



# A Closer Look at the Courts of Denmark

Danmarks Domstole

# Facts about the Courts of Denmark

### The Courts of Denmark

The Courts of Denmark consist of the Supreme Court, two high courts, 24 district courts, and two specialised courts: The Maritime and Commercial High Court and the Land Registration Court.

In addition, the Courts of Denmark include the Court of the Faroe Islands, the Courts of Greenland, the Appeals Permission Board, the Special Court of Indictment and Revision, the External Activity Review Board, the Judicial Appointments Council, and the Danish Court Administration.

### Employees

The Courts of Denmark employ approx. 2,400 employees, including approx. 380 judges. All courts have a President, but the number of judges may vary from court to court, depending on the size of the district and the district population.

The courts do not only employ judges. They also employ administrative officers and jurists who prepare and process cases, plan hearings, answer questions from citizens, perform the function of court registrars and manage many other tasks as well. Moreover, the courts employ court security officers who oversee security and service.

### Budget

The Danish Parliament (Folketing) determines the annual budget for the Courts of Denmark. For 2021 the budget was DKK 2 billion. About one-third of the budget goes to salaries and the remainder to buildings, IT, development, education, and administration.

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## Our vision

The courts work in a contemporary and professional manner for law and justice by making the right decisions at the right time – decisions that are well-founded and easy to understand. Thus, we earn the trust and respect of the population.

## Our values

- Accountability
- Respectful treatment
- Credibility
- Openness and receptiveness

## Our objectives

- Focus on the user
- Short case-processing times
- Consistency
- Quality and efficiency

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# The independent judiciary

Since the Danish constitution was adopted in 1849, the decision-making power in Denmark has been divided into three branches. The principle of the separation of powers and the independence of the courts of law help ensure democracy and the rule of law.

The Danish Parliament (Folketing) has the legislative power. It enacts laws and decides on the range of punishment. The Government has the executive power and ensures that the law is enforced in cooperation with the public administration. The courts of law have the judicial power and interpret the law in individual cases.

## **Within the framework of the law**

The independence of the courts of law means that the judges must not be influenced by political or other irrelevant interests when passing judgment. To prevent the Danish Parliament (Folketing), the Government, or others from dictating or influencing the decisions made by a judge, the Danish constitution protects the judges from being fired or transferred to a different job. The judges are to follow the law exclusively and adjudicate within the framework of the law. If the Government and Folketing want to make sentences more lenient or stricter, this requires a change of law by the Folketing. Not until then do judges change their legal practice, i.e. the way in which they adjudicate individual cases.

One of the tasks of the courts is to ensure that the other branches of the state comply with the law. The courts must ensure that the legislation is in accordance with the constitution and the international law which Denmark has undertaken to observe. The courts may thus declare an act enacted by the Folketing invalid if it is contrary to the constitution or the EU legislation. The courts may also conclude that a decision made by a public authority, e.g. a Ministry, is invalid.

## **Due process of law and equality before the law**

Due process of law concerns the personal and political rights you have as a citizen. These rights are described in the law, and the responsibility of the courts is to protect each citizen from any abuse of power by the authorities. If you believe that an authority has acted contrary to the law, you can bring the matter before a court of law which will then decide in the matter. Due process of law also implies that there is equality before the law. That means that how you are treated by the authorities or judged in a court of law is not arbitrary. Cases which are identical must also be processed and decided in the same way. Therefore, a judge will always take legal practice into account, i.e. how similar cases have been adjudicated previously, before passing judgment.

The law also contains rules on how the courts of law should handle different types of cases as well as rules on how citizens can complain about a decision and appeal their case to a higher instance if they believe that the court has made the wrong decision. That means that a case decided at district court level can be appealed to the high court if you believe that the district court has made the wrong decision. In special cases, the Appeals Permission Board can give permission to bring the case before the Supreme Court, the highest instance in Denmark.



# The Danish legal system

The district courts, the high courts, and the Supreme Court represent the three basic levels of the Danish legal system. However, the Courts of Denmark also consist of other institutions with special functions.

The Danish legal system is based on the so-called two-tier principle, meaning that the parties of a case generally have the opportunity to appeal the ruling of one court to a higher instance. The higher instance can either come to the same conclusion (uphold the ruling) or change the ruling.

