



# Denmark

e-manual appendix





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## **What is enforced**

There are three types of judicial decisions in the civil courts: judgments, decisions, and orders. A judgment is an enforceable decision which usually will end the proceedings before the court. Decisions and orders are normally delivered during the proceedings in connection with procedural issues, e.g., the transfer of the case to another court.

In general, all domestic judgments can be enforced. There are some very narrow exceptions, e.g., the court's case management decisions. The enforcement of domestic judgments is handled by the Enforcement agent's court, which is a division under the 24 district courts. The enforcement of an already established claim takes place through an enforcement procedure which differs according to the nature of the claim (monetary claims or claims other than monetary).

The enforceability of a foreign judgment depends on there being an applicable regulation or convention apply. If there is no applicable convention, the judgment is not enforceable as such, and a judgment of recognition will therefore need to be obtained before the judgment can be enforced. The recognition procedure may in theory involve the Danish court hearing all the evidence before issuing a judgment. If there is an applicable convention, the enforcement will follow the procedure for enforcement of domestic judgments. If, however, the judgment is enforced pursuant to an international convention, it must be declared enforceable before it can be enforced (exequatur procedure). There is no equivalent formal requirement under EU regulations. The request for enforcement must be submitted to the Enforcement court.

## **Who enforces**

In Denmark judicial officers are called "Foged" (singular) and "Fogeder" (plural), for a judge of the enforcement court, or "Stævningsmand" (singular) and "Stævningsmænd" (plural), for a person appointed to serve documents, a process server. All are civil servants (State employed).

The courts of Denmark are entrusted with judicial powers and administrative functions attached thereto, including probate matters, bankruptcy, enforcement court, land registration and general administration. The court system is administered by the Danish Court Administration. This body ensures proper and adequate administration of the courts' and the Appeals Permission Board's funds, staff, buildings, etc. The Danish court system consists of the general court and the special courts.

The Administration of Justice Act defines the general courts and applies directly to these. The general courts have been positively excluded from their jurisdiction; thus, the general courts in Denmark consist of 24 district courts, two high courts, the Maritime and Commercial High Court and

the Supreme Court. The district courts hear civil, criminal, enforcement, probate, and bankruptcy cases. Furthermore, notarial acts also fall within the jurisdiction of the district courts. Every judicial officer or office of judicial officer is competent on the entire national territory. However, there is a shortage of judicial officers in small cities and rural areas.

The judicial officer does not have the monopoly of all the enforcement of court decisions and other enforceable titles in civil and criminal matters. The other abled persons are a judge or the person he/she designates, a prosecutor, a lawyer, solicitor or equivalent, a notary, a police authority (See section 3 hereafter).

The judicial officer is subject to specific statutory, legal, ethics and deontological obligations relating to his/her activities, assembled in the Ethical Principles for Lawyers. The judicial officer submitted to a control of his/her activities by the Ministry of Justice and the Danish Bar Association. This control concerns all his/her statutory professional activities, the mistakes or abuses that could be perpetrated during his/her activities, unlawful practices, and excessive costs or fees. A statutory control is carried out every three years or more. A control can also be initiated on demand including by a citizen after lodging a complaint. A special jurisdiction deals with the questions relating to the specific discipline of judicial officers. A body external to the profession oversees ruling disciplinary measures.

### **Enforcement procedure**

In general, all domestic judgments can be enforced. There are some limited exceptions, e.g., the court's case management decisions. The enforcement of domestic judgments is handled by the Enforcement court, which is a division under the 24 district courts. The enforcement of an already established claim takes place through an enforcement procedure which differs according to the nature of the claim (monetary claims or claims other than monetary). The creditor must submit an enforcement application to the Enforcement court.

The creditor does not need to deliver information on the (enforceable) assets of the debtor nor necessary specifies the means and object of enforcement but can request enforcement against the entire property of the enforcement debtor or propose to the judicial officer the preferred enforcement assets.

There is an obligation for the debtor to declare his/her assets as part of the enforcement process. The debtor who refuses to state the assets or makes incorrect statements face criminal sanctions. The creditor is entitled to request such declaration throughout the enforcement procedure.

Objects that are necessary to uphold a minimal livelihood are exempted from enforcement. The demands change according to the currently deemed necessities in a household, and it is therefore hard to predict exactly what will be exempted. For example, objects such as a refrigerator and a stove are exempted, whereas a dishwasher might not be exempted.

