

Doing business in the Nordic region

- one minute guides to Danish,
Finnish, Norwegian and Swedish law



NORDIA

SWEDEN • NORWAY • DENMARK • FINLAND • LAW

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The Nordics

The Nordic countries of Denmark, Norway, Sweden and Finland have a population of about 27 millions. Denmark, Sweden and Finland are part of the EU, while Norway is part of the EEA treaty with the EU member states. The Nordic countries have much in common in their way of life, history, religion and social structure and are often perceived by international investors as one single market.

The Nordic countries cluster near the top in numerous metrics of national performance, including education, economic competitiveness, civil liberties, transparency, GDP per capita, quality of life and human development. Each of the Nordic countries has its own economic and social models, sometimes with large differences from its neighbours, but to varying degrees sharing the so-called “Nordic model” of economy and social structure. Namely a market economy combined with economic efficiency and with social benefits such as state pension and income distribution.

Nordia Law

Nordia Law is a business law firm with offices in the Nordic capital cities of Copenhagen (Denmark), Oslo (Norway), Stockholm (Sweden) and Helsinki (Finland), in addition to the city of Gothenburg (Sweden).

A large number of our clients are pan-Nordic or foreign companies with business in one or more Nordic countries. Depending on our clients’ need we offer one stop shop solutions or we can set up separate national teams.

**“WE WORK
WITHIN THE LAW,
NOT WITHIN
BORDERS.”**

Danish law

Danish law – overview

Danish and Nordic law share several common denominators with continental European legal systems. Nevertheless, the legal systems of the Nordic countries have evolved with their own distinctiveness. Danish law has many common law traits. The Nordic countries are, however, significantly different from Common Law countries. It is commonly held that – despite strong ties to continental legal systems – Denmark and its fellow Nordic countries make up a legal family of their own.

The Parliament – passing legislation

The Parliament (“Folketinget”) sits in a single chamber. It consists of 179 elected members, two of whom are elected from the Faroe Islands, and two from Greenland. Parliamentary elections are held every four years, unless an election is called earlier. Legislative bills must be presented and accepted three times in the same Parliamentary year.

Sources of law

Major sources of law in Denmark include the Constitutional Act, statutory legislation, regulatory statutes, precedent, and customary law. The recognition of tradition of culture (“forholdets natur”) is somewhat disputed, though it does bear significantly on Danish law in a variety of contexts. In addition, Statements of the Parliamentary Ombudsman are of particular relevance in the area of administrative law.

Statutory legislation has primacy over other written legal sources, save for the Constitutional Act. Under the authority of the Constitutional Act, European Community commitments, or national statutory laws, the administration may issue regulations, typically in the form of “bekendtgørelser”, “cirkulærer”, and “vejledninger”.

Danish law is characterized by extensive bodies of systematic and written law. Private law is dominated by a range of individual statutory acts and, in some areas, by unwritten law guided mainly by precedent and custom.

Generally, criminal law is governed by the Criminal Code, and administrative law is governed by two general statutory acts of public administration (“Forvaltningsloven” and “Offentlighedsloven”) and a complex body of substantive, sector-specific statutory acts.

Danish law in relation to the EU

Since Denmark joined the European Community, which transformed into the European Union, its legal system has been influenced significantly by European Community law. A large proportion of Danish statutes and regulations are the result of obligations to the European Union.

Denmark has been a member of the European Community since 1973. Because of the Edinburgh agreement, Denmark has four opt-outs to the Maastricht Treaty. First, Denmark does not participate in European Union citizenship (this provision has been incorporated into the Amsterdam Treaty). Second, Denmark does not participate in the European economic and monetary union. Third, Denmark does not take part in supranational decisions and actions in the area of common defense. Fourth, Denmark does not take part in supranational cooperation in the area of justice and home affairs.

Dispute resolution

The Danish court system is based on the so-called two-tier principle, which means that the parties to a case generally have the option of appealing the ruling of one court to a higher instance. The higher court can then either reach the same conclusion (uphold the ruling) or change the ruling.

Outside the ordinary courts, arbitration is common especially within the area of construction law.

District courts:

Most cases begin at district court level with the option of appealing to one of the high courts. There are 24 district courts in Denmark. As a rule, all court cases start in one of the district courts. In special cases, the district court can refer a civil case to the high court if the case has to do with principles of general interest. The enforcement courts and the probate courts are divisions under the district courts.

