

Denmark

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1. What are the basic criteria for the courts of your jurisdiction to allow enforcement of a foreign judgment?

The rules on enforcement of judgments are mainly governed by the Danish Administration of Justice Act and by the Act on Recognition and Enforcement of Certain Foreign Judicial Decisions in the area of Civil and Commercial (in Danish ‘*Lovbekendtgørelse om anerkendelse og fuldbyrdelse af visse udenlandske retsafgørelser m.v. på det civil- og handelsretlige område*’) (the Enforcement Act). Denmark is a member of the European Union and is therefore generally bound by EU regulations, directives and decisions.

Section 479 of the Danish Administration of Justice Act stipulates that the Minister of Justice possesses the authority to establish regulations concerning the execution of rulings and compacts issued by foreign courts and public entities related to civil claims and agreements involving such claims, provided they do not contradict Danish legal principles. The exercise of this authority has remained quite limited.

Consequently, a comprehensive universal legal framework for the acknowledgment and enforcement of foreign judgments is absent. The enforceability of a foreign judgment hinges on the presence of an applicable treaty.

Denmark maintains four exceptions from the EU collaboration, including a specific exemption from the domain of justice. Consequently, Denmark is not bound by legal norms mandating the establishment of fundamental regulations in civil cases. Nevertheless, Denmark has voluntarily adopted a number of EU statutes and international conventions that govern the enforcement of judgments, including the following (which have been parallel implemented in Danish law):

- Brussels I Regulation (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 (recast))
- Lugano Convention (Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters)
- Hague Convention (Convention of 30 June 2005 on Choice of Court Agreements).

Denmark has also ratified the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) meaning that arbitration decisions rendered in states, that have also ratified the convention, will be acknowledge under Danish law and can be enforced in Denmark.

As a result of Denmark’s implementation of the Brussels I Regulation, foreign judgments from Member States of the EU, EFTA, and the EEA can in general be directly enforced in Denmark.

	<p>The basic criteria for allowing enforcement of a foreign judgment in Denmark according to Brussels I Regulation is that the enforcement application is submitted to the correct enforcement court and that the application is in writing. In addition, the following criteria apply as outlined in article 39-44 of the Brussels I Regulation:</p> <ul style="list-style-type: none"> • the judgment must be final and enforceable in the issuing country; • the judgment must not conflict with <i>ordre public</i> in Denmark; • the judgment must pertain to a civil or commercial matter; • the judgment must be against an entity with presence or assets in Denmark. <p>If a foreign judgment does not fall within the scope of the aforementioned enactments, it does not inherently receive automatic acknowledgment or enforcement under Danish jurisdiction. As a consequence, it becomes necessary to procure a judgment in Denmark for the recognition of the foreign judgment before enforcement proceedings can be initiated. In theory, this could imply that the Danish court insist on assessing all presented evidence before delivering a recognition judgment. Once the judgment for recognition is obtained, it becomes viable for enforcement.</p> <p>In practical terms, this means those judgments originating from EU Member States, as well as Iceland, Norway, Switzerland, and third-party nations designated as contracting states to the aforementioned enactments, can be executed in Denmark without the prerequisite of securing a recognition judgment, unless a mutual arrangement between the involved countries dictates otherwise.</p> <p>With respect to foreign judgments from other states, the general rule in Denmark is, that such judgments cannot be directly enforced in Denmark, unless authorised by the Danish Minister of Justice through orders or international conventions pursuant to section 479 of the Danish Administration of Justice Act.</p>
2.	What other considerations may apply to enforcement of a foreign judgment against a state in your jurisdiction, (eg, notice provisions)?
	<p>The regulations governing the enforcement process are derived from the Administration of Justice Act, unless specified otherwise in the Enforcement Act.</p> <p>Consequently, enforcement is primarily guided by the provisions outlined in Chapters 45-55 of the Administration of Justice Act. In this regard, reference is made to the section addressing the enforcement of domestic judgments.</p> <p>In general, the same standards apply for enforcement of judgments against a state as for enforcement of judgments against any other legal entity or individual, including with respect to notice provisions, etc.</p> <p>However, the enforcement of foreign judgments is treated differently, as dictated by the Lugano Convention and the Hague Convention. These foreign judgments must undergo a declaration of enforceability prior to being executed. To initiate this process, a written application must be submitted to the bailiff's court as stipulated by sections 8a and 8(i) of the Enforcement Act. Simultaneously with the request for the declaration of enforceability, an application for the</p>