Most cases begin at district court level, with the option of appealing to one of the high courts. Under certain circumstances, a case may also be brought before the third and highest instance: The Supreme Court.

## The district courts

There are 24 jurisdictions in Denmark, each having its own district court.

Generally, court cases can be divided into civil cases and criminal cases. Criminal cases are cases which have been investigated by the police, and in which the court must decide whether a person is guilty and should be punished for committing an offence. Civil cases are cases in which one party wants the court's help in pursuing a claim against another party or an authority, e.g. a local authority.

The enforcement courts and the probate courts, the housing court, and the family law court are divisions of the district courts. The housing court is a special part of the district courts which deals with cases concerning rent of house and space. House and space include flats, villas, holiday homes, garages etc. but not undeveloped areas or agricultural areas. Each jurisdiction also has a family law court division which deals with family and divorce cases. In addition, all jurisdictions have a notary public which can confirm signatures on important documents or confirm that a copy is identical to the original document. For further information about the types of cases, see the section. "Many types of cases".

## The high courts

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

## The Supreme Court

The highest instance in the Danish legal system is the Supreme Court. The Supreme Court is located in Copenhagen and is a court of appeal dealing with rulings from the high courts and the Maritime and Commercial High Court. Supreme court cases are typically heard by five judges.

As the highest instance in the Danish legal system, the Supreme Court must ensure a unified system of law and contribute to clarification in cases where the state of the law is unclear. Within the statutory framework, the Supreme Court is also responsible for the development of the law. Therefore, the Supreme Court most often handles precedent-setting cases. The Supreme Court never takes a position on guilt or innocence in criminal cases - only on the sentence.

## The Maritime and Commercial High Court

The Maritime and Commercial High Court in Copenhagen is a superior special court that only handles certain types of cases, such as international commercial cases, competition cases, and cases about patents, design, or trademarks. Moreover, the Maritime and Commercial High Court also deals with all cases from the Greater Copenhagen Area relating to bankruptcy, debt restructuring, reconstruction and compulsory winding-up of public and private limited companies. In the rest of the country, such cases are handled by the probate divisions of the district courts.

## Greenland and the Faroe Islands

The Courts of Greenland consist of four district courts, the Court of Greenland, and the High Court of Greenland.

Cases are decided in one of the four district courts or in the Court of Greenland, depending on the type of case. Cases can be appealed to the High Court of Greenland. Rulings made by the High Court of Greenland may be brought before the Supreme Court subject to the permission of the Appeals Permission Board.

The Court of the Faroe Islands is located in Tórshavn. The Court of the Faroe Islands hears the same types of cases as the district courts in Denmark. Rulings made by the Court of the Faroe Islands can be appealed to the Eastern High Court.

## The Land Registration Court

The Land Registration Court is located in Hobro, but in practice the majority of all registrations of property is digital. Registration of property involves the registration of rights to real property and other assets. Such rights include rights to an owner-occupied home or a charge, e.g. in a car or in the assets of a company. The majority of all property registration cases are processed automatically in less than five seconds whereas the rest of the cases, typically more complicated cases, are processed manually in the Land Registration Court.

## The Appeals Permission Board

The Appeals Permission Board processes applications for permission to bring cases before the Supreme Court, a so-called third instance permission. The Board also processes applications for permission to appeal cases that are

normally only heard in one instance, as well as complaints about rejections of applications for free legal aid.

## The Special Court of Indictment and Revision

The Special Court of Indictment and Revision processes requests for a new trial in criminal cases. This court also handles dismissal cases and disciplinary cases relating to judges and other jurists employed by the courts. Furthermore, it processes cases in which the defence counsel has been excluded from a criminal case.

## The External Activity Review Board

Any judge must apply to the External Activity Review Board for permission to take a secondary job with a fixed income, e.g. as chairman of a council or a committee.

## The Judicial Appointments Council

The Judicial Appointments Council is an independent council that handles applications for vacancies as judges. The only exception is the President of the Supreme Court who is appointed by the Court's own judges.

## The Danish Court Administration

The Danish Court Administration is in charge of administering and developing the Courts of Denmark. The Administration is led by a board of directors and a managing director. Departmentally, the Administration is an agency of the Ministry of Justice, but it is politically independent. That means that the Minister of Justice cannot control the Administration or change any decisions made by the Administration.

