



# Denmark

## Narrative National Report

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## PART I: LEGAL FRAMEWORK

### I.1 Legislation affecting civil enforcement

The legislation affecting civil enforcement includes:

- The Law on Enforcement Procedure: *Retsplejeloven* (in English: The Danish Administration of Justice Act). The Danish Administration of Justice Act regulates the rules of the structure of the Courts of Denmark, as well as the structure of the police and the Prosecution Service. It also regulates, e.g., the conditions on how to become an attorney as well as the rules for the courts' handling of civil and criminal cases in general.
- Insolvency proceedings (Law on Bankruptcy, Individual bankruptcy proceedings): *Konkursloven* (in English: The Danish Bankruptcy Act).
- Enforcement-Mortgage: Regulated in the Danish Administration of Justice Act.
- The Framework Law on Pledges: *Aftaleloven* (in English: The Danish Contracts Act).
- Collection of costs of criminal proceedings and court fees: Regulated in the Danish Administration of Justice Act.

### I.2 Enforceable titles

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, e.g., whether the EU regulations, the Lugano, or Hague conventions apply<sup>1</sup>. 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 it 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 the Lugano or Hague conventions<sup>2</sup>, it must be declared enforceable before it can be enforced (*exequatur*

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<sup>1</sup> See Section III.14 hereafter.

<sup>2</sup> See Section III.14 hereafter.



procedure). There is no equivalent formal requirement under EU regulations<sup>3</sup>. The request for enforcement must be submitted to the Enforcement court.

### **I.3 Service of documents to parties and third parties**

Service of documents is regulated in chapter 17 of the Danish Administration of Justice Act. There are four different ways to serve a procedural notice such as a writ: (i) by delivery; (ii) by letter; (iii) by digital communication (no special conditions are required); or (iv) by phone. A notice served by post or by delivery by a process server does not require a receipt from the defendant, thus a notice of a writ can be served to the defendant's relatives if necessary.

If the defendant is domiciled or has his/her place of residence outside Denmark and serving the notice is impossible by post or process server, it must be served under applicable international conventions, or alternatively under the regulations of the relevant country.

The courts can serve documents in several different ways as described above. When a document is served by delivery, the document is usually served by a judicial officer who has been appointed to serve documents by the president of the relevant court.

According to section 155 of the Danish Administration of Justice Act, documents can, in addition to by delivery, be served by letter, by digital communication or by phone.

Apart from possible special authorisations, service of documents is not possible during weekends and national holidays.

If a document cannot be delivered by any of the aforementioned ways, the courts can have the police serve the document. If the police cannot find the recipient of the document, the document can be served by publishing in the Danish Official Gazette which is available online at [www.statstidende.dk](http://www.statstidende.dk).

The service of documents is not a monopoly of the judicial officer. A judge or the person he/she designates can also serve documents (such as a process server who then must personally serve the document), as well as a police authority. When charged with the service of document, this service must be personally exerted by the judicial officer.

The geographical jurisdiction of judicial officers as regards service of documents covers the entire country. While process servers are appointed by the president of a district court, in the case of the Maritime and Commercial Court or one of the two high courts, process servers can serve documents in all judicial districts.

The titles of judicial documents which can be served by judicial officers include:

- Court decision.
- Court settlement (reconciliation).
- Enforceable decision in administrative proceedings.

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<sup>3</sup> See Section III.14 hereafter.

- Payment order.
- Notarized agreement.
- Agreement in mediation procedure.
- Foreign court decision.
- Foreign court settlement.
- Arbitration decision.
- Foreign arbitration decision.
- Mortgage agreement.
- Municipal administrative act.
- Administrative act pertaining to satisfying pecuniary claims issued by other administrative bodies.
- Invoice in utility cases.
- Cheque.
- Bill of exchange.

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- Cheque.
- Bill of exchange.

The document should be served personally to the recipient at their residence, temporary place of residence or workplace to the extent possible. Further, the judicial officer must not be related to the person being served the document or in another way have an interest in the outcome of the relevant case.

The judicial officer has access to information on how to locate the addressee in the framework of his/her mission of service of documents, whatever the document having to be served. Any entity and person, public administration, and any entity dealing with social security must give information when required to do so by the judicial officer. When serving a document, the judicial officer can give information to the addressee on the content of the document, but he/she is not obliged to do so.

To be valid, the document served by the judicial officer must include the following elements<sup>4</sup>:

- The date of service to the addressee.
- In all cases, the time of service to the addressee.
- In certain cases, the time of service to the addressee.
- The signature of the judicial officer having served the document.
- The signature of the person having served the document if he/she is not a judicial officer.
- Details of the applicant or addressee as a natural person: name, first name(s), address, nationality, date of birth.
- Details of the applicant or addressee as a legal person: form, designation, head office, legal representative, identification number.
- The number of pages of the document.
- The cost of service and/or details of the cost.
- Element(s) of identification of the judicial officer (stamp, seal, etc.).

When the document to be served is a document initiating proceedings, the following mentions are compulsory for the validity of the document<sup>5</sup>:

- Details of the jurisdiction (name, address, etc.).
- Details on who can assist and/or represent the addressee at the court hearing.
- Mentions of the consequences for the addressee in case of non-appearance of valid representation at the court hearing.
- Mentions relating to the claim: object of the claim, factual elements on which it is based, legal elements on which it is based.
- For monetary claims: the amount of the claimed debt, the amount of interest, period for which the interests are owed, interest rate, mention and/or copy of the documents on which the claim is based.

