Contribution from the Danish Delegation  
(Lene Hjerrild and Linda Lauritsen)  
on  
Criminal Sentencing  

Re. question A 1

The judge decides the appropriate sentence by applying the appropriate law on the case. Precedent cases are mostly referred to, and are useful in deciding the appropriate sentence. The judge has full discretion in deciding the sentencing and is not bound in any case to pass a sentence fixed by law. The law does not lay down mandatory minimum sentences.

The two most important factors, which the judge must consider are how serious is the crime and which information is known about the accused.

The most significant elements in the opinion on how serious the crime is are the actual damage, the actual danger, and the actual violation and what the accused did know or ought to have known about these factors.

As regards information about the accused, the most important factors are his general individual and social conditions and his circumstances before; after the criminal act as well as his motives to commit the criminal act.

A sentence could be increased for either of the below reasons:

The accused has been convicted for similar crimes  
The crime is committed together with somebody else  
The crime is well planned or part of organized crime  
The accused intended to cause more severe consequences than was the actually the case  
The accused has displayed severe recklessness  
The crime is caused by the ethnicity, religion or sexual orientation or similar contributing factors  
The accused is holding office as a civil servant or holds a similar position leading to an increased expectation of trustworthiness and correct behavior  
The accused forced or compelled somebody to take part in the execution of the crime, or was taking advantage of youth, inexperience etc.  
The accused exploited the defenceless position of the victim
The crime is committed while the accused serves a sentence
The crime is committed by a former inmate against the institution or against a person employed at the institution

The Danish penal code also lists a great number of reason why a sentence could be mitigated.

Although the code imposes a sentence, any sentence could be reduced or repealed if the information on the criminal act, the accused or other decisive conditions would indicate this to be fair.

Re. question A 2

Yes, all sentences made by any of the 82 Danish first tier courts can be appealed to the appeal courts, of which we have two. Assumedly the two courts of appeals would pass similar sentences for similar offences. If a difference in the sentencing practiced by the two appeal courts would become evident, a selected case might be permitted to be tried in the Supreme Court.

Re. question A 3

No, Danish judges are given no sentencing guidelines. The judge might find help in collections of precedent cases collected by The Attorney General, The Danish Association of Judges, defense lawyers or scholars. These precedent cases are available either in pamphlets, books, at the internet or at CD-ROMs.

Re. question A 4

No, there are no mandatory or mandatory minimum sentences in Denmark. The Danish Association of Judges is asked to submit comments on all proposed amendments to the Danish penal code and other laws that involve the courts. Whenever a proposed amendment would act to the effect of committing the court, the association would warn the legislator against implementing this part of the amendment.

Re question A 5

Yes, the prosecutor has a right in all cases to appeal against the sentence within 14 days after passing of the sentence (the convicted has the same right). The victim of the crime, however, has no right to appeal against the sentence.

Re. question A 6

No, in practice the accused is not entitled to a reduction in sentence if he pleads guilty, although the Danish penal code does include wording to make it possible in theory.

Re. question B 1
4 months imprisonment

**Re. question B 2**

1 year and 6 month imprisonment

**Re. question B 3**

30 days imprisonment

**Re. question B 4**

1 year and 6 month imprisonment

**Re. question B 5**

1 year and 6 month imprisonment (perhaps suspended and with 240 hours of community service)

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