# Openness and transparency

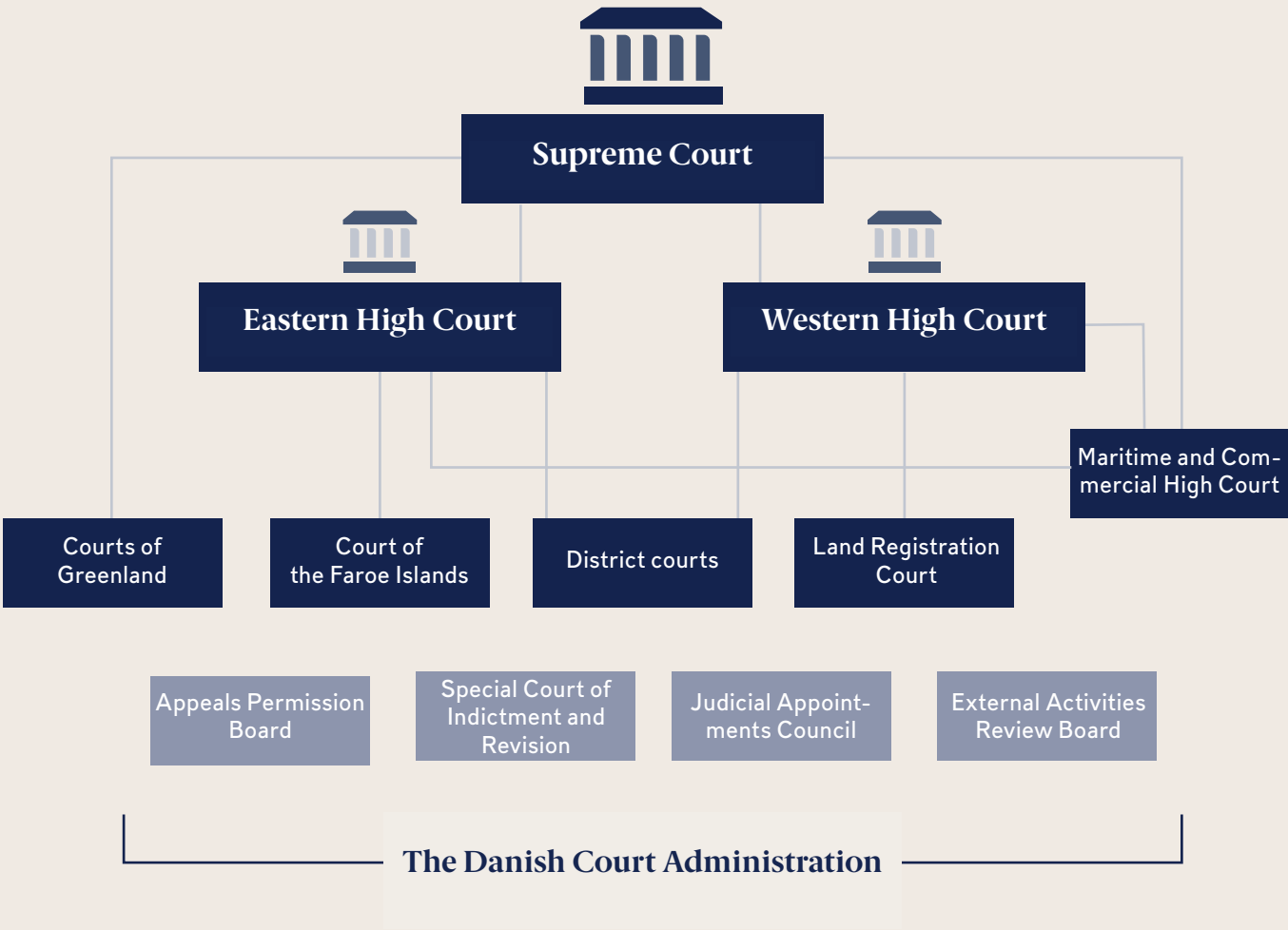
According to the Danish constitution, the administration of justice must be public to the greatest possible extent. That means that the work and rulings made by the courts must be open and public so that citizens, the media, and the rest of society can observe them with a critical eye.