When the document cannot be served to the addressee (natural or legal person), it can be handed to any able person met at the domicile of the addressee, who has

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<sup>4</sup> Cf. The Danish Administration of Justice Act section 348.

<sup>5</sup> Cf. the Danish Administration of Justice Act section 348.



accepted to receive the document. The document can be served at the place of domicile or residence of the addressee, in a public or private place, including the workplace of the addressee, and any other location. The judicial officer must precisely relate the accomplished steps to locate the addressee. However, when the service to the addressee or to another person was not possible while his/her domicile was confirmed, the document remains unserved.

#### **I.4 Legal remedies, appeal and objection**

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 on the object of enforcement that is incompatible with enforcement against that object. The court that made the decision in the proceedings decides on matters regarding any objection, appeal, irregularities in the enforcement procedure. An appeal against the decision on the objection can be filed within two weeks.

#### **I.5 Postponement, suspension and termination of enforcement**

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

The reasons for *ex officio* suspension of the enforcement proceedings include 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.

The reasons for termination of the enforcement procedure include:

- After the settling of the creditor's credit.
- The enforcement document is annulled.
- The enforcement document is revoked.
- The enforcement document is invalidated.
- The enforcement document is annulled, amended, revoked, invalidated or in other manner rendered ineffective.
- A third person fulfils the obligation in benefit of the creditor instead of the debtor.
- When it has become impossible or for other purposes it cannot be enforced.
- After expiration of the absolute statute of limitation for enforcement.

#### **I.6 Counter enforcement**





There are counter-enforcement mechanisms in Denmark. They can be implemented by the debtor or a third-party in the following situations:

- The debtor is entitled, in the context of the same enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to return the items taken based on the enforcement procedure, if the enforcement document by a final decision is overruled, amended, annulled, dismissed, or it was concluded in another way that it is without legal effect.
- The debtor is entitled, in the context of the same enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to return the items taken based on the enforcement procedure, if the enforcement decision or enforcement writ is annulled or amended by a final decision.
- The debtor is entitled, in the context of the same enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to return the items taken based on the enforcement procedure, if, during the conduct of the execution proceedings, the creditor has got under possession more items than the value of the credit, including costs of enforcement and interest charges.
- The debtor is entitled, in the context of the same enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to return the items taken based on the enforcement procedure, if the enforcement carried out on a specific object of enforcement shall be impermissible.
- The debtor is entitled, after the end of the enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to return the items taken based on the enforcement procedure, if the enforcement document by a final decision is overruled, amended, annulled, dismissed, or was concluded in another way that it is without legal effect.
- The debtor is entitled, after the end of the enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to return the items taken based on the enforcement procedure, if the enforcement decision or enforcement writ is annulled or amended by a final decision.
- The debtor is entitled, after the end of the enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to return the items taken based on the enforcement procedure, if, during the conduct of the execution proceedings, the creditor has got under possession more items than the value of the credit, including costs of enforcement and interest charges.
- The debtor is entitled, after the end of the enforcement procedure, to request the court the issuance of a decision ordering the enforcement creditor to

return the items taken based on the enforcement procedure, if the enforcement carried out on a specific object of enforcement shall be impermissible.

There are no time-limits to initiate such counter-enforcement procedure. The initiation of such procedure by the debtor can be done directly before the court. There are not time limits for the court to decide on such request.

### **1.7 Objects and exemptions on enforcement**

Objects that are necessary to uphold a minimal livelihood are exempted from enforcement<sup>6</sup>. Demands change depending on 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.

### **1.8 (Court) penalties and fines**

The court's authority to impose a sanction depends on the nature of the order made by the court. The court may order that a party be represented in the case by an attorney. Failure to obey the order by the claimant may cause the case to be dismissed. However, if the defendant disobeys the order, the court may deliver a summary judgment in favour of the claimant (judgment in default). The court may also order a party to provide certain evidence. If the party in question disobeys such orders, the court may draw adverse inferences from that fact, i.e., the failure to provide evidence will be to the detriment of the party in terms of evidence.

The court is not empowered to impose sanctions on the parties beyond dismissal of the case, delivering of a judgment in default, or draw adverse inferences.

During the entire course of the case, the court may mediate the matter, but it has no authority to order the parties to negotiate a settlement or participate in mediation under the threat of sanctions.

A fine may be imposed on a debtor or other person for any action or omission violating the legal provisions of the enforcement law or violating the requests of the judicial officer in the enforcement procedure, under certain conditions, namely, the court can impose a fine according to the Administration of Justice Act section 32b. However, such fine cannot be turned to imprisonment.

### **1.9 Access to information on the domicile and assets of the debtor**

There are databases where information on domicile and assets are stored. The main databases are the following:

<https://www.tinglysning.dk/tinglysning/landingpage/landingpage.xhtml>: This website is a database covering the main assets of an individual: cars and real estate.

<https://www.ois.dk/>: This website stores information on rented property, apartments, and such.

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<sup>6</sup> Cf. The Danish Administration of Justice Act ("*Retsplejeloven*") section 509.



<https://www.experian.dk/>: Experian provides the largest database on bad payers. They run the RKI-register, where bad payers are registered.

<https://www.sktst.dk/>: Furthermore, the Taxation office also stores relevant information on matters of debtors.

