



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

Response questionnaire project group Timeliness

Domstolsstyrelsen (Denmark)

1. The Court System and Available Statistics

1.1. The Court System

The Danish Courts are composed of the Supreme Court, the two high courts, the Maritime and Commercial Court, the Land Registration Court, 24 district courts, the courts of the Faroe Islands and Greenland, the Appeals Permission Board, the Special Court of Indictment and Revision, the Danish Judicial Appointments Council and the Danish Court Administration.

The Supreme Court

The Supreme Court is the final court of appeal in Denmark and is situated in Copenhagen. The Supreme Court reviews judgments and orders delivered by the High Court of Eastern Denmark, the High Court of Western Denmark and the Copenhagen Maritime and Commercial Court.

The Supreme Court reviews both civil and criminal cases and is the final court of appeal (third tier) in probate, bankruptcy, enforcement and land registration cases.

In criminal cases, the Supreme Court does not review the question of guilt or innocence. There are no lay judges on the Supreme Court panel.

Only in exceptional cases is there a right of appeal (third tier) to the Supreme Court

The High Courts

There are two high courts in Denmark – the High Court of Western Denmark and the High Court of Eastern Denmark.

Appeals from a district court lies to the high courts.

Civil and criminal cases are tried by the district courts (first tier). Under certain conditions a civil case may be referred to a high court in the first instance.

The Maritime and Commercial Court

The Maritime and Commercial Court hears cases concerning the Danish Trade Marks Act, the Design Act, the Marketing Practices Act, the Competition Act, cases concerning international trade conditions as well as other commercial matters.

In addition, the Bankruptcy Division hears cases concerning bankruptcy, suspension of payments, compulsory debt settlement and debt rescheduling arising in Greater Copenhagen.

The Land Registration Court

The Land Registration Court was established on 1 January 2007. The Land Registration Court handles registration of titles to land, mortgages and other charges, marriage settlements etc.

The Land Registration Court's jurisdiction extends to all of Denmark.

Disputes arising from registration are settled by the Land Registration Court. There is a right of appeal to the High Court of Western Denmark.

The District Courts

There are 24 district courts in Denmark.

The district courts hear civil, criminal, enforcement, probate and bankruptcy cases. Notarial acts also fall within the jurisdiction of district courts.

The Court of the Faroe Islands

The Court of the Faroe Islands is situated at Tórshavn. Its jurisdiction comprises all the islands. The court at Tórshavn hears the same cases as do district courts in other regions of Denmark. Appeal lies to the High Court of Eastern Denmark.

The Courts of Greenland

Since 1 January 2010, the Courts of Greenland consists of 18 district courts, the Court of Greenland and the High Court of Greenland. Most cases are heard in the first instance by the district courts. The district court judges are not lawyers but lay judges with a special education and thorough knowledge of the Greenlandic society. The Court of Greenland processes legally complicated cases in the first instance and handles supervision and education of district judges. The judge in the Court of Greenland and the High Court judge of Greenland are lawyers. Rulings issued by the district courts and the Court of Greenland may be brought before the High Court of Greenland. Rulings issued by the High Court of Greenland may, with the permission of the Appeals Permission Board, be brought before the Supreme Court in Copenhagen.

The Special Court of Indictment and Revision

The Special Court of Indictment and Revision deals with disciplinary matters concerning judges and other legal staff employed by the courts. In addition, the Special Court of Indictment and Revision may reopen criminal cases and disqualify counsel for the defense in criminal cases.

The Appeals Permission Board

The Appeals Permission Board considers petitions for access to appeal in civil and criminal cases (second and third tier grants). The Appeals Permission Board also acts as the board of appeal for decisions on free legal aid made by the Civil Affairs Agency.

The Judicial Appointments Council

The Judicial Appointments Council is an independent council who submits recommendations to the Minister of Justice for all judicial appointments except the post of president of the Supreme Court. Recommendations must be reasoned and include any differences of opinion.

The Danish Court Administration

The Danish Court Administration was established as a new independent institution on 1 July 1999. It ensures proper and adequate administration of the courts' and the Appeals Permission Board's funds, staff, buildings and it.

