



A Closer Look at the Courts of Denmark



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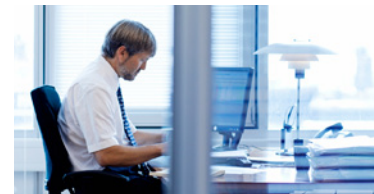
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At Work in Court



The Three Court Instances

The district courts, the high courts and the Supreme Court represent the three basic levels of the Danish legal system. The three instances guarantees thorough case processing.

The Danish legal system is based on the two-tier system which ensures that the rulings of one court can be appealed to a higher instance. Such higher instance may either confirm (uphold) or reverse the ruling from the lower instance. Most cases begin at the district courts level with the possibility of appeal to the high courts. If a case has been heard initially at district court, it may in special cases even be brought before a third instance, the Supreme Court.

In 2009, the district courts completed more than 740,000 cases. The high courts completed approx. 13,100 cases, and the Supreme Court approx. 350 cases.

The district courts

Court cases in Denmark can be of two types: Civil cases and criminal cases. Criminal cases are cases which are investigated by the Police and then prosecuted before the courts. Civil cases are cases where one party wants the court's help in pursuing a claim against another party.

All cases in Denmark start in one of the 24 district courts. Under certain circumstances, the district court may refer a civil case to high court. For example if the case is concerned with principles of general interest.

The Bailiff's courts and probate courts are departments of the district courts. Bailiff's court helps enforce claims. It may, e.g., be a claim for payment according to a ruling or an instrument of debt. Bailiff's court also convenes compulsory sale of real estate.

The probate court handles the administration of estates where the assets of the deceased are to be transferred to the heirs or the creditors of the deceased. The probate court also handles administration of insolvency cases. It may for instance be a bankruptcy estate.



The high courts

In most cases, the district court ruling can be appealed to one of the two high courts of Denmark: Western High Court in Viborg which processes cases from Jutland, or Eastern High Court in Copenhagen which processes cases from the rest of the country. The high courts are the instances of appeal for the rulings of the district courts.

The Supreme Court

The last instance is the Supreme Court which is the highest instance in the legal system. The Supreme Court is located in Copenhagen, and it is a court of appeals processing rulings passed by the high courts and the specialised court, the Maritime and Commercial Court (see the chapter Other instances). If a case has begun in high court or the Maritime and Commercial Court, it may be appealed to the Supreme Court. But if a case has begun in district court, the Appeals Permission Board has to grant permission for the case to be brought before a third instance.

Being the highest instance, the Supreme Court is, through its rulings, mainly to determine the guidelines of how the district courts and high courts are in future to process similar cases. Accordingly, the Supreme Court is responsible for the judicial development by creating clarity as to how to interpret the law.



From District Court to Supreme Court

The Supreme Court



The Supreme Court unanimously stated that a penalty of 12 years' imprisonment should be the starting point in cases of murder of spouse or cohabitant. Accordingly, the Supreme Court upheld the ruling of the High Court and sentenced the defendant to 12 years' imprisonment. The ruling will set the guidelines for the determination of penalty in future cases of cohabitation-related murder.

The High Court



The case was appealed and processed in Western High Court which found the defendant guilty and increased the penalty to 12 years' imprisonment. The length of the penalty was appealed to the Supreme Court which made it a test case for a general opinion on the normal penalty for cohabitation-related murder.

The District Court



Determination of the penalty for an offence may become a matter of principle. In this case the Supreme Court ruled on the normal penalty for murder of a spouse/cohabitant. In district court, the defendant was found guilty of murdering his cohabiting partner as well as for arson in connection with the murder. The normal penalty for murder of a spouse/cohabitant was 10 years, which was lower than the general penalty for murder. Due to the especially serious circumstances of the crime, the penalty in this case was determined to be 11 years' imprisonment.

The example is taken from a ruling given by the Supreme Court on 5 October 2009.

Other Courts and Institutions

Apart from the district courts, the high courts and the Supreme Court, Courts of Denmark consists of a number of other units, each with a special function in the legal system.

The Maritime and Commercial Court

The Maritime and Commercial Court is a special court which only processes select types of cases. The court is divided into two case-processing departments: The court department and the administration of estate department. The court department processes at the first instance, e.g., international commercial cases, competition cases and cases about patents, design and trademarks. The department for administration of estate processes all cases from the Greater Copenhagen Area on bankruptcy, suspension of payments, compulsory liquidation, debt restructuring and compulsory winding up of public and private companies.