The information relating to the debtor which is accessible to the judicial officer and the creditor is the following:

- Address.
- Date and place of birth.
- Telephone number.
- Nationality.
- Workplace and employer.
- ID number for legal persons.
- Amount of tax paid.
- Real estate rights.

In general, all State bodies which administer databases with information required for efficient enforcement must provide the judicial officer charged with the enforcement proceedings information relating to debtors, including the tax authorities, the bodies which administer public registries, and the registries services. The judicial officer has access to the required information by letter, telephone, Internet, through an official request. The judicial officer must maintain confidentiality when secret, confidential or sensitive information come to his/her attention during enforcement. In case the judicial officer breaches this duty of confidentiality or abuses his/her prerogatives, measures of disciplinary liability are applicable, possibly along with civil and/or criminal sanctions.

In Denmark, there is also 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 faces criminal sanctions. The creditor is entitled to request such declaration throughout the enforcement procedure

## PART II: ORGANIZATION OF ENFORCEMENT

### II.1 The status of the judicial officer

#### II.1.1 Organisation and activities

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 national organization representing the profession is **Domstolsstyrelsen**.

Address: Store Kongensgade 1-3, 1264 København K



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Website URL: <https://www.domstol.dk>

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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 courts 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 enforcement of court decisions and other enforceable titles in civil and criminal matters in whole. 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.

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

- Attachment of movable goods in the hands of the debtor or a third-party.
- Attachment of immovables.
- Attachment of earnings.
- Attachment in the hands of a third-party of funds owed to the debtor.
- Attachment of intangible goods other than 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 motor vehicles, ships, vessels, and aeroplanes.
- Attachment of crops.

- Attachment of goods placed in a safe.
- 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 attached by the judicial officer.
- Verbal public and Internet forced auction sale of intangible movable assets attached by the judicial officer.
- Verbal public and Internet forced auction sale of businesses attached by the judicial officer.
- Verbal public and Internet forced auction sale of immovable assets attached by the judicial officer.
- Distribution to creditors of monies collected during the forced auction sale of movable assets.
- Distribution to creditors of monies collected during the forced auction sale of immovable assets.

The judge carries out the following activities:

- Evictions.
- Arrest of persons according to a court decision.
- Handing of children according to a court decision.

The police oversee bringing physically a party to a court hearing.

### **II.1.2 Obligations, ethics, and deontology**

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. These rules concern the following:

- The independency of the judicial officer.
- The objectivity of the judicial officer.
- The obligation to strictly comply to the existing law.
- The competence of the judicial officer.
- The relations between the judicial officer and creditors and/or his/her clients.
- The relations between the judicial officer and debtors.

- Relations between the judicial officer and third parties.
- The obligation of advice towards citizens in the framework of the activities of the judicial officer.
- The relations between judicial officers: measures relating to brotherhood between colleagues (counsel).
- The relations between judicial officers: measures relating to the enforcement against another judicial officer.
- The relations between the judicial officer and judges.
- The relations between the judicial officer and adjacent professions (lawyers, solicitors, notaries, etc.).
- The relations between the judicial officer and the authorities.
- Disciplinary rules concerning judicial officers.
- Disciplinary sanctions and/or proceedings against judicial officers.
- Professional secrecy.
- The documents and/or the signals concerning the justification of the quality of the judicial officer.
- Measures relating to the professional accountancy of the judicial officer.
- Measures relating to the content of the professional website of the judicial officer.

## **II.2 Supervision over enforcement**

### **II.2.1 Control of the activities of judicial officers**

The activities of the judicial officer are subject to control by the Ministry of Justice and the Danish Bar Association. This control concerns all his/her statutory professional activities, 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:

- Of a citizen, based on a detailed and motivated request (i.e., after lodging a complaint).
- Of a professional body other than that of the profession of judicial officer.
- Of the Public Prosecutor or equivalent.
- Of the competent jurisdiction.
- Of the special jurisdiction in charge of the control of the activities of the judicial officer.
- Of the Ministry of Justice.
- Of the police authorities.

In case of control, the judicial officer can be assisted and challenge the process.

### II.2.2 Disciplinary proceedings against judicial officers

A special jurisdiction deals with the questions relating to the specific discipline of judicial officers. A body that is external to the profession oversees ruling disciplinary measures. These rules apply to the following topics:

- Violation of professional, ethical and/or deontological rules.
- Violation of the law relating to professional exercise.
- Violation of the law relating to non-professional facts.
- Violation of probity, honour or tactfulness relating to professional facts.
- Violation of probity, honour or tactfulness relating to non-professional facts.

There are four types of sanctions, from the lowest to the highest:

- Sanction 1: the judicial officer can be reprimanded.
- Sanction 2: the judicial officer can be suspended.
- Sanction 3: the judicial officer can be permanently dismissed.
- Sanction 4: fine of up to DKK 300.000<sup>7</sup>; usually the amount of the fines imposed is DKK 10.000<sup>8</sup>.

The judicial officer can challenge the disciplinary sanction pronounced against him/her.

### II.3 Access to the premises

The legislation that regulates the judicial officer's right to get access to premises is found in the Danish Administration of Justice Act (*Retsplejeloven*) cf. art. 609-611. An immediate injunction is where a person who has requested the enforcement agent's business is put into claim and the other party is deferred of the claim and the possession of real estate, movables and, to a certain extent, documents. The typical situation is where a landlord wants a tenant deferred because of termination of tenancy.

