be ticked off. The form must be signed by the respective section management.



The form is handed over to the aircraft captain and if he requests it, he will moreover be briefed orally about the reason for the deportee being escorted during the return. Provided the escorted return requires a change of aircraft, a copy of the form is handed over to the captain of the new aircraft.

2.0 REQUIREMENTS FOR THE ESCORTS

2.1 Health and physical capacity of the escorts

Police officers participating in escorted returns by air must be fully fit for duty and be able to apply the necessary force, if required, in view of flight security and the safe carrying out of the return in general.

To be able to participate in escorted returns, police officers of the Aliens Department must, as far as possible, have completed a specially organized training course supporting the escorts' competencies in becoming officer in charge of an escorted return.

2.2 The officer in charge of the return

The officer in charge of an escorted return must:

- make himself acquainted with the case
- brief the other escorts
- brief the deportee(s)
- undertake the overall responsibility during the return
- brief the department after the completion of the extradition
- draw up a return report and make an update in the knowledge bank after the arrival home
- make sure that when destined to war and risk zones a specific plan/form for the implementation of the return is drawn up

2.3 Dress of escorts

In connection with escorted returns, the escorts represent the Danish police. It is important that the police officers give a correct and credible impression. Part of this impression derives from the escorts' dress. It is therefore presupposed that the escorts are suitably dressed in plain clothes.

2.4 Conduct of escorts

Police officers participating in an escorted return must live up to the esteem and dignity required by their position from the start of the journey until the end of the journey at their return to Denmark. This also includes any stopovers in foreign



countries. Please note in this connection that returns often imply travelling to countries with another religious and/or cultural background than the Danish one.

2.5 Consumption of alcohol, etc.

The escorts – and the escorted deportee – may not consume any beer, wine or spirits during a return journey from the start of the journey until the time when the task has been completed and the deportee has been handed over to the authorities of the country of destination or has been observed as entering that country.

During any stay in the country of destination and during the trip back to Denmark – including transit stopovers – the escorts must continue to live up to the esteem and dignity required by their position. Intoxication as a result of drinking beer, wine or spirits, use of other types of drugs, or dealings with prostitutes are not compatible with such requirements.

2.6 Purchases

If a police officer buys spirits, tobacco or other dutiable goods in connection with an escorted return, it is presumed that all local laws and regulations are observed.

2.7 Personal equipment, etc.

The escorts may not carry any arms (pistol, truncheon or pepper spray). For use in any necessary pacification of the deportee, the escorts must bring plastic strips and/or handcuffs and a restraining belt, if required.

The escorts must bring valid passports, and any visas required must be obtained in advance.

Escorts must be vaccinated as required. Relevant information may be obtained from Statens Serum Institut. A valid vaccination card must be brought. Escorts must bring a valid insurance card from Europæiske Rejseforsikring.

During the return, the escorts must bring a first-aid kit. Before departure, the officer in charge of the return must ensure that the content of the kit complies with the list of contents. The first-aid kits are available at the Help Desk of the National Police Aliens Department in Anker Heegaards Gade. Supplementary contents for the kits are also available there.

All escorts must bring a mobile phone and also a satellite telephone, when travelling to destinations where the ordinary signal cannot be reached, for the purpose of any necessary communication with the National Police Aliens Department during the return process.



2.8 Briefing of the escorts and the deportee by the officer in charge of the return

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The officer in charge of the return must brief the other escorts on the nature of the journey and disclose any details about the deportee.

The officer in charge of the return must also assure himself that the escorts are aware of their tasks during the journey. The officer in charge of the return must brief the deportee – if necessary through an interpreter – on the planned escorted return, including on the particular itinerary etc. if this can be done without risking the completion of the return. If it is deemed necessary, the deportee should also be informed that if he does not co-operate force may be applied to carry out the return.

2.9 Health and physical capacity of the deportee

If the planning stage of the return reveals details on the deportee's health that raise doubts about the deportee's ability – for the time being – to complete the return on medical grounds, this matter must be clarified, if necessary by written submission of the matter to the relevant medical officer of health or to the Medico-Legal Council in order to obtain an opinion. If the attendance of health staff (doctor and/or nurse) is required to carry out the return, such attendance must be arranged. If the least doubt arises in connection with the return preparations, including during the transport of the deportee to the airport or during the stay at the airport, as to whether the deportee's physical or mental health might prevent the planned return from being carried out, a doctor must be summoned to examine the deportee. Examples of this might be that the deportee faints or experiences difficulties in breathing, that the deportee tries to harm himself or that any other acute symptoms of illness occur. If, in the doctor's assessment, the deportee needs further examination, such examination must be carried out as soon as possible, and the planned return must be called off/interrupted. The same applies if the doctor finds that it will not be medically justifiable to carry out the return as planned. Another escorted return can then be planned when the deportee's health situation has been clarified.