The Danish Court Administration is headed by a board of governors and a director. The board of governors has 11 members, eight of whom are court representatives, one is a lawyer and two have special management and social insights. The Minister of Justice has no instructive power and can not change decisions made by the Danish Court Administration.

1.2. Statistic information on Courts, judges and cases

Case flows at the courts in Denmark (received and finalized)

24 district courts and the Land Registration Court		
<i>Year 2009</i>	<i>Received</i>	<i>Finalized</i>
Criminal cases	147.089	140.247
Civil cases	68.239	68.977
Enforcement proceedings	424.350	406.801
Probate cases	56.772	55.906
Insolvency	16.159	14.276
Land registration	1.922.666	1.920.027
Notary	62.039	62.039

The two High Courts		
<i>Year 2009</i>	<i>Received</i>	<i>Finalized</i>
Civil cases	6.407	6.617
Criminal cases	6.595	6.527

The Supreme Court		
<i>Year 2009</i>	<i>Received</i>	<i>Finalized</i>
Total	344	416

Most cases are civil cases but cases can also be criminal cases and appeals of decisions and procedures from the High Courts

The Maritime and Commercial Court		
<i>Year 2009</i>	<i>Received</i>	<i>Finalized</i>
Civil cases	344	377
Insolvency	6.745	3.760

1.3. Statistic information on processing time

Processing time at the District Courts in 2009

<i>Criminal cases</i>	(days)
Case heard/tried by a court and lay judges	141
Case without use of lay judges	95
Guilty plea	141
Jury trial	105
<i>Civil cases</i>	
Ordinary cases	276
- ordinary heard/tried cases	556
All dwelling cases	297
- all heard/tried dwelling cases	497
All minor cases	113
- all heard/tried minor cases	288
All marriage/custody cases	173
- all heard/tried marriage/custody cases	197
<i>Enforcement proceedings</i>	
Ordinary enforcement proceedings	87
Forced sale	105

Processing time at the two High Courts in 2009

<i>Processing time</i>	(months)
Civil first instanse cases	13,4
Civil appeal cases	9,9
Jury trial cases	6,1
Criminal appeal cases	4,4

Processing time at the Supreme Court in 2009

<i>Processing time</i>	(months)
Civil appeal heard/tried cases	23,8
Criminal appeal tried cases	6,4

Processing time at the Land Registration Court 2009

<i>Processing time (days)</i>	6,9
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Note: The term "ordinary cases" comprise all civil cases (excluding dwelling cases (cases on housing), minor cases (small claims cases) and cases on custody and marriage) and it includes cases that has been withdrawn, adjourned or settled. As the schedule shows specific statistics are made for hear/tried cases.

2. Statistics, Requirements and Transparency

2.1. What statistics are provided for on a regular basis?

Statistics are collected quarterly.

At district court level the statistics cover all main areas, i.e. civil cases, criminal cases etc. and cover work flow (received, finalized, pending cases) and processing time.

Similarly, the Danish Court Administration collects statistics from the Maritime and Commercial Court, the two High Courts and the Supreme Court. The statistics cover work flow and processing time.

Statistics from the Land Registration Court is collected at least monthly and cover work flow and processing time.

2.2. Are provided statistics published?

Statistics are published in details half-yearly overall. Every quarter the major tendencies in work flow and processing times are published as well. The Parliament is informed quarterly. Data are also published on the Danish Courts' website (www.domstol.dk).

If not published, to whom are they available?

Is bench marking encouraged?

Benchmarking is encouraged. There is an institution at the Danish Court Administration called "Best Practice" which is a team of consultants who visits the courts in order to locate best practices and inform of them to all the other courts and also to recommend that these practices are followed in general (see also 4.3.). Further the productivity of the district courts is published for comparison and benchmarking.

2.3. Is processing time of individual cases transparent?

No, it is not worked out for the individual case but generalized (as statistics) for the individual categories of cases and this way being published. All can find the processing time for each court for each category of cases on the internet.