The judicial officer can enter the premises where neither the debtor nor a (legal) representative is present, with court allowance. When the enforcement action is to be conducted in locked premises, whilst the debtor is not present or does not agree to open them, the judicial officer can enter such premises in the presence of a police officer, with court allowance.

### II.4 Obstructing the judicial officer from carrying out enforcement

The judicial officer is authorised to remove a person from the place where an enforcement action is taking place, if such person obstructs its commission, but only

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<sup>7</sup> Approx. €40,000.

<sup>8</sup> Approx. €1.340.



through police assistance, which have a duty to provide the enforcement body with the appropriate assistance for the implementation of enforcement actions.

## II.5 Time of enforcement

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.

## II.6 Mediation

The court may discuss the possibility of using a conciliation procedure or alternative dispute resolution, including judicial mediation, with the parties during the pre-trial hearing. During the entire course of the case, the court may mediate the matter, but it has no authority to order the parties to negotiate a settlement or participate in mediation under the threat of sanctions. There is a trend towards mediation as an attractive alternative to the parties. Mediation is furthermore offered through the special institution, the Mediation Institute, and by individual mediators.

The Danish courts have the opportunity of offering court-based mediation (the same as mediation) in all cases, except in the cases when the courts have exclusive jurisdiction. The courts have no authority to impose on the parties the obligation to participate in court-based mediation. Under the Arbitration Act, an arbitration tribunal may request the courts to issue an injunction which is to be in force until the substance of the matter has been decided by the arbitration tribunal. Danish courts will dismiss a case if the parties have legally agreed to arbitration, pursuant to article 8 of the Arbitration Act (*Voldgiftsloven*).

The judicial officer can exert the activity of mediation which remains minor. He/she must follow a special training to exert this activity personally, at pre-judicial level (before court actions) as well as during trial. It includes:

- Meeting with the parties.
- Confronting the parties.
- Counselling the parties.
- Reconciling the parties.
- Writing up a document mentioning the agreement or the disagreement of the parties.
- Checking if the agreement is respected or not.
- Reminding the failing party of their obligations.

Upon completion of the mediation process, the parties must write up the agreement themselves and sign the agreement.

## PART III: ENFORCEMENT PROCEDURES

### III.1 Initiation and end of the enforcement procedure



In general, all domestic judgments can be enforced. There are some limited exceptions, e.g., 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 is it necessary to specify 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.

### **III.2 Enforcement against movable assets to settle pecuniary claims**

#### **III.2.1 Attachment and valuation of the movable assets**

The court where the debtor is domiciled is competent to decide on the enforcement proposal for movable items. Prior to the attachment by inventory of the movables, the enforcement decision is delivered to the debtor. In case it was impossible to deliver the enforcement decision prior to the inventory, a copy of the enforcement decision is left at the premises where the inventory shall occur. Non-attendance of the parties does not obstruct the inventory. In case third parties have a right on the items that are in possession of the debtor, they will need to notify the judicial officer for their rights on the items and prove their rights on the items, without any time limit. As regards the position of matrimonial and extra-marital spouses, it is assumed that they are equal co-owners of all movable items that are in the house, flat or their business premises. If the items of the debtor are in possession of a third person, the Enforcement court can notify the third person that the items cannot be handed over to the debtor. The judicial officer and the court decide on the custody of the inventoried items. The creditor gets the right of pledge over the inventoried items.

The court decides on the manner of determining the value of movable items. In case an earlier valuation in another enforcement case has already been carried out, there will be no new valuation. Parties cannot request a re-evaluation.

#### **III.2.2 Sale of the attached movable assets**

Movable items are sold by verbal public auction, in court, upon the decision of the court, and by the Enforcement court. The judicial officer, the judge, any person who exercises official duty in the procedure of sale, as well as the expert(s) who valued the movables are exempted from buying the attached movables.

The public auction shall be announced at least one week before it is held. The enforcement court issues a list which includes the specific information. The judicial officer will request a deposit from potential buyers as a guarantee. After depositing the full price of the sold movables with the judicial officer, the deposited guarantee from the other bidders is returned. The public auction can take place even if only one bidder participates but, in this case, the judicial officer is also entitled to postpone the

public sale. In case the movables are not sold at the session of the public auction, the enforcement procedure will be suspended.

The time limit for the payment of the sale price is 28 days or four weeks after the public auction. In case the purchase price is not paid within the set time limit, the judicial officer shall declare the sale as invalid. In case none of the bidders makes the compulsory deposition of the purchasing price within the determined deadlines, it will be requested that the asset is put up for sale at a new public auction. To handover the movables to the buyer, a written decision or decision on the sale of movables is delivered to the debtor.

The order of priority for the creditors to be paid from the sale revenue is:

1. Expenses of the enforcement procedure.
2. Creditors with attachment of property prioritized according to which orders took place first in time (including, if applicable, the creditor that requested the sale).
3. The debtor.

As regards bankruptcy proceedings, the order of priority is:

1. Expenses of the enforcement procedure.
2. Creditors with attachment of property prioritized according to which orders took place first in time (including, if applicable, the creditor that requested the sale).
3. Expenses related to the proceedings in bankruptcy.
4. Expenses related to a bankruptcy reorganisation process or an attempt at a solvent winding up if the debtor is a company.
5. Claims from employees of the debtor.
6. Claims from suppliers related to certain specific taxes, e.g., for beer, wine, and tobacco.
7. The remaining creditors.

If there are more credits with the same order of settlement, they will be settled proportionally in their amount, if the amount earned through the sale of the movables is insufficient for complete settlement. Any dispute between the creditors will be settled by the court.