Additionally, openness is paramount if the citizens are to have confidence in the legal system. If the decisions made by the courts were shrouded in secrecy, it could lead to mistrust and scepticism in the publication and thus reduce the confidence in law and justice. The Courts of Denmark are committed to

follow the principles in terms of openness and transparency. Generally, all court hearings are open to the public, and everyone can request access to judgments and orders. Moreover, all courts prepare lists where citizens and journalists can find details about the court cases of the following week.



# The Courts of Denmark – Organisational chart

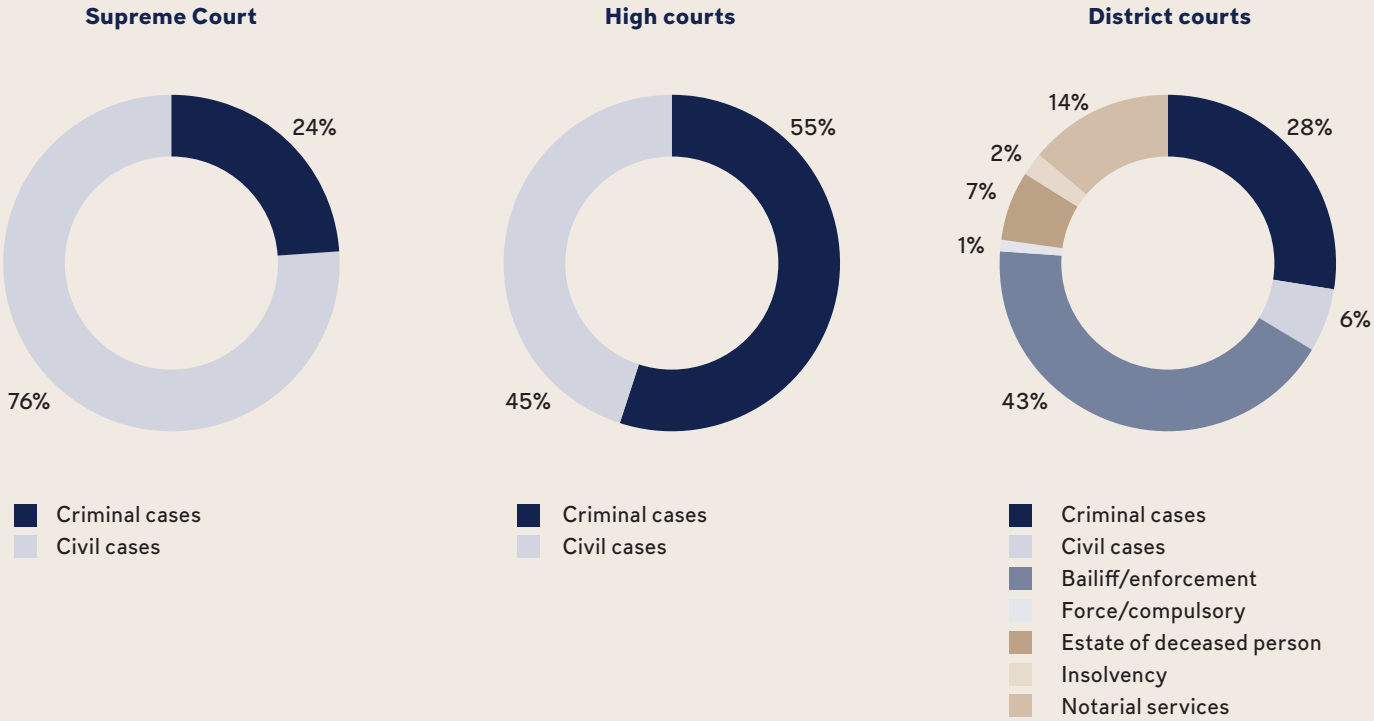






# Number of cases processed by the courts

Between 2018 and 2020 the Courts of Denmark handled approx. 800,000 cases on average per year. Most cases are settled in the district court. The current statistics is available on this <http://www.domstol.dk/om-os/tal-og-fakta> where you also find half-year statistics and annual reports for the Courts of Denmark.



