

*Translated from Danish*

1. Denmark ratified the United Nations Convention for the Suppression of Acts of Nuclear Terrorism of 13 April 2005 by royal resolution of 6 March 2007. The Convention contains a number of criminalization obligations, in particular the key provisions on criminalization found in article 2, which are reflected in sections 114 (a), 183, 192 (b), 260 and 266 of the Criminal Code (see point 2 below).

2. The necessary legislative amendments enabling Denmark to ratify the United Nations Convention on Nuclear Terrorism were implemented by Act No. 542 of 8 June 2006, which amended the Criminal Code, the Code of Civil Procedure and various other laws (strengthening of efforts to combat terrorism, etc.).

2.1. Pursuant to Act No. 542 of 8 June 2006, section 192 (b) was inserted into the Criminal Code, *inter alia*, in order to ensure that the matters referred to in article 2 of the Convention were also made criminal offences under Danish law. Under section 192 (b) (1) of the Code, persons who with intent to cause bodily injury or substantial damage to another person's property or to the environment by receiving, possessing, transferring or modifying radioactive material or by making or possessing an explosive nuclear device or a device which is designed to release radioactive material or which can emit ionizing radiation shall be liable to punishment of up to six years in prison.

Pursuant to section 192 (b) (2), persons who with intent to cause bodily injury or substantial damage to another person's property or to the environment or with intent to compel another person to do or refrain from doing an act which (1) uses radioactive material or devices, or which emits ionizing radiation, (2) removes, modifies or damages a necessary protection against the release of radioactive material or against ionizing radiation, or (3) uses or damages a nuclear device with the result that radioactive material is released or that there is a risk of such release, shall be liable to punishment of up to 12 years in prison.

Furthermore, under section 192 (b) (3), if one of the acts referred to in paragraph 2 is committed in the circumstances referred to in section 180 (aggravated arson) or with the result that extensive damage is caused to the environment or there is an imminent danger of such damage, the penalty shall be imprisonment for life. Under section 192 (b) (4), if the crime occurs as the result of negligence, the penalty shall be a fine or imprisonment for up to two years.

Section 183 of the Criminal Code also criminalizes some of the matters referred to in article 2 of the Convention. Pursuant to paragraph 1 of that section, persons who with intent to cause bodily injury or damage to another person's property causes an explosion, the spreading of noxious gases, flooding, shipwreck, or rail or other transport accidents shall be liable to punishment of up to 12 years in prison. Under paragraph 2 of that section, if one of the acts referred to in paragraph 1 is committed in the circumstances referred to in section 180 of the Code (aggravated arson), the penalty shall be imprisonment for life. If the crime occurs as the result of negligence, the penalty shall be a fine or imprisonment for up to two years, in accordance with paragraph 3. It is apparent from the *travaux préparatoires* for Act No. 542 of 8 June 2006 that the provision does not fulfil the obligation established in article 2 of the Convention to criminalize acts committed with intent solely to cause substantial damage to the environment, which is why, as indicated earlier, section 192 (b) was added to the Criminal Code (see Parliamentary Journal 2005–06, appendix A, pp. 7167–7169).

2.2. Section 192 (b) of the Criminal Code was also incorporated into section 114 of the Code pursuant to Act No. 542 of 8 June 2006. According to section 114 (1) (8) of the Code, the possession or use, etc., of radioactive material under section 192 (b) is punishable by imprisonment for up to life, where the possession or use, etc., is carried out with intent to seriously intimidate a population or unlawfully compel Danish or foreign public authorities or an international organization to carry out or refrain from carrying out some action or to destabilize or destroy the fundamental political, constitutional, economic or social structures of

a country or international organization, where the possession or use, etc., by virtue of its nature or the context in which the possession or use, etc., takes place, may cause serious prejudice to a country or international organization.

Under section 114 (2), persons who transport weapons or explosives with the intent referred to in paragraph 1 shall be liable to similar punishment. Under paragraph 3, persons who threaten to commit one of the acts referred to in paragraphs 1 and 2 with the intent referred to in paragraph 1 shall be liable to similar punishment.

The additions to section 114 of the Criminal Code made it a crime to finance, recruit for or train in the possession or use, etc. of radioactive material as described in section 192 (b) (see sections 114 (b), 114 (c) and 114 (d) of the Code). Furthermore, section 114 (e) of the Code contains a special complicity clause according to which persons who promote the activity of a person, group or association which commits or intends to commit acts covered by sections 114–114 (d) shall be liable to punishment of up to six years in prison.

2.3. It can be seen from the *travaux préparatoires* for Act No. 542 of 8 June 2006 (see Parliamentary Journal 2005–06, amendment A, p. 7168) that the obligation established in article 2.2 (a) of the United Nations Convention on Nuclear Terrorism is to be regarded as fulfilled by section 114 (3) of the Criminal Code, which relates to threats to commit any of the acts of terrorism listed in section 114 (1) and (2), and by section 266, on threats, of the Code. It is furthermore apparent from the *travaux préparatoires* that the obligation established in article 2.2 (b) of the Convention is to be regarded as fulfilled by section 260 of the Code, on unlawful coercion.

Finally, it can be seen from the *travaux préparatoires* that the obligation established in article 2.3 relating to attempts to commit an offence is considered to be fulfilled by section 21 of the Criminal Code, on attempted offences. Article 2.4 of the Convention concerning participation shall be deemed to have been complied with by the Code's provisions on participation contained in section 23.

2.4. The Appendix to the Council of Europe Convention on the Prevention of Terrorism of 16 May 2005 was amended to include, with effect from 13 September 2009, the United Nations Convention for the Suppression of Acts of Nuclear Terrorism of 13 April 2005. As a result, and pursuant to Act No. 157 of 28 February 2012 amending the Criminal Code (Implementation of a revised Appendix to the Council of Europe Convention on the Prevention of Terrorism), a new paragraph 7 was inserted into section 114 (a) of the Criminal Code to ensure that Danish legislation continued to comply with the obligations arising from the Council of Europe Convention on the Prevention of Terrorism of 16 May 2005 in accordance with the Appendix thereto.

It follows from section 114 (a) of the Criminal Code that if one of the acts referred to in subparagraphs 1 to 7 is committed under circumstances not covered by section 114 (see discussion above), the penalty may exceed the maximum penalty prescribed for the offence by up to half. However, if the maximum sentence prescribed for the offence in question is less than four years in prison, the penalty may be increased to up to six years in prison. Section 114 (a) (7) of the Code deals with violations of section 192 (b), section 260 or section 266 of the Code where the act is covered by article 2 of the United Nations Convention for the Suppression of Nuclear Terrorism of 13 April 2005.

It should be noted, at the same time, that pursuant to sections 114 (b)–114 (e) of the Criminal Code, it became a punishable offence to finance, recruit for or train to commit the offences covered by the Convention, regardless of whether there is a specific terrorist intent (see Parliamentary Journal 2011–12, A, L 54, p. 6).