



Denmark: Sources of Danish Law

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DENMARK

SOURCES OF DANISH LAW

Introduction

Denmark is a civil law country. The oldest sources of laws known are the provincial laws, which were developed from the end of the 12th century to the beginning of the 13th century. The provincial laws were oral customary laws that were recorded.¹

In 1660, the Danish King, supported by the clergy and middle class, imposed an absolute monarchy. The new government finalized the “Danish Code of King Christian V” in 1683. The aim was to unify the Kingdom’s legislation through the creation of one legal code into which many of the provisional laws were incorporated.² A revision of the code was envisioned at the end of the 18th century but was never effectuated. Since the introduction of the code in the 17th century, Danish law has been much revised and amended, and many new laws are enacted as separate statutes rather than being incorporated into the code.³ Even though the code is still in effect today, it no longer can be said to be the foundation of Danish law, but rather can be seen as a shell.⁴

The influence of Roman law on Danish law is very limited. In the 18th and 19th centuries, Natural law became influential and later also German jurisprudence.⁵ Cooperation among the Nordic countries (Denmark, Finland, Iceland, Norway, and Sweden) in the legislative field is significant and had its start with the Convention of Nordic lawyers in 1872. The first common Nordic act was the bill of Exchange Act of 1880. Today, the Nordic Council serves, among other things, as a forum for Nordic legislative cooperation.

The Enactment of a Law

Acts are passed by a unicameral Parliament (*Folketinget*) and receive Royal assent before being published in the official journal, *Lovtidende*. Most commonly, the proposal for a bill will come from the government, but it also can be introduced by a member of Parliament. The government may set up a committee to investigate the need for new legislation within the proposed area. Experts and representatives from interest groups may attend and take part in the deliberations. The committee drafts a report, which will include a Government bill. The bill is sent to the Parliament, where it will be read three times. This is to ensure that there is enough time for careful consideration before a bill is voted on. Between the first and the second reading, a Parliamentary committee is set up to review the bill and draft a report, which may contain suggested amendments. After the second reading, the Parliament may refer it back to the committee for further deliberations, or it may be sent directly to the Chamber for a third

¹ GAMMELTOFT-HANSEN, HANS, GOMARD, BERNHARD, PHILIP, ALLAN, DANISH LAW A GENERAL SURVEY 21 1982.

² Thuesen, E., Tamm, D., Latrup-Pedersen, T., Christensen, B., *The Development of the Legal System*, at <http://www.denmark.dk>.

³ REYNOLDS, THOMAS H., FLORES, ARTURO A., FOREIGN LAW CURRENT SOURCES OF CODES AND LEGISLATION IN JURISDICTIONS OF THE WORLD, Denmark 4 1991.

⁴ GAMMELTOFT-HANSEN, HANS, GOMARD, BERNHARD, PHILIP, ALLAN, DANISH LAW A GENERAL SURVEY 26 1982.

⁵ Thuesen, E., Tamm, D., Latrup-Pedersen, T., Christensen, B., *The Development of the Legal System*, at <http://www.denmark.dk>.

reading. At the third and last reading, the bill is put to a vote. If it does not receive a majority, it becomes void. If it does pass, it needs Royal assent before it becomes valid.

The Parliament's home page is www.folketinget.dk. Under the heading "Documents" (*dokumenter*), you can search for bills and related documents that are currently being debated in the Parliament. You can search for documents going back to the parliamentary year 1997-98.

I. Laws

Published

Acts come into force one week after publication unless otherwise stated in the Act. Danish jurisprudence is divided into civil law and public law. There is no civil code, unlike in Germany and France, but the rules of civil law are regulated in specialized legislation.

There are three sections of *Lovtidende*: *A*, *B*, and *C*. In *Lovtidende A*, laws and regulations are published. In *Lovtidende B*, you will find the laws on finance. *Lovtidende C* contains international agreements between Denmark and other states.

Lovtidende is published by the Ministry of Justice, through the secretariat for legal information. On October 15, 2004, a new council, under the Ministry of Justice, was created. It is called the Civil Council (*civil styrelsen*). The secretariat for legal information is now organized under the new council.

There is no official codification of Danish law, but an important publication of laws is the privately published compilation of Denmark's laws, called *Karnovs Lovsamling*. *Karnovs Lovsamling* contains Denmark's laws with short commentaries to each section. *Karnovs lovsamling* is published by Forlaget Thomson and is also available as an online subscription.