\*In 2020 emergency preparedness was established due to the COVID-19 pandemic





# Many types of cases

Every day the courts rule in a large variety of cases ranging from disputes about unpaid phone bills and child custody to terrorism and gang crime.

## Civil cases

Individuals or companies can bring a civil case before the district courts to settle disputes between them and another party. The party who brings a civil case before the court is referred to as the plaintiff. The party who is being sued is referred to as the defendant. For example, a case may concern a car owner who is not satisfied with a repair job and is thus unwilling to pay the invoice from the garage. The garage (the plaintiff) can take the case to the court, claiming that the car owner (the defendant) must pay the invoice. During the case, either of the parties can have the quality of the repairs assessed by an expert, with the court's acceptance, and the court will then decide whether the car owner must pay the invoice or not. The court may rule that the car owner must pay the entire invoice, part of the invoice, or nothing at all.

Civil cases may also be brought before the court by private individuals against public authorities, e.g. if a public authority has rejected a building permit application.

The parties in civil cases can be private individuals, companies, associations, estates of deceased persons, estates in bankruptcy, or public authorities. The cases may involve almost everything, such as defects relating to financial disputes, purchase of a home, employment matters, neighbourhood conflicts, insurance policies, damages, or child custody. All civil cases are filed and processed digitally on the portal [www.minretssag.dk](http://www.minretssag.dk).

## Criminal cases

Criminal cases are cases which have been investigated by the police and assessed by the prosecutor, and in which the court must decide whether an individual

is guilty and must be punished for committing an offence. The cases concern everything from traffic offences, shoplifting and financial fraud to homicide.

When the police have completed their investigation, and if the prosecutor believes that there is sufficient evidence that the individual has committed the offence, the prosecutor may indict the suspect. At this point in the case, the suspect now becomes 'the accused'. The accused will be summoned to a court hearing, and, in certain - often major - cases, be offered representation by a (court-appointed) defence counsel.

Some cases will be heard by one single judge. Such cases may include traffic offences or cases in which the prosecutor does not request a penalty more severe than a fine. Criminal cases of a more serious nature will involve lay judges or jurors. However, if the person charged pleads guilty, the case will be heard without lay judges.

When the court rules in criminal cases, it will first consider whether the accused is guilty of the charges. Once the question of guilt has been determined, the court will impose a sentence.

## Enforcement cases

In enforcement cases, the enforcement court helps the plaintiff to enforce a claim. If a private individual or a company owes money to someone, the person to whom the money is owed (the creditor) can bring the case before the enforcement court if the other party (the debtor) refuses to pay. Before the case can be heard by the enforcement court, the claim for payment must be established first - either by a judgment or a special document, e.g. a mortgage or a debt instrument signed by the debtor.



The enforcement court can collect money from a debtor by granting the creditor a charge in the debtor's assets or by selling the debtor's car at an auction to pay the creditor. The enforcement court can also evict a tenant from a home if the tenant has failed to pay rent. For further information on the different types of enforcement cases, please see [www.domstol.dk/fogedret](http://www.domstol.dk/fogedret).

## Estate administration cases

When a person dies, the probate court must determine how the estate of the deceased person should be administered and who should inherit. If spouses do not agree on how to divide their assets at a divorce or separation, they may ask the court to administer their joint assets. Estate administration cases may also concern bankruptcy, debt relief, compulsory dissolution of companies, reconstruction, or bankruptcy quarantine.

## Property registration cases

Property registration cases involve registration of rights to real property. When a document is registered, e.g. a deed to a house, the rights are publicly registered in the land charges register. As a result of this registration, the owner now has the legal right of disposal of the house. This registration ensures that you cannot sell a house you do not own.

You can register documents concerning ownership rights, mortgages, or other rights to real property. For example, you can register the hunting rights to a plot of land, a sales contract, or a loan agreement. District plans and other public rights must also be recorded in the land charges register.

Today, all registrations are made electronically on the Danish registration portal [www.tinglysning.dk](http://www.tinglysning.dk). Most cases are processed automatically in less than five seconds.

## Notarial services

A notary public can confirm the identity of a person who signs a will or another document. With its endorsement, the notary public guarantees that the signer understands what it means to make a will. A notary public can also witness and confirm that a certain person has signed a special document, e.g. a manager of a company signing a contract with a foreign company.