3.0 USE OF FORCE IN GENERAL

The overall principles on the use of force by the police are governed by sections 13 and 14 of the Danish Criminal Code, as well as Part 4 of the Police Act.

In order to accomplish an escorted return, the police may apply the force required to pacify the deportee when it is warranted and necessary to use force. Any use of force must be as considerate as possible and applied in such a way as to attract the least possible attention from the surroundings.



If possible, the use of handcuffs should be avoided. When plastic strips, handcuffs or a restraining belt are used, the escorted deportee's hands and feet may not be connected in such a way that the deportee is forced to sit in a doubled-up position that may hinder breathing. Restrained persons must be under constant surveillance.

No tape or the like that hinders breathing and may result in asphyxiation may be used.

4.0 LUGGAGE

The deportee should be given an opportunity to pack his own luggage in connection with the return. The staff of the accommodation centre may assist, if necessary. Conversely, the police officers should refrain, as far as possible, from helping to pack in order to avoid situations where the deportee subsequently raises questions about missing personal belongings.

It follows from section 43(2) of the Aliens Act that, if the police is making arrangements for a deportee's departure, the deportee must defray the incidental expenses relating to himself. If the deportee does not have the necessary means, the Treasury will provisionally defray such expenses.

If possible, the deportee should bring his luggage as accompanying luggage (hand luggage and/or checked-in luggage) in connection with the return.

If the deportee is himself able to pay for the return and the luggage that he wants to take to the return destination, the deportee determines whether the luggage should be brought as checked-in luggage in connection with the return journey or whether the luggage should be shipped later as ordinary freight.

If a surcharge has to be paid for any excess weight of accompanying luggage and the deportee is unable to pay such surcharge, the relevant handling company at the Copenhagen Airport must be contacted and requested to send the invoice to the National Police Aliens Department. In every case, the invoice must state the deportee's name and file number and the case official's name.

In certain cases, it is impossible for the deportee to bring all the luggage that he wants to take to the return destination as accompanying luggage. This may be the case, for example, if the luggage is very voluminous. In such cases the police may decide, upon a concrete assessment, that the luggage has to be shipped later for practical and/or financial reasons. In that situation, the deportee must inform the police of a shipping address for the luggage.

If the deportee is returned to a European country, any luggage is normally shipped as ordinary freight, and a freight bill is prepared. In case of return to a country outside Europe, any luggage is normally shipped by air or by sea. Luggage is



forwarded at the deportee's risk. The police are unable to pay for insurance against any loss of or damage to the luggage.

The officer in charge of the return must keep safe any personal documents and money belonging to the deportee until arrival at the destination. Such items are then handed over to the deportee against a receipt, if possible, which is entered in the case file.

4.1 Luggage of escorting personnel

In order to ensure the best possible freedom of movement for the escorting personnel, hand baggage must only contain the necessary case material, the escorts' private papers, passports and money, plastic strips, handcuffs and restraining belt, if necessary. The escorts' remaining luggage will be sent as ordinary luggage to the final destination.

5.0 CHECK-IN AND SECURITY CHECK

The escorts should arrive at the airport with the deportee well before the planned time of departure so that all practical matters can be clarified before departure. The escorting police officers see to the check-in of the deportee, the escorts and the luggage and as a starting point the deportee is present.

If the escorting police officers deem it necessary, out of consideration for the security (the security assessment forms a part of this valuation) and the inconveniences caused in connection with an expected queue at check-in, "The internal guidelines concerning admittance to Copenhagen Airport, Kastrup at escorted and voluntary (observed) departures" must be followed.

A security check must be carried out before embarking. If possible, the Copenhagen Airport Service is asked to come to the airport police offices to carry out the security check there.

6.0 EMBARKATION

The deportee should be embarked as discreetly as possible and separately from the ordinary embarkation of passengers to the extent practicable.

Efforts should be made to have the escorts and the deportee embark on the aircraft before other passengers and in such a way as to reduce the deportee's opportunity for attracting undue attention.

Before embarkation, the officer in charge of the return must contact the flight personnel and/or any airline representative present.



The airlines have different routines in connection with the transport of deportees to be returned, but basically, the aircraft captain or the airline representative must be informed that Danish police officers are present and want to return the deportee by using the airline in question. The filled-in form “Notification of deportee” must be handed over to the aircraft captain. If he so requests, the aircraft captain must also be orally briefed about the reason why the deportee is being escorted during the return journey.

When the deportee embarks the aircraft, the aircraft captain takes over full responsibility in connection with the deportee. The aircraft captain may therefore refuse to transport a deportee for flight security reasons.

The aircraft captain determines the seating of the escorts and the deportee in the aircraft. Normally they are seated at the back of the aircraft and so that the deportee is either seated between two escorts or in the window seat of a row with an escort seated next to him.