The Land Registration Court

As of 8 September 2009, all land registration is handled by the Land Registration Court in Hobro. Registration of real estate is performed digit-

ally from there, as well as rights in the Cooperative Apartments and Personal Registers are also registered by the Land Registration Court.

The Court of the Faroe Islands

The Court of the Faroe Islands is located in Tórshavn. The judicial district consists of all the Faroe Islands. The Court of the Faroe Islands processes the same cases as the district courts of Denmark. However, there are a number of differences in the rules applicable on the Faroe Islands. Rulings made by the Court on the Faroe Islands may be appealed to the Eastern High Court.

The Courts of Greenland

Since 1 January 2010, the Courts of Greenland consists of 18 judicial districts, the Court of Greenland and the High Court of Greenland. The Court of Greenland was established in connection with a large reform of the Greenlandic legal system. The Court of Greenland processes legally complicated cases and handles the education of district judges. The district judges are not lawyers but lay judges with special education. The judge in the Court of Greenland and the High Court judge of Greenland are lawyers. Rulings issued by the High Court of Greenland may, with the permission of the Appeals Permission Board, be brought before the Supreme Court.



The Appeals Permission Board

The Appeals Permission Board processes applications for permission to bring cases before the Supreme Court even though they have already been processed at two instances. The Appeals Permission Board also processes cases about permission to appeal the few types of cases which are normally only processed at one instance. Finally, the Appeals Permission Board processes complaints about the Civil Affairs Agency's rejections of free legal aid.

The Special Court of Revision and Indictment

The Special Court of Revision and Indictment rules in disciplinary cases relating to judges and other legal staff employed at Courts of Denmark. In addition to this, this court processes cases related to the reopening of criminal cases and exclusion of defence counsel from criminal cases.

The External Activity Review Board

The External Activity Review Board handles a number of assignments relating to the non-judicial activities of judges. Among other things, the Board processes applications from judges about permission to assume profit-earning external activities. The Board has sanctioning powers towards judges not observing the rules on external activities of judges.

The Judicial Appointments Council

The Judicial Appointments Council submits recommendations to the Minister of Justice about appointment of all judge positions except for the position as president of the Supreme Court. This independent Council only recommends one candidate for a vacant position. The recommendations are to be reasoned, and any disagreement is to appear from the recommendation. The recommendation has so far always been complied with by the Minister of Justice.


The Danish Court Administration

The Danish Court Administration was established as an independent government institution on 1 July 1999 and is responsible for managing and developing Courts of Denmark. The Danish Court Administration is managed by a Board of Directors and a Director. The Board has been composed in such manner as to strengthen the independence of the courts. The Board of Directors passes material resolutions in relation to the administration of the courts, such as the Administration's budget and allocation of resources among courts. The Administration is formally an agency under the Ministry of Justice, but the Minister of Justice has no power of instruction in relation to the Administration and cannot change the rulings of the Administration. In terms of budget allocation, the Court Administration and the courts form part of the Ministry of Justice.





DENMARK IS DIVIDED INTO
24 JUDICIAL DISTRICTS.



"BEING A DISTRICT COURT JUDGE, YOU ENCOUNTER PEOPLE FROM ALL PARTS OF SOCIETY. MANY PEOPLE DO NOT KNOW THE LEGAL SYSTEM BEFOREHAND, AND TO THEM, THE PROCESS MAY SEEM STRANGE."

DISTRICT COURT JUDGE BIRGITTE GRØNBORG JUUL

Many Conflicts, Many Types of Cases

Every day the courts rule in numerous different conflicts from civil and criminal cases over cases on administration of estate and enforcement to compulsory sale. When a case is brought to court, it may be dealt with in different ways, depending on the circumstances of the case.

Civil cases

A civil case can be filed in district court to settle a dispute with another party. If a car owner is dissatisfied with a repair job and therefore is unwilling to pay the bill. The work shop is then able to take out a summons against the car owner with a claim for payment of the bill. During the trial, the car owner will be able to have the repair job assessed by an expert. After this, the court will rule as to whether the bill is to be paid in full or partially. Civil cases between two private parties, may also relate

to defects on real property, employment, insurance, about divorce or custody of children.