Court cases can generally be divided into civil cases and criminal cases.

The High Courts:

The high courts are the instances of appeal for the district courts. In most cases, a district court ruling can be appealed to one of the two high courts of Denmark: the Western High Court in Viborg, which handles cases from Jutland, or the Eastern High Court in Copenhagen, which takes on cases from the rest of the country. High court cases are normally heard by three judges. In criminal cases, lay judges may also be involved.

The Maritime and Commercial High Court:

The Maritime and Commercial High Court in Copenhagen is a special court that only handles certain types of cases. The court is divided into two divisions: the legal division and the probate division. The legal division deals with international commercial cases, competition cases and cases about patents, designs or trademarks.

The Supreme Court:

The highest instance in the Danish legal system is the Supreme Court. Located in Copenhagen, it is a court of appeal dealing with rulings by the high courts and precedent-setting cases from the Maritime and Commercial High Court. Supreme Court cases are heard by at least five judges.

The Land Registration Court:

The Land Registration Court is located in Hobro, but in practice all registration of property has been digital since 2009. In Denmark, registration of property involves the registering of all rights to real property and other assets.

IPR

The Danish IPR regulation is primarily based on EU legislation and international conventions and is subject to detailed statutory regulation. The purpose of the regulation is the protection of rights to various types of intellectual property such as science, literature, art etc.





Contracts

Danish law is built on a general principle of freedom of contracts; however, the legal system contains a wide range of rules protecting the commercial environment, especially in terms of consumer protection.

Marketing practice

In Denmark, there are regulations and restrictions regarding marketing of products. All marketing shall be performed pursuant to good marketing practice. In essence, marketing may not be deceptive, aggressive, or otherwise improper. There are specific restrictions for the sale and marketing of certain products, such as alcohol, tobacco, gambling, pharmaceuticals and financial products. There are regulatory authorities and sanctions may be imposed if marketing is performed in breach with legal requirements. There is also an independent public authority who monitors marketing practices; the "Forbrugerombudsmand".

Foreign citizens' acquisition of property in Denmark

To be able to purchase property in Denmark you are required to have either a permanent residence in Denmark or have lived in Denmark for a consecutive period of five years. The permission is obtained from the Danish Ministry of Justice.

The general rule for foreign nationals' purchase of property in Denmark comprises both main and secondary residences.

EU or EEA nationals

EU nationals and EEA nationals may under certain circumstances (if the property is to serve as a year-round residence) purchase property in Denmark without obtaining the permission of the Danish Ministry of Justice.

EU or EEA companies

Companies etc. domiciled in an EU or an EEA Member State, which have been established in accordance with the legislation in an EU or an EEA Member State, and have set up or will set up subsidiaries or agencies, or will provide services in Denmark may under certain circumstances purchase real property in Denmark without obtaining the permission of the Danish Ministry of Justice.

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Finnish law

Finnish Law

Finnish law is based on the civil law tradition. In Finland, written laws are the highest source of law. However, customary law continues to exist and has a strong influence in some areas, such as contract law. Finland is a member of the European Union and bound by its laws, regulations and directives.

Setting up a Business

Limited liability company is the most common company form in Finland, and the vast majority of the companies are incorporated as limited liability companies. The Finnish Limited Liability Companies Act stipulates the process of establishing a company and contains basic provisions regarding governance.

The incorporation process is relatively straightforward, and often the most time-consuming part of establishing a company is opening a bank account due to strict money laundering legislation and practices.

Contracts

The Finnish legal system is based on freedom of contract, and there are very few contract types with a specific requirement of form. The Finnish contract law is strongly guided by customary law, but the general regulations regarding contracts can be found in the Finnish Contract Act.

Employment

Finnish employment legislation provides employees with a high degree of employment protection rights. Finland has strong labour and employer unions, which have strong positions in the legislative process. Most of the employees and companies are governed by collective agreements.

Startups

The startup scene has been booming in Finland, especially in Helsinki, which has been ranked one of the most appealing ecosystems for startups. In April 2018, Finland introduced a startup resident permit for entrepreneurs coming from countries outside the European Union to attract talent also from outside the country.

Public Procurement

Finland's procurement system spends approximately €35 billion annually, which is roughly 16 % of the country's GDP. The EU procurement Directives have been implemented into national legislation via three separate acts.