Internet Sources

There is one official online source for legal materials in Denmark, called *Retsinformation*, which means "legal information." *Retsinformation* is administered by the state through the civil council, mentioned above. Work started on the database in 1985. A secretariat was set up with one director and five staff members. Every ministry also had a contact person responsible for the work on the database. The secretariat's functions included setting up policies for the work pertaining to the database, describing the documents to include, and deciding the selection criteria. The first database was opened to the public in 1986. Since 1998, *Retsinformation* has been available online, free of charge, at <http://www.retsinfo.dk/>

There are five main headings under which you can search for documents at Retsinfo.dk:

- i. *Lovtidende*. Through this icon, you can access *Lovtidende A* dating back to 1995 and *Lovtidende C* back to 2000. The laws contained in *Lovtidende B* on finance can be accessed directly through the Ministry of Finance's folders, which are also available at *Retsinformation*. (Please see iii.)
- ii. *Ministerialtidende*. This is the gazette for regulations of the public administration. The regulations date back to 1995, and you can find a regulation by choosing a year and then scrolling through an alphabetical register of topics. It is an electronic publication, but you can order a hard copy from the secretariat for legal information.

- iii. *Ministerieindgang*. Through this icon, you access folders for each of the ministries. Each ministry has two folders. Through one folder, you can access a ministry's laws and regulations. A second folder contains law-proposals for the current parliamentary year.
- iv. *Folketingets Ombudsman*. You can access the Parliament's Ombudsman's documents through this icon. Choose to search for documents by either looking under the ministry heading or law heading. The Ombudsman's reports are found under an alphabetical index of topics.
- v. *Danske Love*. This literally translates to "Danish law." On this web site, you can see all current Danish law in chronological order, or you can search for a law by its popular title. This is helpful because many laws are known only by their popular titles. For example, the penal code is called *Bekendtgørelse af straffeloven*, but its popular title is *Straffeloven*.

As mentioned above, this online source is administered by the civil council, which is part of the Ministry of Justice. If there is a conflict between the published *Lovtidende* and the laws or regulations found in the online version, the published version takes precedence.

Please note that the gazette for ministries' internal regulations, *Ministrialtidende*, mentioned above, is an electronic publication and therefore is the official source.

The Danish ministries have an obligation to keep the information on *Retsinformation*, relating to their field, updated and to make documents available on the web site. The Parliament does not have an obligation to refer documents to *Retsinformation* but has done so since its start. The documents on *Retsinformation* are only in Danish, but you can access a limited number of documents in English through the ministries' own home page. You can, for example, find the Aliens (Consolidation) Act on the Ministry of Refugee, Immigration and Integration Affairs home page.

II. Court Decisions

Published

There is only one court system in Denmark; which means that there is no Constitutional Court to try the constitutionality of an act of Parliament, and there are no specialized courts to rule on administrative law. There are 82 city courts in Denmark and two High Courts -- the Western High Court and the Eastern High Court -- as well as a Maritime Court and a Commercial Court of Copenhagen. The court of last instance is the Supreme Court (*Højesteret*). The Supreme Court clarifies the law if it is unclear, and it has a responsibility to develop the law, but within the statutory framework.

Supreme Court decisions and other significant cases are published in a private compilation called *Ugeskrift for Retsvæsen*, which can be translated as the *Danish Weekly Publication Case Law Report*. *Ugeskrift for Retsvæsen* is published by Forlaget Thomson.

Internet Sources

The council for legal information had envisioned that *Retsinformation* should encompass administrative decisions, all Supreme Court decisions, and High Court decisions of importance. Despite

the recommendations from a 1998 working group appointed by the Ministry of Justice (which agreed with the vision of the council for legal information), court decisions have not yet been added to the web site. Danish law prohibits the publication of the names of individuals and other private information. The council had recommended that personal names not be searchable in the database, and the Ministry of Justice directed the courts to remove names, addresses, and other identifying information from the decisions. It is very costly to prepare abstracts and to remove the private information. The government is therefore investigating the possibility of assembling court decisions in a database that would be fee-based.

The Supreme Court makes summaries of its cases available on its web site, going back approximately six months. The decisions can be accessed through the Danish judicial system's home page at www.domstol.dk.

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