Civil cases may also be filed by a private individual against a public authority. For example a citizen who is dissatisfied with the tax assessed for him or a person complaining about not having been granted a disability pension.

The parties to the case may be private individuals or businesses. Associations, estates of deceased and bankruptcy estates as well as public authorities may also be parties to civil cases.

Criminal cases

If you had a burglary in your house, you can report the case to the Police who will investigate the case. If the Police find adequate evidence to bring charges against a suspect, the case may be brought to court as a criminal case by the prosecution service. Accordingly, criminal cases are cases which have been investigated by the Police and by which the court is to decide whether a person can be found guilty and punished for an offence. The cases vary from bicycle theft to financial fraud and homicide.



During the investigation, the Police may – given the court’s permission – take different measures against the suspects, for instance phone tapping, seizure or search. When the Police believe to have sufficient evidence against a named person, the public prosecutor may bring charges in court.

Bailiff’s cases

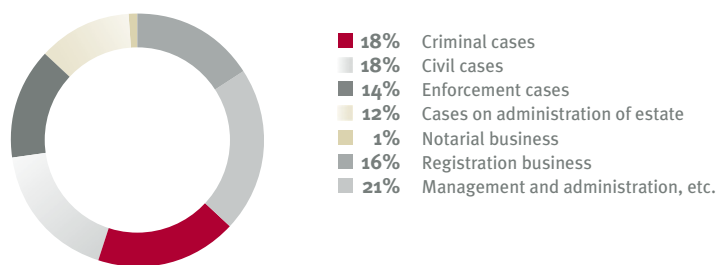
If a person or business has debt and does not pay, you may, as creditor, bring the case before the Bailiff’s court. However, this requires that the claim for payment has been determined, for instance by a ruling, a mortgage deed or an instrument of debt. After this, the Bailiff’s court is able to assist the creditor in collecting the claim from the debtor by seizing or repossessing some of the debtor’s assets and perhaps selling them in compulsory sale. This could be that the Bailiff’s court levies execution in the debtor’s car which is subsequently sold at an auction in order for the creditor to receive his or her money.

Enforcement cases may also concern eviction of tenants from his or her house, if for example the rent has not been paid.

“One day, the case is about a man having murdered another person, the next day it’s about a woman who has been discharged from her job.”

*District court judge, Birgitte Grønberg Juul,
about the many different cases you process as district court judge*

FIGURE 1
ALLOCATION OF FULL-TIME EQUIVALENTS IN 2009
DISTRICT COURTS



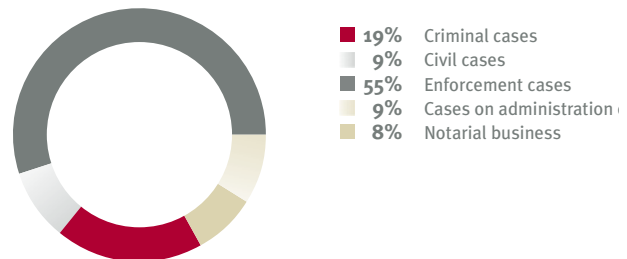
THE ABOVE FIGURE SHOWS HOW MUCH TIME THE DISTRICT COURTS ANNUALLY SPEND ON DIFFERENT TYPES OF CASES. MEASURED AS FULL-TIME EQUIVALENTS WHICH CORRESPOND TO A YEAR’S WORK FOR A FULL-TIME EMPLOYEE. IN 2009, THE EQUIVALENT OF APPROX. 2,000 FULL-TIME EQUIVALENTS WAS SPENT IN THE DISTRICT COURTS.



Cases on administration of estate

When a person dies, the probate court determines the matters of inheritance and decides how to administer the estate. The probate court also processes cases on bankruptcy, compulsory winding up of companies, placing firms in receivership and division of joint estate on separation or divorce.

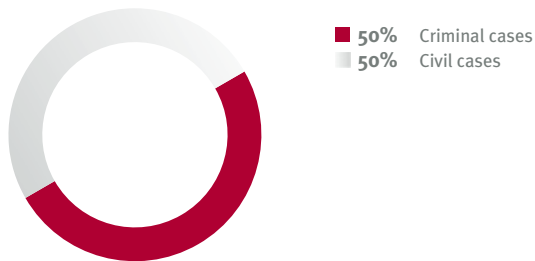
FIGURE 2
CLOSED CASES 2009
DISTRICT COURTS



Registration

Registration is an act of publicly registering rights, etc. Relating to purchase and sale of real estate, it relates to, for instance, registration of the ownership or of mortgage obligations. When you buy a house, the deed of transfer is registered, and you are listed in the Register as the person entitled to having the house at your disposal. When you take out a loan mortgaged in your house, registration is performed to secure the rights of the lender. If you have taken out loans from several lenders, registration ensures that their claims are not in conflict with each other.

