

Legal 500

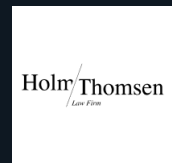
Country Comparative Guides 2025

Denmark

Family Law

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This country-specific Q&A provides an overview of family laws and regulations applicable in Denmark.

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Denmark: Family Law

1. What are the jurisdictional requirements for divorce and property division? How do the concepts of domicile, residence and nationality apply in relation to divorce and financial arrangements?

In Denmark, divorce and the division of property are dealt with separately by two different authorities, each with distinct jurisdictional rules.

Divorce

Applications for separation or divorce are submitted to the Danish Agency of Family Law, which has authority to issue separation or divorce orders.

Where there is an international element, the Agency must first determine jurisdiction. As a general rule, jurisdiction exists if the respondent is resident in Denmark, or if the applicant is resident in Denmark and has either lived there for the previous two years or has previously been resident.

Residence is defined as domicile, meaning an intention to establish a permanent home in Denmark rather than a temporary stay.

Denmark also has jurisdiction if the applicant is a Danish national and divorce is not possible in the country of residence due to nationality restrictions. Jurisdiction likewise exists if both parties are Danish nationals and agree to file in Denmark.

If the parties were legally separated in Denmark within the past five years, Denmark may also exercise jurisdiction.

Special provisions apply to same-sex marriages entered into in Denmark, and jurisdiction may also be influenced by bilateral treaties.

Division of property

Where agreement is reached, parties may divide their property privately without involving the authorities, though it is strongly recommended that such agreements are recorded in writing.

If no agreement can be reached, the Probate Court has jurisdiction to decide the matter. In international cases,

the Probate Court has jurisdiction if either party is resident in Denmark, even if not domiciled there.

Determining the applicable law introduces further complexity. Danish courts may be competent to hear the case but obliged to apply foreign law. The applicable substantive law is decided according to:

- the country where the parties lived at the time of marriage, or the first country they lived in together after marriage;
- if they never lived together in the same country, their common nationality at the time of marriage; or
- failing that, the country with which they had the closest connection when they married.

Danish law will, however, apply if the parties have resided in Denmark (even without domicile) for the past five years.

It is also possible to include a choice-of-law clause in a marital agreement.

2. What factors do local courts take into account when determining forum/jurisdiction issues? In what circumstances (if at all) would your jurisdiction stay divorce proceedings in favour of proceedings in another country?

If divorce proceedings are already pending in another country when an application is filed in Denmark, the Agency of Family Law will stay proceedings until the jurisdiction of the foreign court first seised has been established.

If that jurisdiction is confirmed, Denmark will decline jurisdiction in its favour. This applies only if:

- the parties are the same in both proceedings;
- the factual and legal basis is identical; and
- the foreign decision is likely to be recognised in Denmark.

3. Is applicable law relevant in your jurisdiction – when and how would this apply?

Yes, but the position differs between divorce proceedings and property division.

Divorce

Where the Danish Agency of Family Law has jurisdiction, Danish law (lex fori) applies to substantive issues such as grounds for divorce and entitlement to spousal maintenance.

Division of property

Danish courts may apply foreign law where the substantive rules governing property division are determined to be those of another country. However, Danish law will override where foreign law contravenes Danish public policy.

For example, provisions that:

- discriminate between spouses based on gender; or
- attach significance to which spouse initiated the divorce

will not be applied in Denmark.

Even where foreign law is applied, certain Danish protective rights remain enforceable, including the right of a spouse to buy out the family home even if not the legal owner, and the right to economic compensation despite the existence of a marital agreement.

4. What are the grounds for divorce and are they fault-based? What is the broad procedure and timeline for divorce?

A direct divorce is available if both parties consent. If not, statutory grounds must be established, including:

- separation for two years due to irreconcilable differences;
- adultery, with proof required if denied;
- violence (physical, psychological or sexual), with supporting evidence;
- bigamy; or
- unlawful removal or retention of a child abroad.

Procedure and timeline

Where there is no dispute, proceedings typically take two to four months, though processing times have recently increased.

Where there is disagreement, proceedings usually involve a meeting at the Agency of Family Law. Contested cases may take six to ten months. Decisions may be appealed within four weeks.

Appeals to the courts are generally determined on a written basis within two to four months.

5. What are the requirements for service of divorce proceedings in your jurisdiction? Can you make a joint application for a divorce in your jurisdiction?

No special requirements apply unless one party has no registered address in Denmark and fails to respond to the Agency of Family Law's attempts to make contact. In such cases, service is by public notice in the Statstidende (Official Gazette), with an eight-week response period.

If no response is received, the Agency may issue a separation or divorce order.

