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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 ADMINISTRATIVE MATTERS

1. Is the authority responsible for the enforcement specified in the law or in the constitution?

Yes

Please specify *The Administration of Justice Act Art. 478 - 600*

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.

➤ 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

No

(see explanation above)

4. Do the parties have to make a new application for the decision to be enforced?

- Yes (a mere formality)
 No

5. Shall this new application end with a judicial decision?

- Yes
 No (except for rare cases)

6. Is the judge working with other actors involved in the enforcement procedure?

- Yes

Please specify which actors

No

The designated staff of the court handling the enforcement will cooperate with locksmiths, the police, banks etc. to handle many practical issues relating to the enforcement. When the enforcement has to do with family law e.g. custody of a child, cooperating partners are psychologist, social worker, the police etc. If problems of a judicial nature arises a judge or deputy judge will be in charge.

7. When he is working with other actors in the enforcement procedure, what are the exact competences of the judge:

➤ He starts the procedure?

- Yes
 No

➤ He controls and supervises the procedure (eg timeframes) and the work done by the other actors?

- Yes
 No

➤ Others competences?

- Yes
 No

If yes, please specify *It is under all circumstances a judge or other court staff that is in charge of all aspects a matter for court*

8. What is the training of the person responsible for the enforcement if it is not a judge?

A vast majority of the enforcement cases is handled by administrative clerks as stipulated in art. 19 of The Judicial Procedural Law. These are experienced personnel that have been given specific training. A few more complex cases are handled by a deputy judge. The deputy judge has a law degree followed by internal training organised by the Danish Court Administration. Certain matters may be dealt with by a judge.

9. 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?

Yes

No

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?

Yes

Please specify

The Act on Criminal Sentence Enforcement places the responsibility 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

17. What are the competences of the judge in the enforcement of sentences:

➤ He is responsible for the enforcement?

Yes

No

➤ He has others competences as regards enforcement?

Yes

No

If yes, please specify

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

Yes

No

n/a

19. Is the judge working with other actors involved in the enforcement of sentences?

Yes

Please specify which actors

No

n/a

20. When he is working with other actors in the enforcement procedure, what are the exact competences of the judge:

➤ He starts the procedure?

Yes

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 detainees and of third parties in the enforcement? *n/a*

22. What are the powers of the judge as regards the alternative solutions to prison ? *n/a*

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.