Real Estate

There are no restrictions on ownership except for the province of Åland, where real estate and land ownership is restricted to residents of Åland. The acquisition and registration of real estate and liens on real estate are regulated in the Code of Real Estate. The sales agreements relating to real estates have specific form requirements.

IPR

The Finnish legal system protects intellectual property rights, and Finland has also adhered to most international agreements. Intellectual property rights must be registered to be enforced under local laws. The litigations relating to intellectual property rights is centred to the Market Court, which handles all disagreements relating to copyrights and industrial rights.

Marketing

Finland has a developed consumer protection legislation. In addition, certain business areas, such as gambling, tobacco, alcohol and pharmaceuticals, have restrictions when it comes to selling and marketing these products.

Dispute Resolution

In Finland, disputes are primarily resolved in independent state courts. There are three instances of state courts, and all of them rule on both criminal and civil cases. There are also certain special courts, such as the Market Court, which deals with market law, competition law, public procurement and civil IPR cases. The Finnish court system is arbitration friendly. Finland has also ratified the New York Convention without any reservations.





Finland Arbitration Institute of the Finland Chamber of Commerce is the most notable arbitration institute in Finland. The majority of international arbitrations in Finland are governed by the Arbitration Rules of the Finland Chamber of Commerce.

Tax

The corporation tax rate is 20 % of the corporation's taxable income which is one of the lowest corporate tax rates in the EU. Individuals staying in Finland over six months are considered residents in Finland and liable to pay taxes to Finland on their worldwide income. Foreign key employees enjoy tax relief given that certain requirements are met.

Finnish Culture

Finnish business culture values modesty, honesty, equality, punctuality and trust. Business meetings and negotiations are usually to the point with little small talk and expected to start and end at the agreed. Different cultures are well respected although Finland is a relatively ethnically homogenous country.

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Norwegian law

Norwegian law

Norwegian law is a civil law system based on written laws supplemented by case law. Norway is not an EU member, however, due to the EEA agreement, many EU-directives have been implemented into the Norwegian legislation.

Entities and setting up a business

In the Limited Companies Acts, the Joint Stock Public Companies Act and the Partnerships Act you will find detailed provisions regulating how to run a business in Norway. When setting up an entity in Norway, it is common to have detailed articles of association, and the shareholders often enter into a shareholders agreement.

It is fairly straightforward to set up a business in Norway. Often, the most time-consuming part is to open a bank account, due to strict money laundering legislation.

Contracts

The Norwegian legal system is based on freedom of contract, and there are few categories of contracts with specific requirement of form. In the Norwegian Contract Act you will find the most important regulations on contract formation, the legal effect of the contract, authorization, invalidity. A Norwegian contracting party and the Norwegian courts will often use a pragmatic overall assessment when interpreting contracts. In B2B contracts the freedom of contract is mostly accepted.

Employment

Norwegian employees benefit from a high degree of employment protection rights. In the employer's decision making the employees must often be involved. When entering into an employment contract, terminating an employee, etc., specific formal requirements and procedures must be followed carefully.

Public procurement

The Norwegian authorities is a huge purchaser of products and services, approx. €55 billion annually. The legislation is based on EU-directives. A large proportion of the purchases are below the EU thresholds.

Real estate

In principle, there are no legal requirements in order to own, lease or in any other way invest in real estate in Norway. However, some real estate purchases are subject to public approval. When buying a property in Norway, the registration of change of ownership is normally registered. This is regulated in different laws depending on the type of property. Consumers have a high degree of protection, and the sale of properties to consumers is regulated in the Sale of Property Act. The real estate market is also characteristic by several standard contracts, which are commonly used.

IPR

The Norwegian IP regulations are mostly based on EU regulations and international conventions. Since Norway isn't a part of the EU trademark protection in Norway is not included in an EU registration, and you must file a separate registration in Norway for your intellectual property to be enforced here. The governmental institution handling patent, trademark and design registration is the Norwegian Industrial Property Office (NIPO).

Marketing

In Norway, there are limitations on marketing towards children and consumers. In general, it is prohibited to market alcohol and tobacco products. Norway have specialized marketing regulations e.g. on TV-commercials and marketing on pharmaceuticals, gambling and financial products.





Oil & gas

The oil and gas industry is one of the most important and valuable industries in Norway. The difficult processes and the high values associated with the industry entailed a desire for predictability, which led to the development of several standard contracts. Most contracts entered into in the oil and gas sector today are either standard contracts, or in accordance with them. Petroleum exploration and –production must also be carried out in accordance with the Norwegian Petroleum Act.