	<p>enforcement of the judgment may also be presented. Under the Brussels I Regulation, there is no similar formal prerequisite for the enforceability of judgments, (cf s 2 of the Enforcement Act).</p> <p>It is important to highlight that an individual seeking enforcement under the Hague Convention is required to designate a process agent, should he not be a resident of Denmark, as detailed in section 8i(3) of the Enforcement Act. In contrast, for enforcement under the alternative set of regulations, the appointment of a process agent is at the applicant's discretion.</p> <p>Submission of an enforcement request entails the payment of a court fee, the amount of which is contingent on the principal sum involved in the case. In instances where the claimant has been granted legal aid without charge or has otherwise been exempted from fees and expenses in the jurisdiction that issued the judgment, the individual will similarly be exempt from such payments throughout the enforcement procedure. Additional security for costs is not mandated.</p> <p>Once the enforcement court has received the request, it is responsible for notifying the debtor about the time and location of the proceedings in accordance with section 493 of the Administration of Justice Act. The recipient of the enforcement proceedings can raise objections to the request. Subsequently, the enforcement court will adjudicate on the enforceability of the decision. Furthermore, the enforcement court is upon receipt of the enforcement application obligated to conduct specific investigations <i>ex officio</i>. The enforcement court is obliged to examine:</p> <ul style="list-style-type: none"> • the existence of a valid basis for enforcement; • filing with the appropriate enforcement court; • correct identification of the applicant and debtor; • accuracy of the claim's existence and calculation; and • proper calculation of the court fee. <p>If a decision is made regarding the unenforceability of the judgment, this will be formalised through a court order. Such a decision can be subject to appeal to the High Court, and with the approval of the Appeals Permission Board, to the Supreme Court, following the general appeal procedures stipulated in section 37 of the Administration of Justice Act.</p> <p>The primary consideration that applies for the enforcement of a foreign judgment is the enforcement period, which entails that the enforcement of a judgment cannot be initiated before the enforcement period has lapsed, provided that no appeal has been submitted. The enforcement period in Denmark is 14 days from the judgment date, unless otherwise specified in the judgment, cf. section 480(1) of the Administration of Justice Act.</p>
<p>3.</p>	<p>What special considerations apply where the defendant/debtor in enforcement proceedings is a state, (eg, doctrine of sovereign immunity)?</p>
	<p>Denmark adheres to the restrictive theory of sovereign immunity, which categorises state actions as either acts related to the sovereign capacity of a state (<i>acta de jure imperii</i>) or actions related to the private capacity of a state (<i>acta de jure gestionis</i>).</p> <p>Actions reflecting a state's sovereign capacity (<i>acta de jure imperii</i>), such as exercises of sovereign power, are subject to immunity. Consequently, the state cannot be party to court proceedings for</p>

	<p>actions reflecting <i>acta de jure imperii</i>, nor can state assets undergo enforcement procedures. This principle is also outlined in Article 1 of the Brussels I Regulation:</p> <p style="padding-left: 40px;">‘This Regulation shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters or to the liability of the State for acts and omissions in the exercise of State authority (<i>acta iure imperii</i>).’</p> <p>Actions pertaining to a state’s private or economic affairs (<i>acta de jure gestionis</i>), such as entering into lease agreements or acquisition of real estate etc, generally do not benefit from state immunity.</p> <p>Sovereign immunity in Denmark is based on custom international law, which is integrated into Danish law through case law. The International Convention for the Unification of Certain Rules relating to the Immunity of State-owned Vessels, as implemented in Danish law with the The Act on Foreign State Ships (In Danish: ‘<i>Lov om fremmede statsskibe m.v</i>’), is reflective of these principles stipulating that foreign state ships performing non-commercial actions is subject to immunity, while those involved in commercial actions are not.</p> <p>Moreover, Danish law on sovereign immunity is in line with The United Nations Convention on Jurisdictional Immunities of States and Their Property (2004 UN Convention), which has been signed but not ratified by Denmark. The principles in the provisions laid down in the 2004 UN Convention are, however, generally accepted to articulate Danish law on sovereign immunity.</p> <p>In Denmark, all state organs possess the capacity to sue and be sued. Claims against the Danish state must accordingly be directed at the specific state organ responsible for the action being contested.</p>
<p>4.</p>	<p>What exceptions may apply where the claim results from improper actions of the defendant state, (eg, wars of aggression)?</p>
	<p>The following is stipulated in Article 12 of the 2004 UN Convention, which has been signed but not ratified by Denmark:</p> <p style="padding-left: 40px;">‘Unless otherwise agreed between the States concerned, a State cannot invoke immunity from jurisdiction before a court of another State which is otherwise competent in a proceeding which relates to pecuniary compensation for death or injury to the person, or damage to or loss of tangible property, caused by an act or omission which is alleged to be attributable to the State, if the act or omission occurred in whole or in part in the territory of that other State and if the author of the act or omission was present in that territory at the time of the act or omission.’</p> <p>Accordingly, this entails that there is no state immunity in cases seeking pecuniary compensation for death, injury, damage, or loss caused by an act or omission attributed to the state. This exception applies when the act or omission occurs, wholly or partially, within another state’s territory, and when the actor is present in that territory during the act or omission.</p>