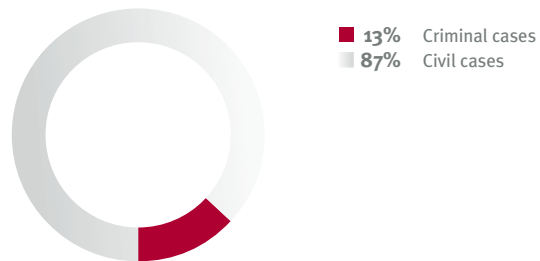
FIGURE 3
CLOSED CASES 2009
HIGH COURTS



Notary public

Most of the work of the notary public relates to signing of wills. The purpose is for the notary to confirm the identity of the person signing the will. The notary also guarantees that the person signing the will understands the meaning of making a will. Other notarial business may relate to the notary confirming the identity and powers of a person signing a certain document, for instance, in connection with enterprises entering into contracts with companies abroad.

FIGURE 4
CLOSED CASES 2009
THE SUPREME COURT



The Independent Power of State

Being the judicial power, the independence of the courts is a basic feature of the Danish society. In Denmark, the administration of the courts is performed by an independent agency under the overall organisation called Courts of Denmark.

Since the adaptation of the Danish Constitution in 1849, the decision-making power in Denmark has been segregated into the legislative, the executive and the judicial powers. The principle of three-way-power-separation helps ensuring the democratic society.

Being the judicial power, the courts are responsible, among other things, for controlling the legislative and the executive powers. Accordingly, the courts are able to declare laws passed by the Danish parliament unconstitutional or a decision made by an authority – e.g.

a ministry – invalid. Among other things, this means that neither the legislative power, the Danish parliament, nor the executive power, the government, may interfere with the courts' decisions in actual cases.

Strengthened independence

A fundamental principle in Danish society is thereby the courts' independence from the other powers of the state. This independence from the executive power, has been strengthened over time. A large step in this direction was taken in 1999, when the Judicial Appointments Council was created, and the Danish Court Administration, the administrative agency of the courts, became an independent agency. Being an independent state institution under the Ministry of Justice, the agency may pass resolutions within its field of activity independently of government and parliament.

Under international influence

Denmark's participation in international cooperation means that legislation, for instance, from the EU also applies in Denmark. The courts adhere to the European Convention on Human Rights and other international conventions in their work.