### **III.3 Attachment on the bank account of the debtor**

The judicial officer has no access to information on the debtor's bank accounts, prior to the attachment, and cannot contact any individual bank requesting information on the bank accounts prior to the attachment. The bank account numbers should be mentioned in the order for attachment to the bank. The attachment order does not need to refer to any deposited savings, current account, foreign currency account, or any other account in the bank. The attachment on the bank accounts cannot be



carried out electronically. The creditor must inform the bank of the attachment order and provide documentation on the enforcement decision from the court, if necessary. The court does not inform the bank of the attachment order. Communication with the bank can be done electronically.

Upon the order for attachment, the bank is not obliged to inform the judicial officer whether the debtor has a bank account with it and to disclose the numbers of all accounts held by the debtor in that bank. The bank is neither obliged to provide other information (e.g., the transactions history of all the debtor's accounts). Moreover, there is no time limit for the bank to inform the judicial officer on the existing bank accounts and funds. However, the bank can be held liable in case of failure to comply with the attachment order. Upon receipt of the attachment order, the bank accounts are not automatically blocked. The attachment does not apply to all funds found on the bank accounts: a certain amount can be exempted from attachment, namely whatever amount the judicial officer deems necessary for the debtor to maintain a minimal livelihood.

The judicial officer sends a separate transfer order to the bank to transfer the funds to him/her. There is no time limit for the bank to transfer the funds to the judicial officer. If there are insufficient funds in the accounts to settle the transfer order, the blocking of all accounts held by the named debtor, preventing all withdrawals of funds is not continued until the claim is fully satisfied. In case there are more attachment orders, the bank conducts payments according to the time of delivery of the attachment order. The creditor, and not the judicial officer, has to notify the bank to release the debtor's accounts upon payment in full of the claim, or upon termination of the execution process. In case of enforcement of credit in other currency, the funds from the account of the debtor shall be exchanged into the national currency.

#### **III.4 Enforcement against savings deposits and current accounts**

See III.3.

#### **III.5 Enforcement on immovable property**

##### **III.5.1 Attachment and valuation of the immovable assets**

The court where the debtor is domiciled is competent to decide on the enforcement proposal for the immovable assets. All immovable assets are registered in the land register, cadastre, or other public books (*Tingbogen*, *Personbogen*, *Andelsboligbogen*, and *Bilbogen*). In case of unregistered real estate, the creditor, with the enforcement proposal, shall submit evidence for the right of ownership on the real estate which is the object of enforcement. The judicial officer does not have an investigative duty with regards to such real estate. There are no exemptions with regards to real estate that cannot be attached.

The enforcement is carried out through noting it in the *Tingbogen*, *Personbogen*, *Andelsboligbogen*, or *Bilbogen*. The debtor has a right to propose to the judicial officer the assignment of the enforcement on another object of enforcement than the immovable assets but cannot propose to the judicial officer the assignment of the



enforcement on other means of enforcement than the immovable assets, though the judicial officer does not need the consent of the creditor to change the object of enforcement. In case the ownership of the immovable assets is changed during the enforcement procedure, such change does not obstruct continuation of the enforcement procedure against the new owner as a debtor. After the logging of the enforcement recording in the real estate's public books another creditor can also attach the same immovable asset.

Real servitudes, real encumbrances, and the rights of construction on real estate do not elapse by sale of the attached real estate. Personal servitudes do not elapse by the sale of the attached real estate either, providing the servitude is recorded in the real estate's book prior to the right for settlement of which the enforcement procedure is ongoing. The lease contract on real estate does not elapse by the sale of the real estate, providing the lease contract was registered in the real estate's public books prior to gaining the right of pledge or the right to settlement for which the enforcement is proposed, and in case the lease contract was not registered in the real estate's public books prior to gaining the right of pledge or the right to settlement for which the enforcement is proposed.

The judicial officer can provide the person interested to buy the real estate with a permit to observe the immovable asset. The judicial officer can implement several measures to prevent damage on the real estate, enabling evaluation, observation, and protection:

- Temporary displacement from the real estate of the debtor and other persons.
- Giving the real estate under guarding to the creditor or other third person.
- Other measures necessary for the protection of the real estate, or for performing the enforcement without any obstacles.
- Requesting the court to fine the persons who unable or obstruct the enforcement process.

The value of the real estate is determined based on an expert evaluation and other facts related to its market price on the day of the evaluation and taking into consideration facts that may decrease its value.

### **III.5.2 Sale of the attached immovable assets**

If the ascertained value of the real estate cannot cover the amount of credit of the enforcement creditor, any person who has the right to be paid from the price of the real estate, and who according to the order has the priority in relation with the creditor, may propose the suspension of the proceedings.

The judicial officer issues a document on the sale of the real estate determining the value of the real estate and the manner and conditions for sale, as well as the time and venue of the sale, if it is performed through public auction. The public auction shall be announced at least one week before the auction is held. The sale cannot take place through direct agreement. Immovable assets are sold through verbal public

auction, organised at the Enforcement court in the jurisdiction where the real estate is located and carried out by the Enforcement court.

Potential buyers shall deposit a guarantee between 10,000 DKK<sup>9</sup> and 20,000 DKK<sup>10</sup>. After depositing the full price of the sold real estate with the judicial officer, the deposited guarantee from the other bidders is returned. The public auction takes place even if only one bidder participates. However, in that case, the judicial officer is entitled to postpone the public sale. There is only one session of public sale. In case the real estate is not sold at the session of public auction, the enforcement procedure will be suspended.