## Mediation

Mediation can be a good alternative to typical court cases. In principle, mediation can be used in all types of cases, except from criminal cases. Mediation is a voluntary offer of assistance from a mediator to assist in settling issues between parties to a case. The mediator could be a judge or a lawyer appointed to the task. The purpose of using mediation instead of a typical court case is that the parties find a solution themselves.

All parties will benefit if a dispute can be resolved directly between the parties. In legal proceedings, the court decides which of the parties is right according to the current law. On the other hand, the purpose of mediation is to determine why the parties disagree and to find a solution that will help them move on. Mediation is often less time-consuming than a typical court case.

The mediation will end when the parties have reached a solution or if requested by either of the parties. The mediator may also end the mediation even if both parties want the mediation process to continue. If the parties to the mediation agree on a solution to their dispute, they enter into an agreement. If the parties fail to agree, the case will continue in court until a judgment is delivered in the case.

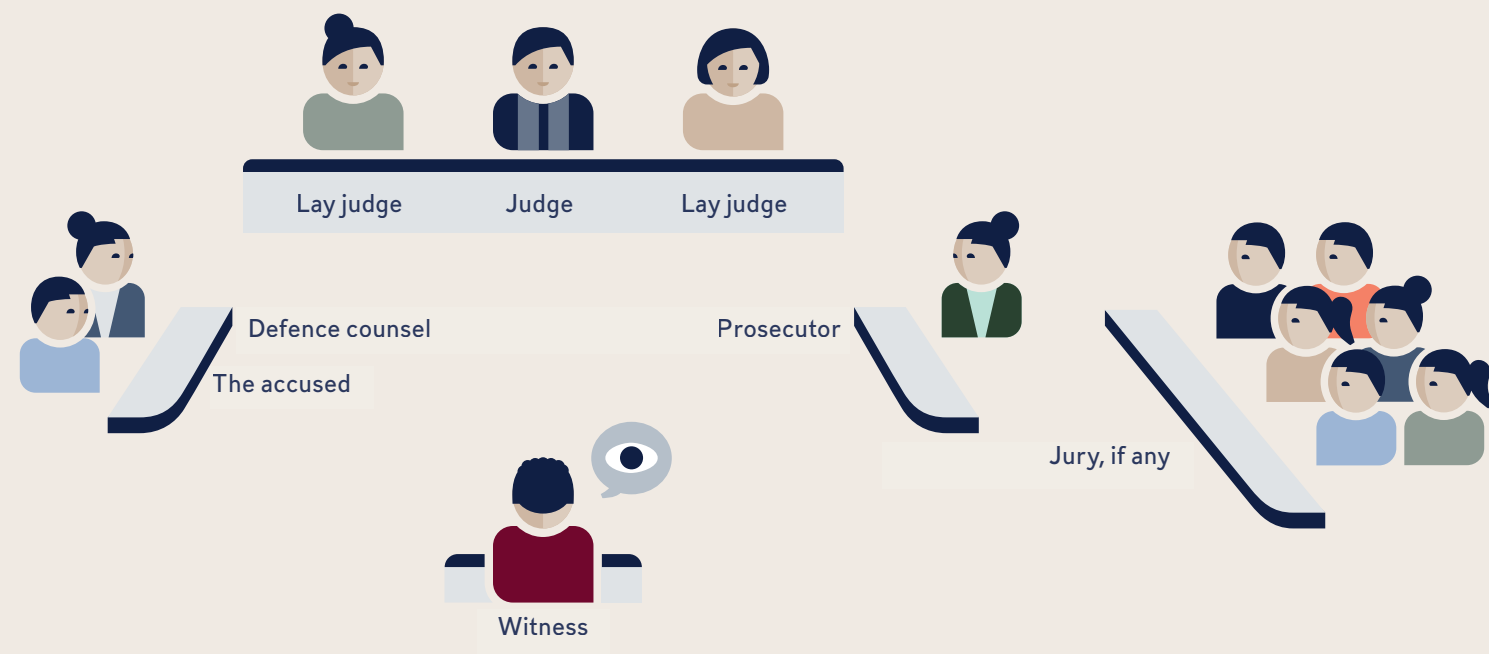
## Family law cases

The processes related to family law cases about parental responsibility, divorce, child support, etc. all start in the Danish Agency of Family Law (formerly the State Administration) before they are brought before the family court, if necessary. If the parents still disagree after the process in the Agency of Family Law, and the Agency of Family Law is unable to settle their dispute, the Agency of Family Law will forward the case to the family court. The Agency of Family Law will also forward the case to the family court if the Agency of Family Law has made a decision of which either of the parents complains. The family court is a division of the local district court.