In practice the judicial officer and the judge carry out the following activities:

- attachment of movable or immovable goods in the hands of the debtor or a third-party
- attachment in the hands of a third-party of funds owed to the debtor.
- attachment of intangible goods other than the funds owed to the debtor
- freezing and/or collection of tangible movable goods that should be handed over by the debtor according to a court decision
- attachment of earnings, goods placed in a safe, crops, motor vehicles, ships, vessels, and aeroplanes
- arrest of persons according to a court decision
- provisional measures on tangible and intangible movable goods of the debtor
- setting up of a provisional judicial guarantee on a business of the debtor

The judicial officer carries out the following activities:

- setting up of a provisional judicial guarantee on shares, stocks, and securities of the debtor
- verbal public and Internet forced auction sale of tangible movable assets, intangible movable assets, immovable assets, and businesses attached by the judicial officer.
- distribution to creditors of monies collected during the forced auction sales.

The judge carries out the following activities: evictions, arrest of persons according to a court decision, and handing of children according to a court decision. The police oversees bringing physically a party to a court hearing.

### **Duration of enforcement procedure**

The court where the debtor is domiciled is generally competent to decide on the enforcement proposal (attachment on movable good, immovable good, bank account, salary...). Enforcement can only be conducted during working days. However, when necessary, the judicial officer can conduct enforcement outside such times and days, with the approval of the court. There are no time-limits to conduct enforcement. After

the attachment, the tangible goods may be sold at an auction carried out by the judicial officer. The buyer has a 28 days' time-limit to pay the price.

An objection can be presented against the enforcement process, without any time limit. Evidence must be provided by the plaintiff. An objection can be presented by a person other than the debtor who claims to possess a right to the object of enforcement that is incompatible with enforcement against that object. The court that made the decision in proceedings decides on matters regarding any objection, appeal, irregularities in enforcement procedure. An appeal is possible against the decision on the objection within two weeks.

The request for postponement within the competence of the court. No deposit is necessary in case of request of postponement but the submission of request for a postponement of the enforcement does not automatically postpone the carrying out of enforcement. The judicial officer is also allowed to postpone partially or entirely the enforcement upon the request by the debtor or by a third-party.

Amongst the reasons for ex officio suspension of enforcement proceedings are when the debtor or his/her assets cannot be located for purposes of notification or sequestration of assets, or when the address of the debtor listed in the enforcement proposal is proved to be incorrect, while the creditor is unable to demonstrate to the enforcement body the accuracy of the address.

Counter-enforcement mechanisms exist in Denmark. They can be implemented by the debtor or a third-party during or after the enforcement procedure on several occasions e.g., if the decision on which the enforcement is based is annulled or amended, or if during the conduct of execution proceedings, the creditor has got under possession more items than the value of the credit, including costs of enforcement and interest charges, etc. There are no time-limits to initiate such counter-enforcement procedure. The initiation of such procedure by the debtor can be done directly to the court. There are not time limits for the court to decide on such request.

### **Cost of enforcement procedure**

All parties shall pay costs associated with any procedural steps the party has made or requested. However, it is common for the court to impose the costs on the losing party. In Denmark, it is possible to get a free trial process. The Appeals Permission Board determines when a party shall have free process. The conditions for free process are outlined in the Danish Administration of Justice Act.

The institution of court proceedings is subject to a court fee. The court fee is fixed at 500 DKK (approx. €67) for claims with a value up to 50,000 DKK (approx. €6,700). For claims with a value of more than 50,000 DKK the court fee is 750 DKK (approx. €100) plus 1.2 % of the amount exceeding 50,000 DKK. However, the court fee cannot exceed 75,000 DKK (approx. €10,000). If the case concerns a review of a decision regarding exercise of authority, the court fee is fixed at 2,000 DKK (approx. €270). In addition to the court fee, a listing fee is to be paid for the hearing or the written proceedings that might replace the trial hearing if the claim exceeds 50,000 DKK. The size of the listing fee will generally be the same as the fee for instituting the proceedings.

As a rule, the party who takes or requests a procedural step must, provisionally, pay the costs in this respect. Unless otherwise agreed by the parties, the unsuccessful party will normally have to compensate the costs of the successful party. Enforcement fees are fixed and proportionally based on a percentage of the amount above 3,000 DKK (approx. €400). The amount for initiation of an enforcement proceedings is 300 DKK (approx. €40) disregard the value of the claim. If the debtor is insolvent (in case of an ineffective or unsuccessful enforcement), the creditor must cover the unpaid enforcement fees. The fees/expenses the judicial officer has charged as a prepayment from the creditor during the enforcement procedure are always reimbursed from the debtor when the debtor pays in full.