Joint applications are permitted where both parties agree.

6. Are the following recognised in your jurisdiction? a. Foreign marriages; b. Foreign civil partnerships / civil unions; c. Customary marriages, or d. Religious marriages.

- Foreign marriages; Recognised if valid in the country of celebration, unless:
 - the parties were not both present;
 - the marriage is suspected of being one of convenience for immigration purposes;
 - either party was under 18; or
 - the marriage is contrary to fundamental Danish legal principles.
- Foreign civil partnerships / civil unions; Not recognised.
- Customary marriages; Not recognised.
- Religious marriages; Recognised if valid in the country of celebration. If conducted in Denmark, validity requires a religious authority licensed to perform marriages.

7. Are same sex marriages / unions recognised in your jurisdiction and if so, how? Does your jurisdiction recognise same sex marriages / unions that have taken place in another jurisdiction?

Yes. Same-sex marriages are recognised on the same basis as opposite-sex marriages.

Denmark also recognises same-sex marriages entered into abroad if they meet the requirements for recognition of foreign marriages and their legal effects correspond to

those of a registered partnership under Danish law.

8. What are the substantive financial orders (e.g. capital, property, pensions and maintenance / alimony) the court can make?

The Danish Agency of Family Law may determine:

1. whether separation or divorce should be granted;
2. who, if anyone, retains a rented home; and
3. whether spousal maintenance should be awarded (on application).

Property division, including pensions, is outside the Agency's remit. Parties may agree division privately, or, failing agreement, apply to the Probate Court.

The Probate Court may also award compensation, for example where there is a significant pension disparity or where a marital agreement leaves one spouse in an unreasonable position. Adjustments may also be made where community property has been irresponsibly misused.

9. What are the guiding principles adopted in your jurisdiction in relation to the division of assets?

Where no pre- or post-nuptial agreement exists, the default regime is community property. All assets – whether acquired before or during the marriage, including gifts and inheritances – are divided equally between the spouses.

Parties may agree division privately, which is generally faster and less costly.

If no agreement can be reached, either party may apply to the Probate Court for assistance. The court typically appoints an administrator to collect financial information and propose a division. If the parties cannot agree, the court will make the final determination.

Given the high cost of court and administrator involvement, negotiated settlements are strongly encouraged.

10. Can the court make interim financial provision during proceedings? (including for legal and interim maintenance / alimony costs) during the proceedings, and what factors are taken into

account?

Yes. While spouses remain married, they are obliged to support one another. On application, the Agency of Family Law may order interim maintenance until separation or divorce is finalised and a decision on ongoing spousal maintenance is reached.

This will be done if it is considered that the spouse does not fulfil the requirement for providing for the other spouse.

11. How is ongoing spousal maintenance / alimony dealt with – is it typically awarded for a fixed term or on an ongoing basis? Is there a standard formula for calculating the amount and duration, or do judges retain discretion?

Spousal maintenance is normally awarded for a fixed term, typically no longer than ten years and very often shorter. In very exceptional cases, it may be extended beyond ten years.

Awards are based on the recipient's need, the payer's ability to contribute, and the length of the marriage. In Denmark, former spouses are not generally expected to support each other indefinitely, even where there is an income disparity. What also matters is whether that disparity results from the marriage arrangements – for example, where one spouse sacrificed their career to support the other's.

12. What is the process for recognising and enforcing foreign financial orders? How is enforcement dealt with to ensure compliance with financial orders following divorce in your jurisdiction?

Denmark recognises and enforces foreign maintenance decisions under several international instruments, including:

- The Nordic Recovery Convention (1962, as amended 2002);
- Council Regulation (EC) No 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in maintenance matters;
- The Hague Convention of 1973 (The Hague Convention of 2 October 1973 on the recognition and enforcement of maintenance decisions, cf. executive order no. 15 of 22 February 1988, Legislative Gazette C).

- The Hague Convention of 1958 (The Hague Convention of 15 April 1958 on the recognition and enforcement of decisions regarding maintenance obligations towards children, cf. executive order no. 26 of 1 April 1966, Legislative Gazette C).
- The UN Convention on the Recovery of Maintenance Abroad (1956).

The decisive factor for whether a foreign decision can be recovered in Denmark is that it was made in a country with which Denmark cooperates under one of the above-mentioned conventions or regulations. The convention that applies in relation to the country in which the decision was made must be applied when the Danish authorities process a request for recovery. It is therefore irrelevant where the beneficiary lives when the request is sent to Denmark, just as it is not a condition for processing a recovery case in Denmark that the request has been forwarded by a central authority.

13. Can financial claims be made in your jurisdiction after an overseas divorce?

Yes. If Denmark has international jurisdiction, a party may apply for spousal maintenance where a foreign agreement is deemed unreasonable.

