



**FOLKETINGET
STATSREVISORERNE**



**FOLKETINGET
RIGSREVISIONEN**

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**Extract from Rigsrevisionen's report
submitted to the Public Accounts Committee**

Treatment programmes for forensic patients

1. Introduction and conclusion

1.1. Purpose and conclusion

1. This report concerns programmes for forensic patients. A forensic patient is a person who has committed a crime, but who – on account of mental illness or lack of mental capacity – receives a sentence of a measure instead of a prison sentence. The purpose of sentencing forensic patients to a psychiatric measure is to improve their mental health and reduce the risk of recidivism.

2. Programmes for forensic patients are complex and involve many different authorities under the Ministry of Justice, the Ministry of Health and the regions. The authorities must ensure that the treatment programmes, from the time of the patients' mental health assessment, are as non-restrictive as possible, and that the patients after having received their sentence go through a comprehensive treatment programme that is not continued beyond what is necessary. Mental health assessments are carried out by the Ministry of Justice Clinic of Forensic Psychiatry and the psychiatry in the regions, prior to sentencing. After the sentence, the forensic patients are referred to psychiatric treatment. The Danish Prison and Probation Service is responsible for the supervision of forensic patients, when they are not in hospital, and the public prosecutor is responsible for checking, among other things, that psychiatric measures are not continued beyond what is necessary. All authorities involved in the programmes must comply with a number of requirements concerning activities and time limits.

It is in the interest of the individual patient as well as society that the authorities ensure that the patients go through a comprehensive treatment programme. Forensic patients are exempt from punishment, and for the sake of their legal protection, it is essential that their treatment does not go on beyond what is necessary. In addition to treating the offenders for an excessively long time, also the resources and budget of the psychiatric sector will be strained, if treatment of the patients continues beyond what is necessary. If the patients' pathway through the system is unduly long, other patients risk having to wait longer for treatment.

3. Rigsrevisionen initiated the study in January 2020 based on the fact that at a time, when the psychiatric field is challenged on resources, the number of forensic patients almost tripled from 1,445 patients in 2001 to 4,254 patients in 2018. In addition to this, a study published in 2010 by the Prison and Probation Service pointed to challenges associated with the treatment programmes offered to forensic patients that risked prolonging their treatment.

Measure

The court can decide that a defendant is mentally ill, intellectually disabled or lack mental capacity and should therefore be acquitted of guilt. Instead of a sentence under the criminal act, the defendant can be sentenced to a measure that will generally include a treatment programme.

4. This is a cross-sectoral study based on two random samples of the treatment programmes of 117 and 75 forensic patients, respectively. The purpose of the study is to assess whether the Ministry of Justice and the regions ensure that forensic patients are offered comprehensive treatment programmes in compliance with current requirements. The report answers the following questions:

- Are the authorities complying with the requirements concerning the start of treatment programmes for forensic patients?
- Are the authorities complying with the requirements concerning treatment programmes for forensic patients?
- Are the authorities complying with the requirements concerning ending the treatment of forensic patients?



Main conclusion

The Ministry of Justice and the regions have not adequately ensured that forensic patients are offered comprehensive treatment, in compliance with the requirements. The consequence is a risk that forensic patients are not receiving the supervision they need and, in some cases, there is a risk that the legal protection of the patients' is violated, while at the same time psychiatric resources are put under increased strain.

The authorities have failed to comply with all the requirements concerning the start of treatment programmes for forensic patients

Treatment programmes for forensic patients are not implemented on time, when an offender has been sentenced to a psychiatric measure. In 34% of the cases, a guardian is not appointed to the patients immediately after they have received their sentence. This means that the patients do not necessarily receive counselling in the initial phase of their treatment programme. In 50% of the cases, the psychiatry and the Prison and Probation Service receive the request to start the treatment programme more than one month after the conviction of the offender, which means that treatment and supervision are not started as early as possible. Last, the psychiatry and the Prison and Probation Service only manage to start 32% of the programmes within the time limit.

Most mental health assessments in both the East and West of Denmark are carried out on an outpatient basis as they should be according to the instructions issued by the Director of Public Prosecutions. The number of mental health assessments of patients in psychiatric hospitals is, however, 9 to 11 percentage points higher east of the Great Belt than in the three regions west of the Great Belt. This seems to indicate that more forensic patients can have their mental health of assessed on an outpatient basis, i.e. without detaining the patients.

The authorities have, for the majority of patients, failed to comply with all the requirements concerning their treatment

The psychiatry and the Prison and Probation Service have only to a limited extent complied with the treatment and supervision requirements. Both authorities are required to ensure that the patients receive the necessary treatment and adequate supervision. The requirement concerning how often, forensic patients should be seen to by a consultant doctor during the first three months is met by the psychiatry in 36% of all the cases reviewed. Our study also found that the treatment plans developed by the psychiatry in most cases do not meet the requirements listed in the guidelines issued by the Danish Health Authority. This means that the plans neither provide the patients with an overview of their treatment, nor do they provide the health professionals with adequate guidance. In 76 out of 100 cases, the Prison and Probation Service failed to make risk assessments of the patients and determine their care needs as a basis for organising the supervision. Only in one out of 100 did the Prison and Probation Service document that it had met the requirements concerning physical meetings with the patients leading up to the completion of the risk assessments and assessments of the patients' care needs.

Last, the study found that in some cases, the psychiatry fails to discharge patients that no longer need to be hospitalised, because the psychiatry is waiting for the local authorities to find suitable accommodation for the patients that will support crime prevention. In 2019, the psychiatry reported the ending of treatment of 37 forensic patients. On average, these patients were kept in hospital for 59 days longer than was necessary. The patient that was kept in hospital for the longest time after treatment had been ended, waited to be discharged for 154 days. The regions have informed Rigsrevisionen that the actual number of fully treated patients waiting for suitable accommodation, but whose treatment has not been officially ended, is considerably higher. This means that the treatment programmes that the patients go through become unduly restrictive.

The authorities have failed to meet all the requirements concerning ending the treatment of forensic patients

The state prosecutors, the psychiatry and the Prison and Probation Service can do more to ensure that the measures to which the patients have been sentenced are not extended in time or scope beyond what is necessary. In 33% of the cases, the psychiatry and the Prison and Probation Service fail to meet the deadline for sending their replies to the state prosecutors. To this should be added that the state prosecutors, the psychiatry and the Prison and Probation Service all take very long to process cases, which means that approx. six months pass from the time when the State prosecutors should ask the psychiatry and the Prison and Probation Service for an assessment of the patient's condition, until the measure is potentially referred to the court. The psychiatry and the Prison and Probation Service should do more to ensure that measures are not extended beyond what is necessary by requesting termination of measures also between the annual consultations with the State prosecutors. The psychiatry and the Prison and Probation Service have not requested such terminations in any of the reviewed cases. Nor have they done so in cases where records show that the patients' mental health condition justifies termination of the measure.

The study shows that the State Prosecutors of Copenhagen and the State Prosecutors of Viborg are not following the same practice concerning the parties they consult with on the annual assessment of the need to extend measures. This means that the basis upon which they assess the need to extend or lift measures is not the same. The state prosecutors have in connection with the study, informed Rigsrevisionen that they have now aligned their practice in this area.