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# Case processing time for criminal cases dealt with at the Danish district courts

# 1. Introduction and conclusion

## 1.1. Purpose and conclusion

1. This report concerns the effort made by the Danish Ministry of Justice and the Danish courts to reduce case processing time for criminal cases dealt with at the district courts.

2. Rigsrevisionen initiated the study in January 2021, because the case processing time for criminal cases had increased over a long period. The increase has occurred although several amendments to relevant laws have been passed by the Danish Folketing (Parliament) with the purpose of reducing case processing time, and it has increased in spite of the targets that the Ministry of Justice and the courts set for themselves to reduce case processing time. Long case processing time for court cases has an impact on the public's confidence in the legal system and on the rule of law, as perceived by convicted persons, and can ultimately lead to convicted persons having their sentence reduced for security reasons.

The Danish Administration of Justice Act does not govern how long it must take to process criminal cases. However, it appears from the act that the counsel for the prosecution and the courts shall proceed with every case at the speed permitted by the nature of the case. Moreover, the courts shall fix a date for the trial as soon as possible and preferably within two weeks from the submission of the indictment to the court by the Prosecution Service. The criminal code also prescribes that the sentence passed on a convicted person can be reduced by the judge on account of a long processing time.

The Ministry of Justice has *no* powers of direction over the courts, but is responsible for submitting spending bills concerning the courts to the Ministry of Finance and for taking steps to amend the Administration of Justice Act to ensure that it supports reducing case processing time to a minimum. The ministry is also responsible for following up whether legislative initiatives have the intended effect. In 2016, the ministry proposed the first of many bills to amend the Administration of Justice Act to prevent unnecessarily long processing time for criminal cases. We therefore conclude that the Ministry of Justice – at least since 2017, when the first amendment took effect – has communicated to the Folketing its objective of reducing case processing time for cases dealt with at the district courts.

### Case processing by the police and the Prosecution Service

The average time from the police receive a report of an offence to their decision to charge a person has increased by 37% from 2016 to 2020. In the same period, the average time from the police submit a case to the court to the court's decision to prosecute has increased by 20.5%.

### The courts

In the report, the term 'courts' refers to the district courts and the Courts of Denmark (independent government body under the Ministry of Justice).

Reference to the Ministry of Justice includes the department and, when relevant, also the Prosecution Service.

### **Rigsrevisionen's report on the processing of criminal cases**

Rigsrevisionen's report from 2014 maps, for the first time, case processing time for completed criminal cases across the government bodies involved, i.e. the police, the Prosecution Service, the courts and the Danish Prison and Probation Service.

The report found that the Ministry of Justice and the authorities had not focused sufficiently on establishing a coherent and transparent overview of the criminal justice system. Rigsrevisionen concluded that the Ministry of Justice had been reluctant to insist on cross-sectoral solutions, although it was well-positioned to do so, having overall responsibility for all the authorities involved in the criminal justice system.

Based on Rigsrevisionen's report on the criminal justice system from 2014, the Ministry of Justice, in 2017, carried out an analysis that mapped case processing time across all the bodies involved in the process, including the district courts. The results of the analysis pointed to several areas, where implementing changes to current practices and amendments to relevant laws could improve the framework set for the work of the district courts and thus help reduce case processing time.

3. The purpose of this study is to assess whether the Ministry of Justice and the courts have sufficiently supported achievement of the goal to reduce case processing time for criminal cases dealt with at the district courts from 2016 to 2021. The report answers the following questions:

- Have the courts, to an adequate degree, achieved the targets set for short case processing time for cases dealt with at the district courts?
- Have the Ministry of Justice and the courts examined the causes of the long case processing time and launched initiatives to reduce it?



## Main conclusion

**The Ministry of Justice and the courts have not sufficiently supported a achievement of the goal to reduce case processing time for criminal cases dealt with at the district courts from 2016 to 2021. As a result, not all cases are completed within a reasonable time frame, which affects both victims and persons charged.**

**The courts have to some extent achieved the targets they have set for *themselves* regarding case processing time at the district courts, while at the same time, case processing time for criminal cases has increased**

The average case processing time for ordinary criminal cases has increased by 76.2% from 2016 to 2021, by 18.2% from 2016 to 2019 and by 49.1% from 2019 to 2021. This development indicates that the case processing time has been affected by the COVID-19 pandemic. Only two out of 24 district courts reduced the average case processing time in the period examined in the study. In 2021, the average case processing time for all ordinary criminal cases was 196.5 days. Rigsrevisionen has undertaken a review of cases completed in a representative week of November 2021, which showed that convicted criminals had their sentence reduced in 86 cases, corresponding to 4.3% of all the criminal cases that were completed that week. Additionally, the study shows that the difference between the average case processing time of the district court with the shortest average processing time and the district court with the longest average processing time was nine months in 2021. Rigsrevisionen finds that the Ministry of Justice should collect information regularly about the criminal cases in which sentences are reduced, when the judgment is delivered.

The Administration of Justice Act prescribes that the courts shall fix a date for the trial as soon as possible and preferably within two weeks from the submission of the indictment by the Prosecution Service. In spite hereof, the time between the issue of proceedings and the trial more than doubled in the period. In 2016, a trial date had been fixed for two-thirds of all cases within the prescribed two weeks. By 2021, this number had dropped to half of all cases. In the same period, the average time between the issue of proceedings and the date of trial increased from 20.1 days to 50.3 days, corresponding to well over seven weeks.

It is Rigsrevisionen's assessment that the Courts of Denmark's performance management has not adequately supported the Ministry of Justice's objective to reduce case processing time for criminal cases in the district courts. For instance, with effect from the beginning of 2019, the Courts of Denmark changed how they measure performance and included only the criminal cases with the shortest case processing time, corresponding to 80% of all cases. As a result of this practice, the courts improved their performance regarding case processing time, while the overall case processing time increased.

Rigsrevisionen also finds that the Courts of Denmark should have analysed the growing differences between the courts in terms of case processing time. The Courts of Denmark should have examined in more detail whether any structural differences between the courts are being duly considered when the agency allocates resources to the courts.

**The Ministry of Justice and the courts have not, to an adequate degree, examined the causes of the long case processing time, and the Courts of Denmark have only to a limited extent launched the agreed-upon initiatives to reduce case processing time**

The Ministry of Justice has, particularly during the first couple of years of the period examined, looked into the causes of the long case processing time and recommended amendments to the Administration of Justice Act to resolve the problems. However, the ministry has not followed up on whether the amendments have had the intended effect, and Rigsrevisionen's study shows an increase in case processing time despite the amendments.

The courts have to some extent carried out analyses of the causes of the long case processing time for criminal cases. However, the courts have not addressed the differences between the courts regarding the case processing time that can be referred to the individual courts' case processing. Thus, the courts have not carried out data-based, systematic analyses of how external factors affect case processing time in the individual district courts, nor have the courts analysed the large and growing differences in average case processing time between the individual courts.

In addition, the Courts of Denmark have only to a limited extent launched the initiatives concerning capacity management, IT support and guidance that the Ministry of Justice in collaboration with the Courts of Denmark and the Director of Public Prosecutions decided to implement to help reduce case processing time.