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Consultative Council of European Judges (CCJE)

The role of judges in the enforcement of judicial decisions, in their relationships with other state functions and/or other actors

QUESTIONNAIRE

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The below response is for Denmark:

A)	IN	CIVIL	AND	ADMINISTR	ATIVE	MATTERS
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1.	Is the author	ority r	esponsible	for the	enforcement	specified	in the	a law
or in	the constitu	ıtion?						
	x Yes							
	Please spec	cify	The Admir	าistratio	n of Justice A	ct Art. 47	8 - 60	0
	No No	•						

2. What are the competences of the judge in the enforcement procedure?

The enforcement of judicial decisions relating to civil and administrative matters is carried out by the court (of first instance, the city court, with appeal to the Court of Appeal, eventually – upon leave – the Supreme Court). The enforcement is organised within a specialised department. It is, however, part of the court which means that the enforcement procedure is carried out under the responsibility of a judge (in practice another judge than the one having issued the judgment to be enforced). Most cases do not raise judicial questions in the enforcement procedure and are handled not by a judge but other court staff, cf. our reply to question 8. This staff is indeed responsible for the enforcement and may in keeping with the Administration of Justice Act upon delegation have other competences as well.

and may in Reeping with the Kanimistration of Sastice in
have other competences as well.
He is responsible for the enforcement
Yes
No
He has others competences as regards enforcement
Yes
No
If yes, please specify

3. Is the judge responsible for the enforcement (if exists) the same than the judge who took the decision?

Yes

x No

(see explanation above)

4. enfo	Do the	e parties have to make a new	application for the decision to be		
	×	Yes No	(a mere formality)		
5.	Shall t	his new application end with a	a judicial decision?		
	X	No	(except for rare cases)		
	edure? x□	-	ctors involved in the enforcement The designated staff of the court		
etc. the coop	to han enforce erating lems o	e enforcement will cooperate adle many practical issues re ement has to do with fam g partners are psychologist,	with locksmiths, the police, banks elating to the enforcement. When ily law e.g. custody of a child, social worker, the police etc. If judge or deputy judge will be in		
what	are th	he is working with other actors e exact competences of the jets the procedure? Yes No	ors in the enforcement procedure, udge:		
		rols and supervises the proce by the other actors? Yes No	dure (eg timeframes) and the		
- (X	competences? Yes No			
-	s, plea		all circumstances a judge or other a matter for court		
8. it is	What i not a ji		esponsible for the enforcement if		
A va clerk expe comp degr	st majo s as st erienceo plex ca ree follo	ority of the enforcement cases ipulated in art. 19 of The Judi d personnel that have been gi	•		

Can the parties appeal if the decision is not enforced within a

reasonable time?

Yes The speed or lack of speed in the enforcement procedure4 does not in itself give a right to appeal. If, however, a decision has been taken to stay enforcement, such a decision may be appealed.

No

If yes, what are the sanctions of this appeal? A decision to stay enforcement may be reversed.

10. What are the powers of the judge to speed up the enforcement? The judge having made the decision has no power in the enforcement of the decision. As regards the powers of the judge responsible for the enforcement the rules on enforcement in the Administration of Justice Act are meant to be flexible so as to enable the responsible staff with the necessary remedies to secure a swift expedition.

- 11. What are the powers of the judge to force the enforcement? (See the answer to question 10)
- 12. What are the powers of the judge to protect the rights of parties and of third parties in the enforcement?

The judge having made the decision has, cf. the answer to question 10, no power regarding the enforcement of the decision. The powers of the judge and the staff responsible for the enforcement acts on basis of the decision to be enforced and the rules in the Administration of Justice Act, including rules on "beneficium competentiae" and the protection of third parties.

- 13. In your country, what are the main obstacles to the enforcement of decisions?

 Regrettably a backlog of enforcement cases exists. Lack of resource makes it difficult for the enforcement department in the court to catch up)
- 14. According to you, what main changes are needed to improve the effectiveness of the enforcement proceedings in your country?

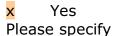
 See the answer to question 13.
- 15. Are the enforcement procedures similar for civil and administrative matters?



If not, please clarify the differences.

B) IN CRIMINAL MATTERS

16. Is the authority responsible for the enforcement of sentence specified in the law or in the constitution?



The Act on Criminal Sentence Enforcement places the responsibilit on a specified authority, The Danish Prison and Probation Service. See their English language homepage at http://www.kriminalforsorgen.dk/Default.aspx?ID=29 No	y				
 17. What are the competences of the judge in the enforcement sentences: He is responsible for the enforcement? Yes X No He has others competences as regards enforcement? 	of				
Yes x No If yes, please specify					
18. Is the judge responsible for the enforcement (if exists) the same tha the judge who took the decision? Yes					
☐ No n/a					
 19. Is the judge working with other actors involved in the enforcement sentences? Yes Please specify which actors No n/a 	of				
20. When he is working with other actors in the enforcement procedu what are the exact competences of the judge: He starts the procedure? Yes	re,				
No n/a He controls and supervises the procedure (e.g. timeframes) and the work done by the other actors? Yes					
No n/a Others competences? Yes No n/a					
If yes, please specify					
21. What are the powers of the judge to protect the rights of detains and of third parties in the enforcement? n/a	es				
22. What are the powers of the judge as regards the alternat solutions to prison ? n/a	ive				

- 23. What are the powers of the judge as regards the implementation of sentences (arrangement of sentence, conditional release, etc.) ? n/a
- 24. What are the powers of the judge as regards the effective payment of fines ? n/a
- 25. What are the main reasons for complaints concerning the rights of detainees? n/a
- 26. Who is responsible in your country, for complaints about living conditions in prison? What is the procedure for processing such complaints?

The Danish Prison and Probation Service is responsible. The procedure for processing complaints about living conditions in prison is not handled by the court. The law on enforcement of criminal sentences establishes in par. 112 nine instances in which the complaint may be brought before the court. This however is only after the case has been tried in The Department of Justice. These nine instances each represent well defined and limited situation and do not constitute a general access to bring a complaint over a living condition in prison before the court.

- 27. In your country, what are the main obstacles to the enforcement of sentences? *No data readily available*
- 28. According to you, what main changes are needed to improve the effectiveness of the enforcement of sentences in your country?

Due to the limited role of the Judiciary in enforcement of a criminal sentence, we do not have a qualified answer to this question.