The deadline for payment of the sale price is four weeks or 28 days. In case the purchase price is not paid within the set time limit, the judicial officer shall declare the sale as invalid. In case none of the bidders makes the compulsory deposition of the purchasing price within the determined deadlines, it will be requested that the asset is put up for sale at a new public auction.

To handover the real estate to the buyer, the judicial officer requests the public record official-holder of real estate to register the right of the property of the buyer. In case the debtor does not voluntarily leave the premises, the court must give permission for eviction of the debtor.

The order of priority for the creditors to be paid from the sale revenues is:

1. Expenses of the enforcement procedure.
2. Creditors with attachment of property prioritized according to which orders took place first in time (including, if applicable, the creditor that requested the sale).
3. The debtor.

During proceedings in bankruptcy, the order is:

1. Expenses of the enforcement procedure.
2. Creditors with attachment of property prioritised according to which orders took place first in time (including, if applicable, the creditor that requested the sale).
3. Expenses related to the proceedings in bankruptcy.
4. Expenses related to a bankruptcy reorganisation process or an attempt at a solvent winding up if the debtor is a company.
5. Claims from employees of the debtor.
6. Claims from suppliers related to certain specific taxes, e.g., for beer, wine, and tobacco.
7. The remaining creditors.

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<sup>9</sup> Approx. €1,340.

<sup>10</sup> Approx. €2,680.



The person who has the priority right of purchase of the real estate which is the object of enforcement by sale share has priority over the best bidder. If there are more credits with the same order of settlement, they will be settled proportionally in their amount, if the amount earned through the sale of the real estate is insufficient for complete settlement. The settlement of the creditors can be disputed in court.

### **III.6 Enforcement against wages and other permanent pecuniary income**

Enforcement against wages can only take place in relation to debt to public authorities. The employer is not obliged to inform the judicial officer whether the debtor is his/her employee, and the level of the debtor's salary paid by the employer. There is no time limit to provide such information. The employer can be held liable for payment of the instalments that ought to be paid, but were not deducted from the debtor, and other damages incurred to the creditor due to the fact that the employer did not act according to the enforcement decision. The debtor is entitled to give his/her consent, to settle the claim, for sequestration of a part of his/her personal incomes and direct payment to the creditor.

There are limitations with regards to the enforcement against personal incomes, on reward instead of salary and on pensions, namely a certain percentage from the salary. The enforcement court decides what amount the debtor can keep, to maintain a minimal livelihood. There are also limitations in case the debtor's income is based on rewards, due to bodily damage according to the provisions of disability guarantee. Such restrictions also apply in case the claim to be enforced is a maintenance claim, a claim based on unpaid salary, or a claim based on invalidity.

### **III.7 Attachment under the debtor's debtor**

The court where the debtor is domiciled is competent to decide on the enforcement proposal for attachment on the debtor's debtor. The creditor is obliged to specify such claim in the request for enforcement.

The debtor's debtor has a right to object or to appeal against the attachment order. The creditor receives a right of pledge. In case there are more creditors, the priority of the right of pledges corresponds to the day of the arrival of proposals for enforcement to the judicial officer. If the enforcement proposal of more creditors arrives to the judicial officer at the same day, the rights of pledge have the same order of priority.

The debtor's debtor does not need to provide a statement on whether and at what amount an amount is owned to the debtor, and whether he/she is ready to settle the debt, and if his/her obligation for paying the debt is conditioned with fulfilment of any other obligation. The debtor's debtor shall be held liable to the creditor for the damage caused by his/her non-declaration or for providing an inaccurate or incomplete declaration.

The debtor's debtor will be invited to deposit the obligated amount of money to the court. In case more creditors claim enforcement for the same debtor's claim, the amounts are transferred based on the moment of attachment. The creditor who has

first done the request for enforcement will firstly be compensated, etc. In case more creditors claim enforcement for the same debtor's claim at the same day, transfer shall be assigned in respective separate amounts in benefit of each creditor.

### **III.8 Enforcement against shares**

The court where the debtor is domiciled is competent to decide on the enforcement proposal for attachment on the debtor's shares. The creditor is not obliged to specify such shares in the request for enforcement. The attachment on the debtor's shares is carried out through hand over of the enforcement decision to the institution which keeps the register of shares. The creditor gains the right of pledge on the attached shares. The registration in the register of shares is obligatory to effectuate the attachment.

The shares that can be traded at the Stock exchange or public market are sold in accordance with the legislation regulating such shares. The sales price of such shares is the average of the opening and closing market prices for those securities on the day of sale on the exchange or market on which they are normally sold. Shares that cannot be traded at the Stock exchange or public market are sold through public auction. The judicial officer will appoint an expert for such valuation. In case the shares that cannot be traded at the Stock exchange or public market cannot be sold through public auction or direct settlement, the procedure is suspended or terminated.

### **III.9 Other attachment procedures**

No information available.

### **III.10 Handing over movable assets**

Possession of movable assets can be obtained through immediate injunction. These cases are often linked to claims for repossession of rented or leased movable assets. The court that issued the court decision, the court where the debtor is domiciled, and the enforcement court that issued the court decision are competent to decide on the enforcement proposal with the purpose of handing over one or more items, or with the purpose of delivery of certain amount of substitute items and for the implementation of the enforcement.

