

## **Part I – General Questions**

Please answer the following general questions with regard to the *European Convention of 7 June 1968 on Information on Foreign Law* (the “London Convention”), the *Inter-American Convention of 8 May 1979 on Proof of and Information on Foreign Law* (the “Montevideo Convention”), the *Convention of 22 January 1993 on Legal Assistance and Legal Relations in Civil, Family, and Criminal Matters* (the “Minsk Convention”) and any bilateral treaty on proof of and / or information on foreign law (“bilateral treaty”).

In this Questionnaire, the term “foreign law” encompasses both foreign internal (substantive) law and foreign private international law.

### **1) Is your State Party to:**

- a) The London Convention<sup>8</sup>       YES  NO
- b) The Montevideo Convention<sup>9</sup>       YES  NO
- c) The Minsk Convention<sup>10</sup>       YES  NO
- d) Any bilateral treaty       YES  NO

(Please indicate the number of bilateral treaties concluded: \_\_\_\_)

### **2) If not, does your State intend to become in the near future a Party to:**

- a) The London Convention       YES  NO
- b) The Montevideo Convention       YES  NO
- c) The Minsk Convention       YES  NO
- d) or conclude any bilateral treaty       YES  NO

### **3) Please indicate (if applicable) the number of requests received in 2006 and the average number of weeks taken to respond to the requests under:**

- a) The London Convention      No of requests:   3   No of weeks:   2-6 months
- b) The Montevideo Convention      No of requests:        No of weeks:
- c) The Minsk Convention      No of requests:        No of weeks:
- d) Any bilateral treaty      No of requests:        No of weeks:

### **4) Please indicate (if applicable) the number of requests that emanated from the judicial authorities in your State in 2006 and the average number of weeks taken to respond to these requests under:**

- a) The London Convention      No of requests:   2   No of weeks:   2-3 months
- b) The Montevideo Convention      No of requests:        No of weeks:
- c) The Minsk Convention      No of requests:        No of weeks:
- d) Any bilateral treaty      No of requests:        No of weeks:

<sup>8</sup>

This Convention is not restricted to Member States of the Council of Europe (Art. 18). See Prel. Doc. No 21 C, *supra*, note 2, for the text of that Convention.

<sup>9</sup> This Convention is not restricted to Member States of the Organisation of American States (Art. 13). See Prel. Doc. No 21 C, *supra*, note 2, for the text of that Convention.

<sup>10</sup> The Minsk Convention states in Art. 15 that “[t]he central judicial authorities of the Contracting States shall provide one another upon request with information about the internal legislation in effect or which was in effect on their territories and about the practices of its application by the judicial authorities”. This Convention is not restricted to Member States of the Commonwealth of Independent States (Art. 86). The text of the Minsk Convention can be found in Prel. Doc. No 27 of April 2005, “The Relationship between the Judgments Project and certain Regional Instruments in the arena of the Commonwealth of Independent States”, prepared by E. Gerasimchuk for the Permanent Bureau, for the attention of the Twentieth Session of June 2005 on Jurisdiction, Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters, Ann. II. This document is available at: < [www.hcch.net](http://www.hcch.net) >, under “Conventions”, then “Convention No 37”, and “Preliminary Documents”.

5) Do you foresee an increase in the number of requests referred to in:

a) Question No 3 (incoming requests)

YES

NO

b) Question No 4 (outgoing requests)?

YES

NO

6) If so, in which areas of the law? Please specify for each of the sub-questions:

7) Please indicate, if applicable, in bullet form to what extent you are satisfied with the instruments referred to in Question No 1:

8) Please indicate, if applicable, in bullet form any shortcomings of these instruments:<sup>11</sup>

**To question 7-8:** Denmark does not have access to sufficient information to support any answer on these questions.

## **Part II – Free public access to information on the content of the law**

9) Does your State and / or Regional Economic Integration Organisation (“REIO”) provide online access to its legislation<sup>12</sup> through an official (governmental) website?

YES. Please specify whether this information is also provided in a non-official language and, if so, in which language(s):

NO. Does another, non-governmental body or organisation provide this information online (please specify which organisation or body)?