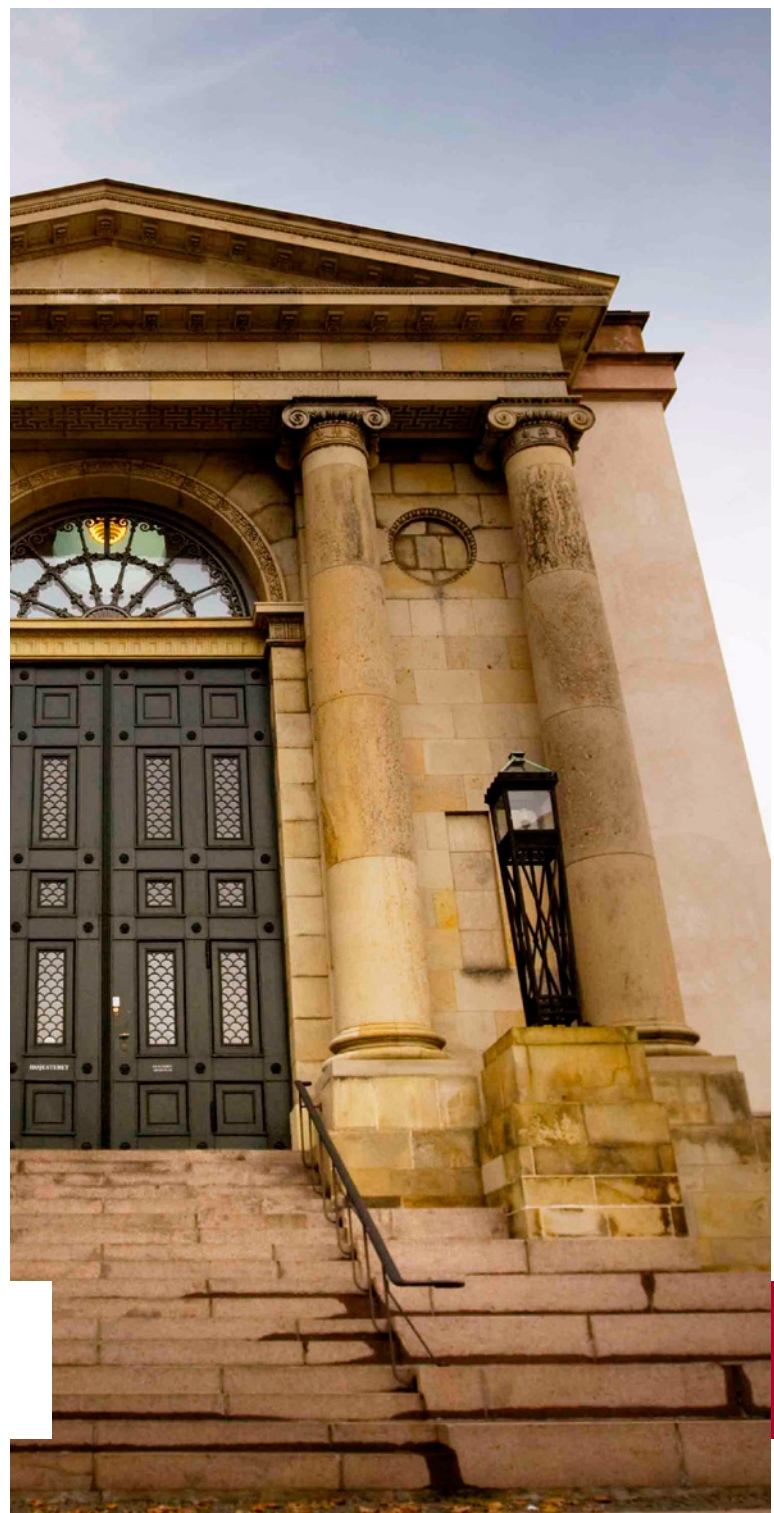


The international influence is also effected through the courts' involvement in international commissions and networks. The Danish Court Administration participates in the European Committee, CEPEJ, which examines efficiency across Europe. In a survey from 2008, CEPEJ determined that the Danish legal system is among the least expensive systems in Europe, calculated by the state's annual per capita budget allocation to the courts. The same survey showed that the Danish legal system has fewer judges per citizen than comparative countries such as Norway and Sweden.

The Danish Court Administration is also part of the European network for Courts Administrations, ENCJ. The purpose of the network is to strengthen the cooperation across European, independent courts administrations. For instance, through exchange of experience in the organisation of the courts and the independence of the courts. The network also works on areas such as quality and transparency.

”The courts have a very special position, and accordingly, the best comparative basis is outside the national borders in the legal systems of other countries.”

Director of the Danish Court Administration Adam Wolf



”EU rules, practice at the European Court of Justice and the human rights mean that, as a judge, it is increasingly challenging to pass rulings that respect Denmark’s international obligations.”

High Court Judge Jon Kjølbro

FIGURE 5
ANNUAL BUDGET ALLOCATED TO THE COURTS ALLOCATED BY INHABITANT STATED IN EURO – 2006 FIGURES

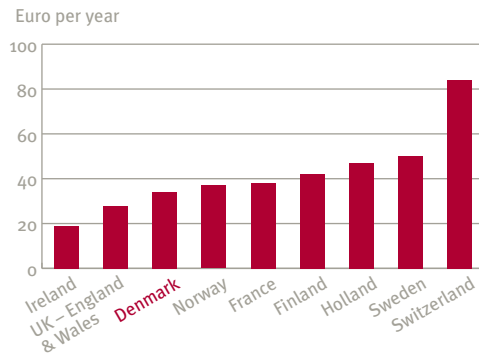
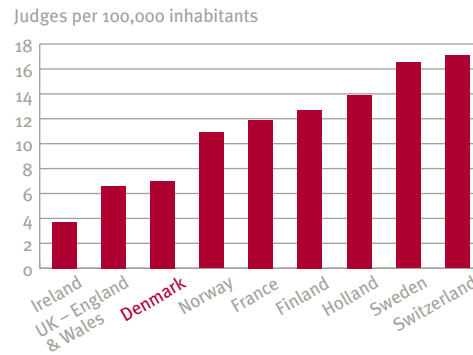