7.0 THE FLIGHT

During the flight, the aircraft captain is the supreme authority, and all actions onboard the aircraft must be agreed with/approved by him, and his instructions must be followed.

During the flight, the escorts must ensure that the deportee does not endanger or inconvenience flight security, the other passengers or the cabin crew. The escorts should also ensure that the deportee does not harm himself or others or obtains possession of items that may jeopardise flight security onboard.

Any use of force must be in accordance with the aircraft captain’s instructions. In acute situations where it is impossible to obtain the aircraft captain’s prior approval, he must subsequently be informed of the use of force and the reason therefor and has to approve the means of force used.

8.0 TRANSIT STOPOVERS

In case of airport transits, the local airport police will typically, due to the advance briefing given them, appear at the gate on arrival and assist in directing the escorts to a place where they can stay with the deportee during the transit stopover. The escorts must comply with any instructions from the local airport police and other local authorities.

At lengthy transit stopovers, the escorts must provide the deportee with the food and drinks required. The escorts are responsible for guarding the deportee.



During the stopover at the transit airport, the legislation of the country in question applies to the escorts. The escorts may therefore only use force in case of necessity (*jus necessitatis*), including in the form of assistance to the local airport police. If problems with the deportee arise in the transit airport, the local airport police must be contacted immediately.

In case of serious problems, including the deportee's escape, or if the return has to be interrupted for other reasons, the officer in charge of the return must notify the National Police Aliens Department thereof by telephone or by other means as soon as possible.

If a change of aircraft is made in connection with the transit, a copy of the form "Notification of deportee" must be handed over to the aircraft captain of the new aircraft, and the captain must be informed of the return. Generally, the procedure described above under EMBARKATION must be followed.

9.0 ILLNESS AND HANDING OUT OF MEDICINE DURING THE RETURN

During the entire return proceedings, the escorts must note the deportee's state of health.

If illness sets in during the journey, the escorts must give life-saving care and, following a concrete assessment, get assistance from a doctor, if possible. Only trained medical staff may administer medicine, including injections, to the deportee, and only on medical grounds. The escorts may thus not assist in using medicine to pacify an agitated or violent, but otherwise healthy deportee if there is no medical reason to do so.

10.0 ARRIVAL AT DESTINATION

Normally, the authorities at the destination will be aware of the deportee's time of arrival because of the advance briefing about the return and/or any information given in connection with the issue of visa to the escorting police officers. If the deportee has been pacified during the flight for security reasons, the escorts must remove all restraints after landing, if deemed warrantable, before the deportee leaves the aircraft at the destination airport.

If possible, the escorts and the deportee should not leave the aircraft until the other passengers have disembarked.

As from the landing at the destination airport, the escorts must generally comply with the instructions of the local authorities.



The escorts may not leave the airport until the deportee has been seen to enter the country or the local authorities have taken over the deportee or accepted the re-admission.

At any contact between the escorts and the local authorities, the rules on confidentiality must be observed. Thus, no details on the deportee's personal circumstances may be disclosed, including on the deportee's circumstances in Denmark, beyond what is necessary for the entry. The authorities of the country of destination must never be informed of any asylum application submitted by the deportee in Denmark. Disclosure of information on criminal offences in Denmark to the authorities of the country of destination must comply with the relevant procedure under the Interpol cooperation. Contact with persons representing intelligence services in the country of origin should be avoided to the extent possible.

It may be necessary, as a condition for obtaining an entry permit for the deportee, to pay the local authorities for issuing documents at the border. Such payment must not be in the nature of bribery or likely to be perceived as such. The officer in charge of the return must always be sure to get a receipt or other evidence of any amount paid out in view of the subsequent travel settlement.

If the authorities at the destination – possibly following detailed negotiations on site – refuse to re-admit the deportee and to allow him to enter the country, the escorts are responsible for bringing the deportee back to Denmark. To the extent possible, the journey back must be planned following telephone contact with the National Police Aliens Department.

11.0 NOTIFICATION OF THE COURSE OF THE RETURN

As soon as possible after arrival at the destination and assurance of the deportee's entry, the officer in charge of the return must notify the National Police Aliens Department about the course of the return journey by telephone, e-mail or fax. Outside the office hours of the Department, the notification may be given on the answering machine of the Department.

12.0 RETURN REPORT

Immediately upon return from the journey, the officer in charge of the return must write a report on the course of the journey, including a detailed, objective description of proceedings at the actual entry into the country. If force was used during the return, the report must give a detailed account thereof, stating the reason for the use of force and the nature and extent of the use of force. If force was used in the aircraft, the report must show that the force was applied with the acceptance/approval of the aircraft captain. If force was used during a transit stopover, the report must show that the force was applied with the acceptance/approval of the local authorities.