Where no property division has been agreed, claims may also be brought in Denmark if jurisdiction exists, though issues of limitation and inaction are considered.

14. Does your jurisdiction operate a marital property regime and if so, which? Is there a default matrimonial property regime? Are foreign property regimes recognised and if not, in what circumstances?

Yes. The default regime is community property, which covers all assets acquired before and during marriage, including gifts and inheritances, unless explicitly designated as separate property by the donor or testator in writing.

Spouses may agree to apply a foreign property regime through a choice-of-law clause in a marital agreement. They may choose the law of a country in which either spouse resides or holds nationality at the time of agreement.

15. To what extent are pre-nuptial and post-nuptial agreements binding? Is it different if the

pre-nuptial or post nuptial agreement was concluded in your jurisdiction (as opposed to another jurisdiction)?

In Denmark, pre- and post-nuptial agreements must be registered with the Registration Court using a digital signature to be binding. This applies where the spouses were resident in Denmark when entering the agreement. The same requirement applies to choice-of-law clauses where both spouses lived in Denmark at the time or opted for Danish law.

Agreements concluded abroad before moving to Denmark are recognised if the applicable law is that of a country where one spouse resided or held nationality and if a choice-of-law clause has been decided. To be valid, the agreement must be in writing, signed and dated.

16. How is maintenance for a child dealt with in your jurisdiction? What is the duration of a child maintenance order?

Both parents are obliged to support their child. The resident parent contributes through day-to-day care, while the non-resident parent contributes through monthly payments.

Where the child resides equally with both parents (a 7/7 arrangement), no maintenance is payable as both are deemed to contribute equally through care.

A basic maintenance amount is payable by all non-resident parents. If the resident parent applies for a higher amount, maintenance may be increased by 100–300%, depending on the payer's income and number of children.

Maintenance normally continues until the child reaches 18. If the child remains in education and the resident parent still incurs expenses, maintenance may be extended until the age of 24.

17. With the exception of child maintenance, does the court have power to make any orders for financial provision for a child, e.g. housing and/or capital sums? If so, in what circumstances?

No. Other than a one-off capital sum payable at the time of a child's confirmation, Danish law does not provide for additional financial orders for children.

Applications for child maintenance, educational

maintenance, and confirmation-related capital sums must be submitted to the Danish Agency of Family Law.

18. Is cohabitation recognised and if so, how?

As a rule, cohabitation is not recognised in Denmark. The sole exception is under inheritance law, where cohabiting partners may make provision for each other in a will on the same terms as married couples. This is only possible if they have lived together for at least two years, are expecting a child, or already have children together.

19. What financial claims, if any, do cohabitees have when they separate and how are such claims determined i.e. what are the guiding principles?

Generally, cohabitees have no financial claims on separation. Each retains ownership of their own property.

In very exceptional cases, a compensation claim may be made if one partner has made a significant contribution to the other's property (for example, financing major improvements to a home). Routine contributions to household expenses are generally regarded as rent and do not give rise to claims.

20. What is the legal status of separated parents in relation to their children? Does it make a difference if the parents were never married?

Separated parents generally retain joint custody following separation or divorce. Sole custody is only granted in exceptional cases, such as where violence has occurred or where the parents cannot cooperate on key decisions.

Unmarried parents must register a declaration of joint custody before or at the child's birth. Where such a declaration exists, joint custody continues after separation unless otherwise agreed or ordered by the court.

Arrangements for the child's residence must also be agreed, and the non-resident parent may apply for contact rights if no agreement can be reached.

21. What are the jurisdictional requirements for child arrangements/child custody proceedings?

If parents agree that one of them should have sole custody, they must sign an agreement and notify the Danish Agency of Family Law; otherwise, the agreement

has no legal effect.

If agreement is not possible, an application may be made to the Agency, which collects information and refers the case to the court. The court then decides whether joint custody should continue, or one parent should be awarded sole custody.

The Agency of Family Law can take interim decisions before referring it to court.

The same procedure applies to disputes regarding the child's registered address or contact arrangements.

22. What is the legal position in relation to contact following the breakdown of a relationship? What types of orders can the court make in relation to child custody/a child's living arrangements and what are the guiding principles? What steps are followed to hear the voice of the child?

Where parents cannot agree, the non-resident parent may apply to the Agency of Family Law for contact rights.

The Agency may grant immediate temporary contact where there are no concerns. However, if allegations of violence, substance abuse or similar are raised, temporary rights will be withheld pending investigation.

During proceedings, the Agency may issue interim decisions on contact pending court determination. These may grant or restrict contact, depending on the circumstances.