10) Does your State and / or REIO respond to written or oral requests for information on the content and / or application of its law?<sup>13 14</sup>

YES. Please specify for which areas of the law: See below.

NO. Does another, non-governmental body or organisation provide this service (please specify which organisation or body)?

11) Are the services in Question No 10 available to people in other States?

YES. Is this service offered in any non-official language and, if so, in which?

NO

12) If yes, do people in other States have access to this service at the same costs as residents?

YES

NO

**To question 9-12:** All Danish legislation currently in force is available via the web-page ([www.retsinfo.dk](http://www.retsinfo.dk)) provided by the Ministry of Justice, however at this time only in Danish. Acts or executive orders are in some occasions provided in English by the relevant ministries. Furthermore, the relevant responsible ministries will to some extent supervise on the interpretation and the application of acts and executive orders within their purview on request. This service is mostly offered at no charge. Replies will be issued in English or sometimes in other languages - like German or French.

**13)** Do you foresee the proportion of people in other States using these services increase in the future?

YES

NO

Please specify:

**To question 13:** Denmark does not have access to sufficient information to support any answer on this question.

### **Part III – Access to information on the content of foreign law at the litigation stage**

**14)** Please indicate, where possible, a rough estimate of the percentage of civil and commercial law cases heard by the judicial authorities of your State in 2006 which required the application of foreign law and whether this percentage is likely to increase. If no estimate can be obtained for 2006, please refer to another year. Percentage: \_\_\_\_% (year: \_\_\_\_). Likely to increase:

YES

NO

**15)** Please indicate, if possible, the most common areas of foreign law applied by or invoked before the judicial authorities of your State.

Marriage and nullity of marriage

Divorce and legal separations

Parental responsibility

Parent-child relationship

International child protection including child abduction and child adoption

Protection of adults

Maintenance (child support and other forms of family support)

Traffic accidents

Products liability

Other types of tort

Consumer protection

Commercial contracts

Sale of goods

Securities transactions

Property

Inheritance

Bankruptcy

Choice of court agreements

Other, please specify:

**16)** Please identify, if possible, the States whose laws are most frequently applied by or invoked before judicial authorities in your State:

**To question 14-16:** Denmark has no official statistic information regarding the application of foreign law, but as an estimate family law, competition laws, patent rights and transportation laws are common areas.

**17)** In your State, a judicial authority ascertains foreign law (check more than one box if applicable):

- a)  *ex officio* without the assistance of an expert (e.g. law firm, specialised institute, university, government (i.e. specialised department or embassy), etc.)
- b)  *ex officio* with the assistance of an expert
- c)  by submitting, *ex officio*, a request for information under a bilateral or multilateral treaty (where applicable)
- d)  as the result of an (express) agreement of all parties, without the assistance of an expert
- e)  as the result of an (express) agreement of all parties, with the assistance of an expert chosen (appointed) by the judicial authority
- f)  as the result of an (express) agreement of all parties, with the assistance of an expert chosen (appointed) by all parties
- g)  by submitting, as the result of an (express) agreement of all parties, a request for information under a bilateral or multilateral treaty (where applicable)
- h)  at the request of a party (without the objection of the other or another party) or all parties, without the assistance of an expert
- i)  at the request of a party (without the objection of the other or another party) or all parties, with the assistance of an expert chosen (appointed) by the judicial authority
- j)  at the request of a party (without the objection of the other or another party) or all parties, with the assistance of an expert chosen (appointed) by one or all parties
- k)  by submitting, at the request of a party (without the objection of the other or another party) or all parties, a request for information under a bilateral or multilateral treaty (where applicable)
- l)  by any other method (please specify):

**To question 17:** The Court can ask the parties to ascertain the content of foreign law pleaded by the parties. This follows from the adversarial system. It is not precluded to ascertain foreign law with the assistance of an expert. This procedure is however not common within the Danish courts as they to a great extent rely on the adversarial system and thus the parties' ascertainment.