FIGURE 6
NUMBER OF JUDGES PER 100,000 INHABITANTS – 2006 FIGURES



THE FIGURES SHOW DENMARK’S POSITION IN RELATION TO OTHER EUROPEAN COUNTRIES MEASURED BY BUDGET AND NUMBER OF JUDGES. THE FIGURES ARE TAKEN FROM A REPORT BY CEPEJ UNDER THE COUNCIL OF EUROPE FROM 2008.





Accessible Conflict Resolution

Courts of Denmark is the primary forum for conflict resolution. But in order to maintain a well-functioning legal system, the citizens must have confidence in the courts.

A survey performed by YouGov Zapera for the Danish periodical Mandag Morgen in 2009 showed that the courts is the public institution in which the citizens have most confidence. At a global level, a survey from Transparency International performed in 2009 showed that the Danish population has less fear of corruption at the courts than any other population in the world. Being the judicial power, Courts of Denmark is

the primary forum for conflict resolution in society. But the courts must maintain the people's confidence if the legal system is to work.

Intelligible case processing

Confidence goes hand in hand with openness and availability. If the citizens are to have confidence in the legal system being well-functioning, the courts must be accessible to them. Accessibility and openness mean that the processes performed in court are understandable and that rulings are written in an easily understandable language.

The perspective of the average citizen is being taken into the courts' decisions through the lay judges, who act as lay assessors and jurors in some criminal cases.



Accessibility means that, as a citizen, you can have your case processed in court irrespective of the nature of the case and how high its value is.

In order to maintain confidence in the courts, it is important for the Courts of Denmark to follow the developments in society and be able to offer a number of up-to-date means for resolving conflicts in society. The demands made by the people of their legal system change, and as the law is constantly adapted, the Courts of Denmark must also adapt to such changes. For example the courts are developing new technological solutions that make it possible to handle cases electronically in court or by adapting the people's possibilities of approaching the courts.



Easier access to the courts

On 1 January 2008, a number of changes were made to the law which made it easier for the people to have their case processed in court. The changes among other things include:

- The small claims procedure which is a simplified way of processing cases involving claims for less than DKK 50,000. Reduced costs and extensive and detailed guidelines for the parties to the case have made it easier to have cases for small claims processed in court.
- Class actions which enable a group of plaintiffs to file suit together. When several plaintiffs have uniform claims, they are now able to share the expenses and trouble of having to file the lawsuit individually.
- Mediation which is an alternative to a traditional adversarial lawsuit. Here, the law steps back from the dialogue between the parties, and the idea is for the parties to find a solution themselves to their conflict with the help of a mediator who is either a judge or a lawyer. The rules on mediation came into effect on 1 April 2008.





VISION & VALUES

Vision

- Courts of Denmark is a highly respected organization, which inspires confidence and executes its objectives with the highest level of quality, service and efficiency.
- Courts of Denmark secures the rule of law and is the contemporary and primary venue for dispute resolution.

Values

- The right of the individual to a respectful treatment.
- Independence of the judiciary.
- Responsibility and reliability in all respects
- Openness, dialogue and cooperation.



Confidence and Reliability in Focus

Apart from the framework provided by law for the work of the courts, Courts of Denmark has a vision and a set of values stating how the courts' special role in society is to be handled in the day-to-day operations.

Even though the more than 1,000 sections of the Administration of Justice Act to a great extent determine how cases are to be processed in court, the law is less specific about how the Courts of Denmark is to develop as an organisation, and only to a limited degree states anything about how the courts are to serve the people. In broad cooperation, the employees and Management have now worded a vision and a set of values for the Courts of Denmark.



RESPECTFUL TREATMENT

“Working as a judge makes demands of your communicative skills, because people should understand what is going on and leave court with a feeling of having been heard and taken seriously – also if their claims have not found favour.”