2.4. Are requirements for processing time stipulated?

According to the Administration of Justice Act all courts must in both civil and criminal cases give a decision **as soon possible** after the trial. The courts must also by the end of the trial notify the parties when a decision will be delivered.

The district courts with only one judge presiding and no lay judges, and the appeal courts must in any event in civil cases give their decision **within four weeks** after the trial. In small claims cases the district courts must give a decision **within two weeks** after the trial. In all other civil cases the decision must be given **within two months** after the trial. If special circumstances so demands the courts may decide to exceed the stated deadlines, provided that the courts in such a decision give its reasons for making an exception necessary.

There are in civil cases no stipulated deadlines for the courts' processing time in regard to the preparation of the case – neither in law nor in standards/best practices. The courts are according to the Administration of Justice Act entitled to set deadlines for the parties' right to present evidence and written pleadings. After a new case has been filed the court is further expected to as soon as possible call the parties to a court hearing during which the parties' position on the facts of the case and the legal matters can be clarified. The purpose is to have the issues on which the parties are in dispute laid out, and on this basis outline the preparation of the case. **The outcome of the hearing** should thus be **deadlines for both the evidence** that needs to be produced/presented **and the written pleadings** from the parties. If possible the court must **also set the date for the trial**.

In criminal cases the decision must **in all instances** be given **within one week** after the trial if the decision cannot be given on the same day. In jury trials the decision must be given **no later than the day after the trial**. If special circumstances so demands the courts may decide to exceed the stated deadlines, provided that the courts in such a decision give its reasons for making an exception necessary.

According to the Administration of Justice Act all criminal cases must be **processed within due time** depending on the nature of the case, and a **date for the trial** should in all cases **be set within two weeks** after receiving the indictment. There are in criminal cases however no actual deadlines stipulated in law for the preparation time. According to an objective put up by the Ministry of Justice on basis of a parliamentary agreement all **cases on serious violence and on rape** must however be **prepared and tried within 37 days**. The courts processing time in these cases are followed statistically and statistics show that the deadline is met. There are however no consequences for exceeding the deadline.

In smaller criminal cases (where the defendant will at the most suffer a fine) the court may, according to the Administration of Justice Act, simply sent out the writ of summons that does not have to be served and call in the defendant for a court hearing. If the defendant does not show, which is very common in especially traffic-cases, the court may in a judgment by default give a verdict imposing the defendant of the fine. To compensate for being penalized without showing the convicted may have his case resumed, if he can document that he was absent due to circumstances beyond his control or that the writ was never received. Requests of resumption are not so common.

Each year goals are set by the courts themselves concerning the processing time in the district courts. The goals are specified on different types of cases. An example of such a goal is that 58 % of all criminal cases where lay judges participate should be closed no later than 3 months after the cases were launched and 83 % of all criminal cases where lay judges participate should be closed no later than 6 months after the cases were launched. The courts processing time in these cases are followed statistically and statistics show that the deadline is met. There are however no consequences for exceeding the goals set by the courts.

- 2.5. What are the consequences of exceeding required/reasonable processing time according to national rules or practice?

There are no consequences such as compensation stipulated in law. Such a demand must therefore be carried out as a private lawsuit against the court. There are as yet no examples of cases in which a party's demand for damages due to long processing times has been followed.

If a judge does not follow the requirements on processing times he or she may in grave cases be **criticized** by the Special Court of Indictment and Revision for having shown unseemly conduct. Unseemly conduct may in very serious cases lead to a verdict from the Special Court whereby the judge is **removed** from his or her position. There are examples of cases where the Special Court has fined a judge and also removed a judge due to excessively long processing times.

If a court has problems meeting the requirements on processing times the Court Administration might enter into a dialogue with the president of the court in order to try to find out what can be done to improve processing times.

- 2.6. Can the parties and others make a complaint about the processing time?

If so to whom?

There is no complaint board regarding processing times. The parties may however make a complaint to the Special Court of Indictment and Revision (see 2.5). The Special Court deals with various complaints on judges' behavior in their handling of cases in court - including any exceedingly long processing time. Long processing times may be defined as unseemly behavior. There are examples of cases where the Special Court has fined a judge due to excessively long processing times.