Dispute resolution

We have a three-instance court system in Norway; Norway are: The Supreme Court, The Courts of Appeal, and the District Courts. All of these can rule on both civil and criminal cases. In addition, there are certain courts of law restricted to limited areas of competence. Norway also uses a Conciliation board for minor civil disputes before the case can be submitted to court. Arbitration is also common in the event of larger disputes between professional parties.

Tax

Different regimes apply depending on whether you establish and run a company in Norway, you only operate in Norway, you are self-employed or you are employed in a Norwegian company. The Central Tax Office - Foreign Tax Affairs (SFU) oversees most international tax issues.

Commissions

Apart from the Commercial Agency Act, the parties benefit from the freedom of contract on commission agreements, distribution agreements, franchise agreements etc.

Norwegian culture

When doing business with Norwegians you will often experience that they tend to be pragmatic and solutions-oriented. Decision-making can be speedy and non-bureaucratic. Equality is highly integrated. Other key elements of Norwegian business culture are lack of hierarchy, focus on cooperation and trust, empowered employees, work-life balance, gender equality and risk willingness.

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Swedish law - part 1

Swedish Legal System

Sweden has a civil law system of the Nordic subgroup. The Swedish constitution is based on four basic laws. One of these basic laws, the Freedom of the Press Act, is one of the oldest of its kind. Written law is the highest source of law, supplemented inter alia by preparatory work of the law concerned and precedent from the courts of highest instance. Laws are passed by the Swedish Parliament. Since Sweden is a member of the European Union, Swedish law is subject to European Union law.

Contracts

Swedish contract law is based on freedom of contract. Some rights and obligations in contractual relations are set forth in law, although such only apply unless otherwise agreed as a general rule. Exceptions include consumer protection regulations for instance. In case of uncertainty regarding the meaning of a contract, it shall primarily be determined by the mutual intention of the parties at the time when the contract was concluded. Contracts do not generally require certain form for validity but there are exceptions, such as contracts concerning real estate acquisitions.

Employment

Employees in Sweden generally benefit from high protection of employment by law. Important regulations are set forth in the Employment Protection Act. The requirements for dismissal of employees are high and the dismissal process is highly regulated. In case of dismissal due to redundancy, employees shall be dismissed by order of time employed. Some employees are excluded from the Employment Protection Act, for example employees in leading positions. Employment law is widely supplemented by collective agreements. There are extensive negotiation rights by law and a large proportion of the working population are members of trade unions.

Marketing Practice

In Sweden, there are regulations and restrictions regarding marketing of products. All marketing shall be performed pursuant to good marketing practice. In essence, marketing may not be deceptive, aggressive, or otherwise improper. There are specific restrictions for the sale and marketing of certain products, such as alcohol, tobacco, gambling, pharmaceuticals and financial products. There are regulatory authorities and sanctions may be imposed if marketing is performed in breach with legal requirements. There is also a self-regulatory organisation, the Swedish Advertising Ombudsman. The Swedish Advertising Ombudsman receives complaints against commercial advertising and provides guidance for good marketing practice based on the Consolidated ICC Code.

Real Estate

There are no general restrictions for foreign investors to acquire or lease real estate in Sweden. However, the use of the property may be restricted for any owner or usufructuary due to planning or environmental regulations for example. Real estate acquisition contracts and certain types of land lease contracts require certain form for validity. All ownership records and many land lease records are kept in a public real estate register. There is a constitutional right to roam in Sweden known as allemansrätten that gives any person the right to access privately or publicly owned land and use certain resources like picking fruit and berries. The right is not without restrictions. For example, it does not apply to private gardens and may be restricted in nature reserves and other protected areas.

Public Procurement

The value of public procurement in Sweden corresponds to roughly 1/6 of Sweden's BNP. Public procurement is regulated by several laws. EU Directives have been implemented, which for instance means that free movement within the EU internal market must not be limited as a result of public procurement and that the process must be transparent, fair and non-discriminatory. The result of a public procurement process may be appealed to an administrative court for reviewing.





Corporate reorganization and insolvency

If a company becomes insolvent, a district court may declare a debtor bankrupt following an application by the debtor itself or a creditor. When bankruptcy is declared, the court appoints a trustee to manage the bankruptcy estate. The trustee's assignment is to utilise the assets of the bankruptcy estate in favour of the creditors jointly. The assets in a bankruptcy estate includes everything that belonged to the debtor, but also assets returned to the bankruptcy estate as a result of clawback actions.