District court judge Birgitte Grønberg Juul

PROFESSIONAL CREDIBILITY

“On the one hand, it is important to have understanding and empathy and on the other hand to have the authority and competence necessary to manage and carry out the cases in an efficient and appropriate manner.”

High Court Judge Jon Kjølbro



AT WORK IN COURT

JON FRIDRIK KJØLBRO, HIGH COURT JUDGE,
EASTERN HIGH COURT

”Professional
knowledge and
practical insight
– go hand
in hand”



What is the most important personal feature of your work?

High professional standards are necessary, but high professional standards are not sufficient. My work relates to people’s everyday lives and some very practical situations. The two things – professional knowledge and practical insight – go hand in hand. It is not enough to only have theoretic competences; you must also have experience with people and possess the ability to show empathy with the parties’ situations.

What do you consider the greatest challenges in your work?

A great challenge is to keep trying to improve myself. That is, to keep improving professionally and personally so that my approach to the cases never becomes a matter of routine. Being a judge, I must signal that I am attentive, listening and competent. When the parties have their case processed in the high court, they must have an experience of having received careful, pleasant and not least fair treatment where they have been listened to and their arguments have been considered.

NEEL MIKKELSEN, SENIOR ASSISTANT,
DISTRICT COURT OF COPENHAGEN, SECTION 3

”It is good
to be helpful and
full of initiative”



What is the most important personal feature of your work?

There is a lot of dialogue back and forth between judges and lawyers, so it is important to be open, kind and cooperating. It is also good to be helpful and full of initiative. If, for instance, I need help from my colleagues for a case which I do not have time to finish, it is a big help that my colleagues are always open and ready to answer questions.

What do you consider the greatest challenges in your work?

It can be frustrating when you feel you do not live up to your best. For instance, on the days when there are loads and piles of work on my desk. It can be a big puzzle to schedule a case because you cannot get a hold of the public prosecution service or the defence council.

Courts of Denmark employ lawyers and approx. 1,850 clerks. We also have IT assistants, economists and other employees at the courts.

In Contact with Changes

New technology and more efficient case processing are among the future development goals of the courts. These goals are to be reached while maintaining an accessible and open legal system.

As society changes, Courts of Denmark must also be ready to develop and change. The demands citizens make of the legal system are not necessarily the same tomorrow as they were yesterday.

Digital progress

In order to maintain accessibility of the courts in an electronic age, Courts of Denmark must be open to new technological possibilities. Digitalisation of case processing is to facilitate the citizens' access to information and make the case processing shorter and more efficient.

Accordingly, Courts of Denmark has set up a number of future scenarios of what case processing look like in 2012. One of the scenarios is that criminal cases will be digitalised so that the parties to a case are able, among other things, to follow the status of the case directly from the case's own website. The citizens save time as well as money by enabling the submission of case documents electronically or letting witnesses participate in a trial by video link. Hearing witnesses and suspects in custody is to a certain extent already performed by video link between, for instance, the prison and the court.

Digital land registration which is already a reality is an example of electronic case processing by which citizens and professionals are able to perform registration at all times of the day and where the state as well as the user will save time and money over time.



Shorter case processing

After the court reform in 2007, Courts of Denmark has a new structure which has strengthened management of the courts and has resulted in increased efficiency. The new, modern district courts with their increased capacity are a good basis for creating shorter case processing times and maintaining the productivity improvement created in the wake of the court reform.

The larger district courts also create a basis for an improved professional development and a higher degree of knowledge-sharing for the employees of the courts. For Courts of Denmark, there is a great assignment in utilising these possibilities so that they benefit the citizens to an even higher degree by way of increased quality and service in the case processing.

Jury cases as well as heavier civil cases are now processed in district court. I am convinced that the increased professional challenges lead to a lift, also in the district courts' processing of other cases.”

District court judge Birgitte Grønborg Juul





FACTS ABOUT COURTS OF DENMARK

Courts of Denmark consist of:

- 24 district courts
- 2 high courts
- The Supreme Court
- Two specialised courts: The Maritime and Commercial Court and the Land Registration Court
- The Court of the Faroe Islands, the Court of Greenland and the High Court of Greenland
- The Appeals Permission Board, The Special Court of Revision and Indictment, External Activity Review Board, the Judicial Appointments Council and the Danish Court Administration

Number of judges:

- Approx. 380

Total number of employees:

- Approx. 2,500

The Danish Court Administration

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