- 2.7. Are user surveys on processing time carried out?

If so how often?

Yes it is done from time to time but the surveys does not only include processing times but also many more aspects. It may vary from 2 to 4 years' between the carrying out of the surveys.

3. Reduction of Caseload and Facilitating Court Procedures

3.1. Which means of reduction of caseload are used?

District Courts are as a standing point 1st instance in all cases. If the value of the pleading is below 10.000 DKK (approx. 1.200 €) the case may only be appealed to the High Court if the party obtains permission from the Appeals Permission Board. In all cases a party may only appeal a case to the Supreme Court as 3rd instance if the party has obtained permission from the board. Permission requires that the case is found to embody issues of a principal matter or that permission is just due to other exceptional reasons.

All courts in Denmark – except for the Supreme Court – offer mediation as means for solving the conflict.

3.2. Are any special easy procedures available?

The Administration of Justice Act has special rules facilitating a simple and fast track procedure for civil small claims cases (amounts of maximum 50.000 DKK (approx. 6.500 €). The requirements for the writ and for the reply are less comprehensive and it is possible to use blanks for the purpose. The courts assist the parties preparing the case and give general legal advice. It is therefore not necessary to be represented by a lawyer. As statistics show (see above 1.3.) small claims cases (minor cases) are processed in double speed compared to ordinary civil cases.

Provided that the claim is not denied by the debtor a party may enforce a claim of an amount of maximum 50.000 DKK (approx. 6.500 €) without achieving a judgment through legal action. Creditor fills out a blank addressed to the bailiff within the district court and if no written objections are expressed by the debtor the claim will be enforced directly.

3.3. What simplifications of ordinary procedures are applied?

In November 2009 legislation came into force making it possible for a judge in a specific case to decide on using video conference with or without consent from one or more parties. Video conferences can also be used in Greenland although practical issues make the use limited. Some of the district courts now have the necessary facilities for carrying out videoconferences and they are also applied. It is expected that all courts will get the necessary facilities over time (see also 4.2.).

The court may during the preparation phase of a civil case make use of telephone conferences as an alternative to short court sessions. The sessions will usually regard the planning of the preparation phase – such as setting a time schedule and determining the evidence to be presented/obtained. Telephone conferences are applied to a great extent.

A party may with the court's permission present a testimony which has only been obtained in writing. After hearing the other party the court decides on whether to allow a written testimony. It is also up to the court to assess the probative value of

such evidence. Written testimonies are sought used by the parties, but the court's permission will to a great extent depend on the nature of the case, the nature of the testimony and the position of the other party.

- 3.4. Give examples of practices used within ordinary procedures to speed up ordinary procedures.

The early preparation meetings stated in the Administration of Justice Act (see above 2.4.) are commonly used by the courts. The courts will also commonly at these meetings set the date for the final hearing. This way the lawyers will at an early stage know the total time they have to prepare the case. In cases where evidence such a expert opinions will be necessary the courts will mostly also invite the expert for a preparation meeting for the sake of setting reasonable deadlines and obligating the expert to meet his/her own deadline. Further some courts have established a centralized preparation department which means that the court will not appoint a judge for a specific case during the preparation. This will make it possible to set the date for the final hearing at the court's first available date and not at the judge's first available date. It is more a flexible practice

In criminal cases some of the larger courts – who can on one day expect to receive a large number of criminal cases (in moving boxes) – have made an arrangement with the prosecutor to mark the urgent cases with an obvious colored folder. This way these cases are easy to detect and can be handled right away.

4. Increase of Capacity and Improvement of Processing

- 4.1. Do you try to limit processing time by an increase of courts or increase or reallocation of judges or cases?

Resource allocation models are used at the level of district courts. It means that the number of judges is allocated and reallocated between the courts as a consequence of the development in the case flow and the weight of the case flow. It is also possible that a judge and other staff may be lent out from one district court to another. The extent of using judges and deputy judges between courts amounts to approximately 1½ full-year equivalent in total for all district courts pr. year.

