



# iCourts *insights*

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## Hostile cyber operations expose gaps in international law

The cyber domain is increasingly becoming a major arena for state-on-state interactions. At the same time digital tools and infrastructures generate more opportunities for individuals and groups, who aim to exert influence on states. These developments entail greater risk in the digital sphere, which must be addressed through further development of international law.

### What we knew before

Denmark mainly faces cyber challenges that fall below the legal threshold of 'armed attacks'. Such hostile intrusions do not trigger an international legal right to self-defence, but can nevertheless cause serious damage to core societal interests. In international law, 'countermeasures' provide an important instrument for states wishing to respond to malicious operations short of 'armed attacks'. Countermeasures permit the victim state to disregard temporarily its international legal obligations towards the perpetrator state.

### What we know now

This report reviews and analyses the opportunities and limitations attached to the right to invoke countermeasures in response to hostile cyber operations. The report shows that

significant improvement of the international legal framework is required to provide the necessary clarity about when, how, and against whom states can legally employ countermeasures.

### Implications of new knowledge

Key issues, such as the possibility of 'collective countermeasures' coordinated with allied states, remain unclear. The report recommends that the Danish government 1) continues to participate actively in international fora and processes aimed at advancing international law in the field, and 2) makes public the Danish view on the issues addressed in the report to support a rule-based international order that includes cyberspace.

### Research source

Modforanstaltninger i cyberdomænet: Den folkeretlige ramme

<https://jura.ku.dk/icourts/research/intermil/countermeasures-in-cyberspace/>

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