Children aged around eight or older are usually consulted regarding their preferences on residence and contact. Younger children may also be heard if deemed sufficiently mature. Interviews may be conducted by the Agency, the court, or both if delays necessitate an updated assessment.

23. What are the rules relating to the relocation of a child within and outside your jurisdiction and what are the guiding principles?

A resident parent wishing to relocate — within Denmark or abroad — must give the other parent at least six weeks' notice.

The other parent may initiate custody or residence proceedings to challenge the relocation.

Relocation abroad without the other parent's consent, where joint custody exists, may constitute international child abduction.

The guiding principle is maintaining the child's established environment. Courts may transfer the registered address to the parent who remains closest to the child's current school or nursery. Decisions depend on the child's age, wishes, and attachment to the non-resident parent.

24. What is the process for recognising and enforcing foreign orders for contact/custody of children? Does your court operate a system of mirror orders?

Foreign custody or contact orders are generally enforceable in Denmark if valid and enforceable in the issuing jurisdiction.

However, enforcement may be refused if contrary to the best interests of the child.

25. What is the legal position on international abduction? Is your jurisdiction a signatory of The Hague Convention on the Civil Aspects of International Child Abduction 1980?

Denmark is a signatory to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, the 1996 Hague Child Protection Convention, and the European Convention on Custody of Children.

The Ministry of Social Affairs, Housing and Senior Citizens, together with the police, is responsible for handling abduction cases. Parents resident in Denmark may also qualify for legal aid and have a lawyer appointed.

Where a child is abducted to a Hague Convention state, the parent must submit a declaration and application to the Ministry for assistance. Information is available at www.english.boernebortfoerelse.dk.

If custody is joint, an application for sole custody should be filed immediately following abduction.

26. What is the status of surrogacy arrangements and are surrogates permitted to be paid? Is surrogacy available to individuals and cohabiting couples (both heterosexual and same-sex)?

Only altruistic surrogacy is permitted in Denmark. The surrogate mother may not receive payment, including compensation for lost earnings. Where no close familial or personal relationship exists, the Agency of Family Law presumes that payment has occurred.

Surrogacy is available to individuals and to cohabiting couples, both heterosexual and same-sex, subject to strict conditions:

- the surrogate must be at least 25 years old;
- she must reside in Denmark;
- she must have previously given birth; and
- she must not be under legal guardianship.

At least one intended parent must have a genetic link to the child. The arrangement must be approved by the Danish Agency of Family Law before conception.

The Agency may also recognise foreign surrogacy agreements where a genetic link exists, and the surrogate provides a notarised statement confirming her consent. In all cases, decisions are guided by the best interests of the child.

27. What is the legal position in relation to adoption? Is adoption available to individuals and cohabiting couples (both heterosexual and same-sex)?

Danish law recognises four forms of adoption:

- Stepchild adoption;
- Kinship adoption (including foster-care and certain placement relationships);
- Adult adoption; and
- Stranger (anonymous) adoption.

For stepchild or kinship adoption, the adopter must be at least 25 years old and at least 14 years older than the child. The child must also be able to live with the adopter for a minimum of three years before turning 18.

Stranger adoption requires approval by the Danish Agency of Family Law, which assesses the adopter's financial situation, health, and social circumstances. Applicants must be under 42 years of age. International stranger adoptions are not currently possible; all such adoptions are domestic.

Both individuals and cohabiting couples may adopt. Married couples and those who have lived together for more than 2½ years must apply jointly. There is no distinction between heterosexual and same-sex couples.

28. What forms of non-court dispute resolution (including mediation) are available in your jurisdiction? Is non-court dispute resolution mandatory? What is the status of agreements reached via NCDR?

All family cases — including divorce, custody, residence and contact — begin at the Danish Agency of Family Law. Dispute resolution may be requested at the Agency but is not mandatory.

If the case proceeds to court, mediation may also be requested, though participation remains voluntary.

Agreements reached through mediation or other non-court processes may be formalised and enforced as binding decisions.

29. Which areas of family law are likely to see reform in the near future?

At present, no significant reforms are anticipated.

30. Are family proceedings conducted in private? Is the press allowed to attend hearings? Are judgments made public?

Family proceedings are held in private. Neither the public nor the press may attend hearings.

Judgments are not usually published. Where they raise issues of particular legal interest, they may be released in anonymised form.

31. How does relationship breakdown impact death and estate planning?

Inheritance rights between spouses end upon separation or divorce, but only once a formal decision has been issued. Relationship breakdown alone has no effect.

Cohabiting partners do not inherit from each other unless provided for in a will.

It is advisable to include in a will a clause providing that dispositions in favour of a spouse or partner lapse in the event of separation, divorce or relationship breakdown.

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