In some cases, a company with financial difficulties may avoid bankruptcy by reconstruction, a procedure governed by law, usually involving renegotiation of delinquent debts. A basic qualification for reconstruction is that there is a prospect for the company to eventually become profitable. In similarity to bankruptcy procedures, reconstructions are managed by a trustee appointed by the court. A trustee is also appointed in cases of liquidation, the process of dissolving a company in Sweden that is not insolvent.

Financial Family Law

Inheritance succession is governed by law in Sweden, but may be altered by a will. However, children of the deceased are entitled to a statutory share of inheritance equal to half of the property that would have been inherited by the heir notwithstanding the will. There are strict form requirements for wills. As of late 2004, there is no inheritance tax in Sweden.

As to marriage, the property of a spouse becomes marital property in marriage and the marital property shall be divided equally between the spouses after a divorce as a general rule. The spouses may agree otherwise. Similar rules apply for unmarried partners, although only two types of property may become such common property by law equivalent to marital property.

In case of disputes regarding the distribution of property, in both situations mentioned above, the court may appoint an estate administrator to decide on the distribution of the estate. Such decision may be appealed.

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Swedish law - part 2

Companies

The Swedish Companies Act of 2005 contains detailed provisions on how to set up, run and liquidate a limited company, which is the most common association form in Sweden. It is however rather common to utilize shareholders agreements and more detailed articles of association as complementary instruments for corporate governance.

The Swedish Corporate Governance Code set out rules for companies listed at Nasdaq Stockholm and NGM Equity, according to the principle of “follow or explain”.

Intellectual property

Sweden has been a member of the Paris Union since 1885 and of the Bern Union since 1904. The Swedish Government ratified the TRIP-agreement in 1994. As a member of the EU, Sweden is obliged to adhere to EU legislation on the field of intellectual property. In addition to international cooperation, Sweden has domestic acts of law regarding copyrights, patents, trademarks, designs, trade secrets etc.

Institutions such as The Swedish Patent and Registration Office (PRV) and European Union Intellectual Property Office, also play important roles on the field of intellectual property.

As regards litigation, The Patent and Market Court and the Patent and Market Court of Appeal are specialised courts that were established in 2016. These two courts hear all cases and matters in Sweden relating to intellectual property law, as well as competition law and marketing law

Tax

Sweden has a progressive income tax system. The tax rate on capital gains is 30 % and the corporation tax rate is 22 %. Most material rules and principles are found in the Income Tax Act of 1999 whereas procedural rules are stipulated in the Tax Procedure Act of 2012.

Swedish law on VAT is since 1995 harmonized with the EU legislation on the area.

Tax cases are tried in the administrative courts but there is also a government agency (Skatterättsnämnden) which is responsible for providing legally binding advance tax rulings in response to tax questions.

Dispute Resolution

Criminal and civil cases in Sweden are heard in 48 district courts, 6 courts of appeal and the Supreme Court. In addition, there are special courts for i.e. employment law, intellectual property law and environmental law. Most disputes are however settled before they are tried in court.

Arbitration is common method to settle disputes in Sweden. The Arbitration Institute of the Stockholm Chamber of Commerce (SCC), founded in 1917, is a famous forum for both domestic and international disputes.

Insurance

The Insurance Contracts Act of 2005 is the main source of law regarding insurance contracts. The provisions of this act are mandatory for the benefit of the insured, unless otherwise expressly stated. The FSA (Finansinspektionen) is the Swedish authority in charge of supervising insurance and reinsurance companies.

Precedents on insurance law are rather sparse. Disputes regarding interpretation of insurance policies are however common.

White-collar crime

White-collar crimes involve questions regarding crime in conjunction with commercial activities, examples are bribery, corruption, money laundering, fraud, tax, insider-trading and market abuse.

The relevant criminal law provisions are mainly found in The Swedish Penal Code, accompanied by several special laws. The area of white-collar crimes does not only comprise criminal law but also many different areas of business law as well as accounting.

It is common that Swedish corporations use preventative measures and compliance programs designed to reduce the risk of civil and criminal penalties.

Sports

Sport in Sweden is historically organized as an independent voluntary movement with considerable freedom, and also with the help of financial support from the government. Local sports clubs are the foundation of the sports movement. The Swedish Sports Confederation is the unifying organization at the national level.