**18)** Please rank in order of priority (1 being the highest) the sources consulted by judicial authorities in your State to ascertain the content of foreign law under any of the methods described in a), d) and h) of Question No 17:

- [4] Internet (official legislation, case-law and legal publications websites)
- [5] Internet (legislation, case-law and legal publications from private databases (as opposed to official databases))

- [3] Local or personal library (local electronic databases)
- [2] Local or personal library (printed legislation, case-law and legal publications)
- [1] Other:

**To question 18:** Other: Information from the parties (cf. the answer to Q 17). The courts also use the contacts they may have obtained through the international corporation between the courts. As regards the Internet the courts mainly use the legal databases from the EU (such as the European Judicial Atlas) or other free databases deriving from public institutions.

**19)** Please explain whether and, if so, how the judicial authorities in your State verify the reliability and / or authenticity of these sources and the information provided therein:

**To question 19:** The sources are verified as far as the means stated in Q 17 and 18 allows. If the court has doubts about the understanding of the foreign law and if it is not possible to ascertain the content, the case in question can under certain circumstances be judged according to Danish law – (according to *lex fori*).

**20)** Where these sources and the information provided therein are not available in a language understood by the judicial authority, please describe the mechanisms used to address this difficulty. Description:

**To question 20:** The court can ask the parties to have foreign law pleaded by the parties translated or the court can have foreign law translated *ex officio*. The cost is endured by the parties.

**21)** Where a judicial authority ascertains foreign law with the assistance of an expert (under any of the methods described in b), e) and i) of Question No 17), does this expert need to be a qualified lawyer or jurist in accordance with the law of your State? In the case of a specialised institute, does it need to meet certain requirements?

- YES
- NO

**22)** Where a judicial authority ascertains foreign law with the assistance of an expert (under any of the methods described in b), e) and i) of Question No 17), does this expert need to be a qualified lawyer or jurist in accordance with the law of the State whose laws are being ascertained? In the case of a specialised institute, does it need to meet certain requirements?

- YES
- NO

**23)** Please specify which individuals and / or institutions may provide expertise under any of the methods described in b), e) and i) of Question No 17:

- a) Local private expert (*e.g.* law professor, lawyer and / or jurist in private practice)
  - YES
  - NO
- b) Foreign private expert (*e.g.* law professor, lawyer and / or jurist in private practice)
  - YES
  - NO
- c) Local specialised institute
  - YES
  - NO
- d) Foreign specialised institute
  - YES
  - NO
- e) Local government (including embassies abroad)
  - YES
  - NO
- f) Foreign government (including embassy in your State)
  - YES
  - NO
- g) Member of the local judicial authority
  - YES
  - NO
- h) Member of a foreign judicial authority
  - YES
  - NO
- i) Other(s):
- j) Which of the above is most often used?

**24)** Please indicate who bears the costs of the expertise provided under any of the methods described in b), e) and i) of Question No 17:

- The requesting judicial authority
- The party that raised the application of foreign law
- The party(ies) against whom costs will be awarded
- All parties
- Other:

**25)** Would your answers to Questions Nos 21-24 be the same for the expert referred to under f) and j) of Question No 17?

- YES
- NO, please explain:

**26)** Please describe, if possible, the common characteristics of requests for information on foreign law submitted under any of the methods described in c), g) and k) of Question No 17: The type of question asked; who most frequently asks questions (*e.g.*, parties with too little or no resources to afford an expert); the reasons why questions are asked (*e.g.*, no material available in a language understood by the judicial authority seized of the matter); etc.

Description:

**To question 26:** According to the European Convention of 7 June 1968 on information on foreign law the court may via the Danish Ministry of Justice send requests regarding the understanding of foreign law to the relevant institutions of other member states. Denmark does not have sufficient statistic information regarding the nature of these requests.

**27)** Please indicate whether judicial authorities in your State can transmit the request for information directly to a receiving agency in the State addressed under any of the methods described in c), g) and k) of Question No 17?

YES

NO, please explain:

**To question 27:** Requests according to article 3 of the European Convention of 7 June 1968 on information on foreign law are sent via the Danish Ministry of Justice to the relevant foreign institutions.

**28)** If so, can the request be transmitted by regular non-secured e-mail?

YES

NO, please explain:

**To question 28:** The court can send requests by e-mail. Thus communication by e-mail merely presumes that the receiving authority can/will accept requests sent by e-mail, and that the requests holds no personal information if they are sent by regular non secured-e-mail.