The judicial officer shall take the items from the debtor, and hand them over to the creditor. The judicial officer can request the assistance of the police. As regards enforcement for handover of one or more certain items by a third person, in case the third person is willing to hand them over to the judicial officer, the items shall be taken from him/her and handed over to the creditor. If the third person does not want to hand over the items, the judicial officer may request police assistance to take the items from him/her and hand them over to the creditor. If the items were not found with the debtor or the third person, the creditor may propose to evaluate the value of the items and to pay the amount of their value to settle the credit.

### **III.11 Enforcement in reinstatement of employee to work**

Employers cannot be forced to reinstate an employee to work. In case of a wrongful dismissal, the employee is usually awarded a compensation instead.



### **III.12 Eviction**

A buyer of a real estate property can be placed in the property's possession if the previous owner unlawfully refuses to leave it to the buyer. This is of practical importance when, after a forced auction, a buyer must have the previous owner of the property leave the estate. The seller of a real estate property can – if the property is sold on a conditional deed – be placed in possession of the property if the buyer does not fulfil his/her obligations under the conditional deed. Due to the significant financial interests that are affected by such an enforcement, the judicial officer will often demand that the seller provides security for the buyer's possible compensation claims.

The court where the debtor is domiciled has competence to decide on the enforcement proposal for eviction and hand over of the real estate and for the commission of enforcement. The law does not set deadlines with regards to the eviction procedure. No special procedures are applicable in case juvenile persons are also to be evicted from the real estate. The enforcement court provides the required workforce and the transportation means with the purpose of completing enforcement.

The movable items which should be removed from the real estate are handed over to the debtor. The debtor is liable for the costs of custody. In case the items cannot be handed over to the debtor or the debtor refuses to pay the custody costs, the items will be sold through an auction.

### **III.13 Enforcement of obligations to act, refrain from acting or suffer action**

#### **III.13.1 Enforcement of the decision for division of items**

The court decides whether to conduct physical division of the item, or through sale, if the enforcement document does not assign the manner of division, and the parties have not agreed on such issue. All co-owners are liable for the total amount of the costs of applying the enforcement.

#### **III.13.2 Enforcement of the decision in which the debtor has a duty to perform certain action, tolerate certain actions, or to omit from certain actions**

The judicial officer carries out the enforcement for the settlement of an obligation for actions which can be performed by anyone. The judicial officer authorises the creditor that, in debtor's costs, another person can be entrusted with such actions. The creditor may perform the actions him(her)self. The judicial officer can ask prepayment from the creditor to cover the expenses to be incurred with the commission of the actions by another person, or by the creditor.

If the action assigned by the enforcement document may be performed only by the debtor, the judicial officer will assign a deadline to the debtor for fulfilling the obligation. The judicial officer cannot order the debtor to deposit with the enforcement body an amount of money for compensation of damage which the creditor may suffer by further behaviour of the debtor in contradiction with his/her obligation for tolerance and omission.





If the enforcement is completed based on an enforcement document, issued upon a claim due to obstruction of possession, or if the debtor has voluntarily fulfilled his/her obligation, and after this the debtor again obstructs the possession (like the previous obstruction), the judicial officer may once again enforce the same enforcement document, depending on the context of the case and the obligation of the debtor as described in the enforcement document.

### **III.14 Sequestration of goods**

Sequestration of goods is the procedure where assets are sequestered; this is done in accordance with chapter 74 of the Danish Administration of Justice Act (*Retsplejeloven*). This procedure is followed to secure evidence, to ensure payment for public claims, and to ensure the injured party's claim for restoration or compensation.

The judicial officer is involved in the activity of sequestration of goods. The sequestration concerns movable tangible and intangible goods, and businesses. Sequestration can be formed in the hands of a sequester on a voluntary basis, on a contract basis, or can be ordered by a court decision. Sequestration in the hands of a judicial officer can be ordered in case of counterfeit. As a sequester, the judicial officer can place the goods under seal.

### **III.15 Enforcement of foreign enforceable documents from non-EU States**

The enforceability of a foreign judgment depends on there being an applicable convention or regulation, e.g., the EU regulations<sup>11</sup>, the Lugano conventions<sup>12</sup> or the Hague conventions<sup>13</sup> apply. If there is no applicable convention or regulation the judgment is not enforceable as such, and a judgment of recognition will therefore

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<sup>11</sup> (1) Regulation (EC) No 805/2004 of the European Parliament and of the Council of 21 April 2004 creating a European Enforcement Order for uncontested claims; (2) Regulation (EC) No 1896/2006 of the European Parliament and the Council of 12 December 2006 creating a European order for payment procedure; (3) Regulation (EC) No 861/2007 of the European Parliament and the Council of 11 July 2007 establishing a European Small Claims Procedure; (4) Council Regulation (EC) No 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations; (5) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters; (6) Regulation (EU) No 655/2014 of the European Parliament and the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters.

<sup>12</sup> (1) Convention of 16 September 1988 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters; (2) Convention of 30 October 2007 on Jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial Matters.

<sup>13</sup> (1) Convention of 15 April 1958 Concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Towards Children; (2) Convention of 1 February 1971 on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters; (3) Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations; (4) Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children; (5) Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters.



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 or regulation, the enforcement will follow the procedure for enforcement of domestic judgments. If, however, the judgment is enforced pursuant to the Lugano or the Hague conventions, it must be declared enforceable before it can be enforced (exequatur procedure). There is no equivalent formal requirement under the EU regulations.