A current hot topic in Sweden is how to prevent match-fixing occurring primarily within football.

Swedish business culture

In Sweden, colleagues address each other in a casual way. Regardless of title, everyone is on a first-name basis. Also, Swedish companies are usually less hierarchical than companies in other countries.

Punctuality is important for Swedes, especially when it comes to business. In a meeting, make sure to show up on time and stick to the agenda in order to finish on time. Don't boast or brag since Swedes in general are modest. Also Swedes, as most others, don't appreciate such behavior.

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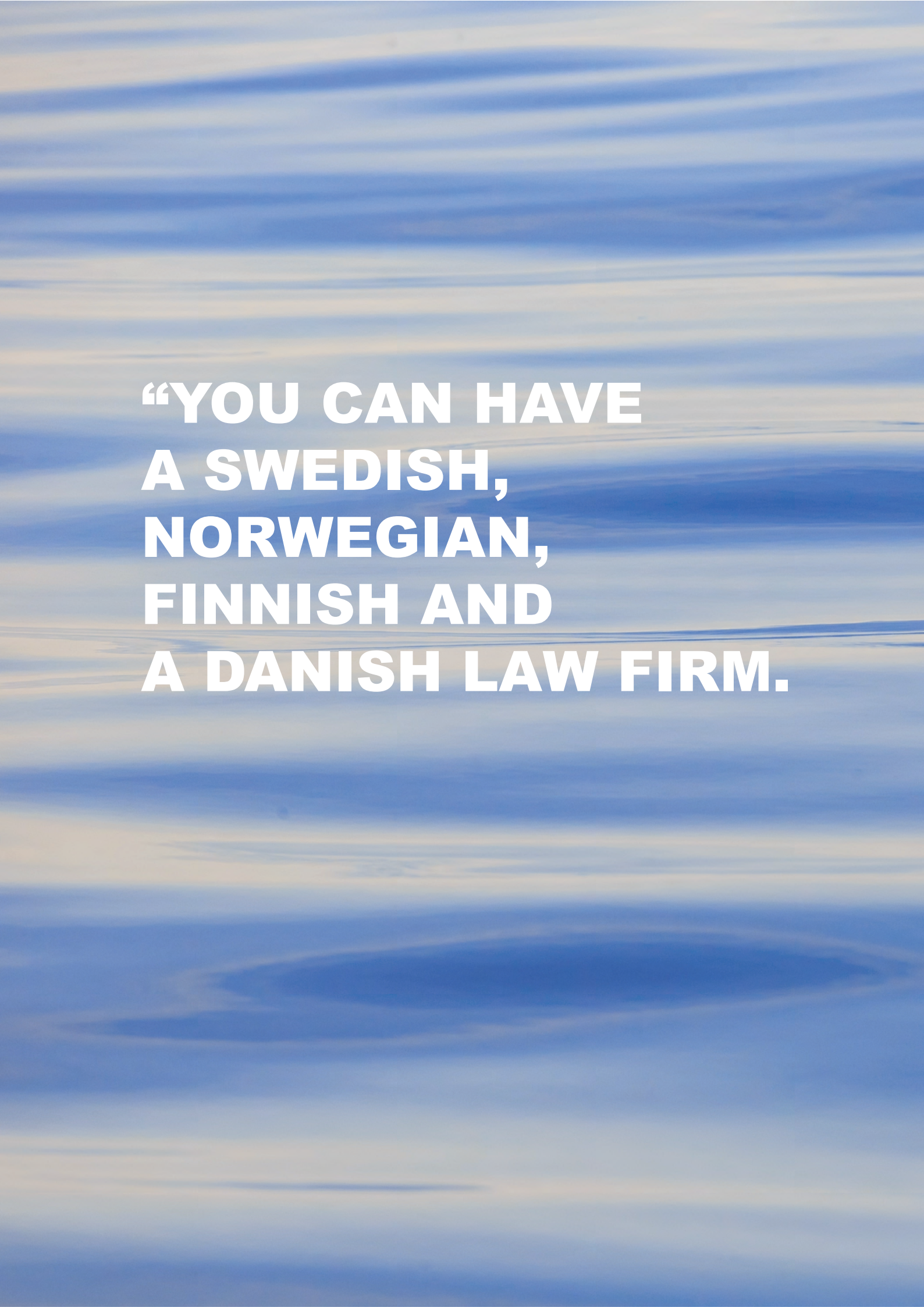
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