- 4.2. Do you try to limit processing time by taking on assistance from deputy judges, trainee judges, or juridical assistants?

Denmark has about 300 deputy judges and about 400 judges. We do not have juridical assistants.

In the district courts deputy judges are allowed to rule on their own in certain cases. The president of the district court decides in which cases a deputy judge can rule, but most cases in the bailiff's court and in probate court are tried by deputy judges.

In the high courts deputy judges prepare cases and decisions. A deputy judge in the high courts can also act as third judge in panels of judges (which in Denmark always consist of 3 judges).

In the Supreme Court deputy judges prepare cases and decisions.

4.3. Do you try to limit processing time by facilitating processing of cases?

“Best practise consultants”

A team of so-called ”Best Practice consultants” visits the courts in order to get ideas on how to do the work in the courts in a smarter and more efficient way. On the basis of their experience the consultants come up with proposals on how to enhance the efficiency of for example the administrative procedures with a view to reducing the processing time.

Since September 2009 the handling of land registration has been centralized in the Land Registration Court, and at the same time the land registration has been fully digitalized. Citizens and professional users today use the homepage www.tinglysning.dk for registration of their documents.

However, some of the major players have developed a system-to-system integration to the digital Land Registration. The solution is based on digital signature, Java and SOA (service oriented architectures).

With Digital Land Registration the most common cases are treated completely automatic. Every day more than 3.000 cases – equivalent more than 60 percent – are registered in just a few minutes. The rest (the more complicated cases) are treated manually by the Land Registration Court.

Modernization of case handling systems

The present IT-platform supporting the Courts Case handling is based on obsolete technology and The Danish Court Administration is in a process on updating and modernization of the digital case handling system with the aim to support all types of cases. The new system will be based on SOA and standard.net technology. It is the aim to implement a secure web-portal, where the different participants in a case can gain access to all relevant documents and proceedings.

The use of videoconferences in cases

The law for the use of videoconferences in criminal cases and others was set into force in November 2009.

Presently videoconference systems have been installed in 6 city-courts, one police district and 4 prisons. It is the plan to expand the implementation to all 24 city-courts, all 12 police districts and to 38 prisons.

The Videoconference systems are mainly used in criminal cases for witnesses located in other geographical areas and where an extension of the remand period has to be decided.

Digital Data Delivery Note in Criminal Cases

Since 2009 it has been possible for the city courts to receive some documents from the prosecutor's office relating to criminal cases through the use of Digital Delivery Note based on an ordinary XML-file and secure e-mail. The complete file is still forwarded on paper, but a project for fully digitalization of criminal cases is under preparation in cooperation with the prosecutor's office.

Digital Access to information in registries associated to other authorities and to lawyers

The city courts have access to The Central Registry for Personal Records containing information on all citizens in Denmark and to the digital tax files of deceased persons.

In cooperation with Danish lawyers the city courts have access to the lawyers central database containing information on all lawyers addresses, telephone numbers etc. The updated information is automatically transferred daily to the courts case handling systems.

- 4.4. Do you try to limit processing time by giving secretary or juridical assistance to individual judges?

It is for the president of each court to decide about the organization of the work in the court, but in a number of courts each judge has his or her own secretary. In other courts judges and secretaries work in teams consisting of a number of judges and secretaries.

- 4.5. Do you try to improve court proceedings or increase the capacity of courts by any scientific, experimental or technical project?

The district courts use a case management system. Monthly figures from the main statistics are worked out and the figures inserted in a so-called Starter Package that is a system to see the development in case flows, case processing time and the development in pending cases.

Furthermore, the Danish Court Administration in cooperation with the courts work out a yearly account statement for each district court where case flows, pending cases, processing time and productivity for the court as such, for each major case category, for juridical staff and for office workers are worked out.

The courts may also use a case management system where new cases are distributed to judges according to a point system so the work load is distributed evenly among the judges.

5. Other initiatives

- 5.1 Have other initiatives concerning timeliness been undertaken or are they contemplated?

No, the above mentioned should cover the most important initiatives.