The request for enforcement must be submitted to the Enforcement court. The intervention of a lawyer/solicitor is compulsory in the proceedings for recognition, depending on the country of origin, the amount of the debt, and the type of case. The recognition proceedings concern the following court decisions:

- Judgment.
- Order in an urgent matter.
- Order issued on motion.
- Order for payment.
- Judgment of the court of appeal.
- Judgment of the Supreme court.

The elements examined during the proceedings for the recognition of a decision issued in another non-EU State are:

- The competence of the foreign judge.
- The conformity or the legality of the court decision with domestic law.
- Absence of fraud to the applicable law.
- The conformity to the international order in force in your country.
- The regularity of the procedure carried out abroad.
- The authenticity of the court decision.
- Material facts such as names and signatures of judges and/or clerks having participated in the foreign decision.

During the proceedings for the recognition of the court decision issued in the other non-EU State, the judge cannot change the decision. The proceedings always involve confrontation of the parties. The decision recognising in Denmark the court decision issued in another non-EU State can be contested. However, it can always be enforced notwithstanding a possible contest. However, lodging a contest has the effect of stopping the enforcement proceedings. Therefore, the defendant often contests the decision of recognition of the court decision. In case of contestation of the decision, the intervention of a lawyer/solicitor is always necessary. The contestation is lodged at the court of appeal. It is also always possible to contest the decision refusing to

recognise in Denmark the decision issued in another non-EU State. The contest proceedings always involve the intervention of a lawyer/solicitor.

The average duration of proceedings for recognition when not contested by the defendant or for recognition when contested by the defendant is up to three months. If the enforcement court decides not to recognise the foreign decision, the creditor must bring the case before the Danish courts where the foreign decision can (only) serve as evidence in the Danish case. In such cases, the average duration of the case depends entirely on the nature of the case.

## **PART IV: ENFORCEMENT COSTS**

### **IV.1 The costs of enforcement**

All parties shall pay costs associated with any procedural steps they have 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<sup>14</sup> for claims with a value up to 50,000 DKK<sup>15</sup>. For claims with a value of more than 50,000 DKK the court fee is 750 DKK<sup>16</sup> plus 1.2 % of the amount exceeding 50,000 DKK. However, the court fee cannot exceed 75,000 DKK<sup>17</sup>. If the case concerns a review of a decision regarding exercise of authority, the court fee is fixed at 2,000 DKK<sup>18</sup>. 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 amount 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. The same normally applies to the taking of evidence. However, some special rules apply to party-appointed experts and court-appointed experts where the opposing party's questions to this expert have contributed significantly to increasing the costs.

Unless otherwise agreed by the parties, the unsuccessful party will normally have to compensate the costs of the successful party. If each of the parties partly loses and partly wins the case, or if the case is withdrawn, the court may order partial costs to the other party or order that neither party is to pay costs to the opposing party. Costs, including court fees, are as a main rule recoverable in full if the costs have been

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<sup>14</sup> Approx. €67.

<sup>15</sup> Approx. €6,700.

<sup>16</sup> Approx €100.

<sup>17</sup> Approx. €10,000.

<sup>18</sup> Approx. €270.



necessary for the adequate conduct of the case. Costs for legal representation, however, are not covered according to the actual costs, but will be determined according to certain rates, which primarily depend on the financial value of the claim and the involvement of experts. The judicial officer is not entitled to a fee in case of successful or partially successful completion of the case.

Enforcement fees are fixed and proportionally based on a percentage of the amount above 3,000 DKK<sup>19</sup>. The amount for initiation of enforcement proceedings is 300 DKK<sup>20</sup> irrespectively of the value of the claim. If the debtor is insolvent (in case of ineffective or unsuccessful enforcement), the creditor must cover the unpaid enforcement fees. The judicial officer informs the creditor in advance on the likely costs of the fees and enforcement expenses involved and asks for prepayment of the initial fee of the enforcement costs before starting enforcement. 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.

The debtor is informed in advance on the likely costs of the fees, i.e., the initial fee and the enforcement expenses. The debtor cannot obtain an exemption from the obligation to pay enforcement fees/expenses. In case of full payment before the expiry term for voluntary fulfilment, the debtor can be charged with partial payment of the initial fee. In case of a partial payment before the expiry term for voluntary fulfilment, the fee is received until the claim is paid in full.

The compensation for the enforcement expenses is fixed for a specific enforcement activity, namely, 400 DKK<sup>21</sup> for enforcement of non-monetary judgements, and proportionally based on the amount of the claim when the creditor submits the application (a fee of 300 DKK<sup>22</sup> is due to payment; hereafter the amount is 0.5 % of the amount the exceeds 3,000 DKK<sup>23</sup>).

A judicial officer is always entitled to reimbursement of the enforcement expenses. With regards to auctions, the debtor is charged with a fee for the use of the auction room within the framework of enforcement proceedings.

A creditor cannot apply for legal aid for enforcement cases and cannot be exempted from the prepayment of enforcement fees.

## **PART V: LINKS, LITERATURE AND SOURCES**

### **Literature**

<https://www.retsinformation.dk/eli/Ita/2019/938> (Retsplejeloven - In English: The Danish Administration of Justice Act)

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<sup>19</sup> Approx. €400.

<sup>20</sup> Approx. €40.

<sup>21</sup> Approx. €53.

<sup>22</sup> Approx. €40.

<sup>23</sup> Approx. €400.