	In addition, Article 13(a) of the 2004 UN Convention removes state immunity regarding immovable property situated within the forum state.
5.	What due process standards and exceptions may apply in proceedings for enforcement of judgment against a state?
	In general, the same due process standards apply for enforcement of judgments against a state as for enforcement of judgments against any other legal entity or individual.
5a.	What standard will the court apply in the enforcement proceedings when assessing whether the service requirements have been met in the original proceedings against a state?
	<p>According to the Brussel I Regulation, the enforcement court will not perform a material assessment of a foreign judgment, that is, no assessment will be made in terms of whether the service requirements have been met in the original proceedings. This is irrespective of whether the judgment is made against a state, a legal entity or a person.</p> <p>However, enforcement of a foreign judgment according to the Brussel I Regulation entails an obligation for the court to serve a certificate of enforceability in the Member State of origin on the debtor before the first enforcement measure is taken. The certificate must be accompanied by a judgment if it has not already been served to the debtor concerned.</p> <p>If the debtor concerned is domiciled in a Member State other than its Member State of origin, the debtor may, in order to contest the enforcement of the decision, in certain cases request a translation thereof. In that case, precautionary measures, such as arrest, are the only enforcement measure that may be used until the debtor against whom enforcement is sought receives the translation.</p>
5b.	What exceptions may apply where conventional forms of service against a state are impossible, (eg, due to absence of diplomatic relations)?
	Under Danish law, there are no specific instances of alternative methods of service for situations involving countries with which Denmark has no diplomatic relationship. Instead, the guiding principles from the Administration of Justice Act must serve as foundation in such cases.
5c.	What standard will the court apply in the enforcement proceedings when assessing whether the right to representation requirements have been met in the original proceedings against a state?
	According to the Brussel I Regulation, the enforcement court will not perform a material assessment of a foreign judgment, that is, no assessment will be made in terms of whether the right to representation requirements have been met in the original proceedings. This is irrespective of whether the judgment is made against a state, a legal entity or a person.

5d.	What exceptions may apply where the defendant state cannot find legal representation, or chooses not to be represented?
	<p>Under Danish law, the defendant state can as a principle represent themselves in front of court according to section 259 Administration of Justice Act.</p> <p>The right of a defendant to self-representation is not however, absolute. According to section 259 (2) of the Administration of Justice Act, the court can compel a party to be represented by a lawyer if the defendant's own handling of the case, without such assistance, would be impractical for the process of the case.</p>
6.	What assets may be subject of enforcement if the claim is against a state and what are the requirements, (eg, enforcement against assets of state-owned entities)?
	<p>The assets subject to enforcement against a state may vary based on applicable laws and regulations. Generally, the following assets can be subject to enforcement:</p> <ul style="list-style-type: none"> • state financial assets, including bank accounts and financial resources; • immovable property owned by the state; • immovable property used for commercial purposes, potentially exempt from sovereign immunity; • assets of state-owned entities and corporations if the claim targets these entities. <p>Enforcement against assets of state-owned entities depends on jurisdiction and international agreements. Judicial determination or specific procedures may be required.</p> <p>Sovereign immunity typically protects several state assets, including those of state-owned entities, and enforcement against a state or its assets necessitates strict adherence to relevant laws and international agreements.</p>