NB: The latest statistics on the number of different court cases is available on [www.domstol.dk/om-os/tal-og-fakta/](http://www.domstol.dk/om-os/tal-og-fakta/)



# A criminal case before the district court



# Participants in a court case

Several participants are present at a civil and a criminal case. Below you can find further information on the most important participants present at a criminal proceeding.

### Judge

The judge is the head of the court proceedings. It is the judge's responsibility to assess the evidence in the case and to determine whether the accused is guilty of the crime or not. If the accused is found guilty, it is also the judge who determines the sentence. If lay judges and jurors attend the court case, these are involved in the determination of the question of guilt and the sentencing. Each lay judge and the legal judge have a vote. The sentencing will be based on the legal practice, the specific circumstances and within the legal framework applying to the crime in which the accused is found guilty.

District court cases are normally heard by one judge and two lay judges (lay judge cases). However, some cases are heard by three judges and six jurors (jury cases). In the high courts, cases are normally heard by three judges and three lay judges.

### The accused

The accused can be one or more persons who are accused of a crime. The accused will be questioned by the prosecutor and the defence counsel as well. The judge may also ask some clarifying questions. The accused has the right to remain silent and is not obliged to tell the truth either. The accused has the right to be represented by an appointed defence counsel if the prosecutor claims punishment by imprisonment.

### Defence counsel

The defence counsel is a lawyer who represents the accused during the criminal proceedings. It is the defence counsel's responsibility to represent the interests of the accused and to help and counsel the accused during the criminal proceedings.

### Prosecutor

The prosecutor represents the state via the prosecution service. Once the police have completed their investigation of a criminal case, the prosecutor must assess whether the suspect can/must be indicted in the case.

It is the prosecutor's responsibility to prove whether the accused is guilty or not. This is done by questioning witnesses and by submission of evidence. Such evidence may include fingerprints, doctor's notes, photos, video recordings, telecommunications information and DNA.

During the criminal proceedings, the prosecutor must be objective. This means the prosecutor – besides mentioning information which suggests that the accused is guilty – also has to mention information which suggests that the accused is innocent, or that the accused should receive a lenient sentence. It is the prosecutor's duty to ensure that a guilty person is held responsible for the crime, and that an innocent person is not prosecuted.

### Witness

A witness can be a person who has probably seen a criminal act, or who may be able to provide details that are important to the case. The victim of the crime is also a witness in the case. A witness is obliged to meet in court if he/she is summoned. The witness testifies under penalty of perjury – i.e. he or she may be punished by imprisonment for lying in court.

Witnesses are typically questioned by the police. Even though the witness has given evidence to the police, the witness may subsequently be summoned to the court to provide details about the incident. Neither the judge, the defence

counsel nor the prosecutor was present when the witness gave evidence to the police. Therefore, it is crucial that the court hears the testimony directly instead of reading it in the police reports.

**Lay judges**

Lay judges are ordinary people who perform the role as co-judges in court. The basic list committee of the municipalities appoints the lay judges to the high courts which then appoint the number of lay judges needed for the proceedings. Many municipalities request that you declare your interest in the position whereas other municipalities select the lay judges by drawing lots among the residents or by using other methods. Lay judges rank equally with the legal judges and share the same responsibility for the decisions made. They must decide whether the accused is guilty or not, and - if the accused is found guilty - they must determine the sentence to be imposed. There are two kinds of lay judges: Lay judges and jurors.

Lay judges are used in criminal cases in which the accused pleads not guilty, and the prosecutor claims punishment by imprisonment or withdrawal of rights. District court cases are heard by one legal judge and two lay judges. High court cases are heard by three legal judges and three lay judges.

Jurors are used in cases where the prosecutor claims punishment by imprisonment for four years or more. In that case, district court cases have three legal judges and six jurors.

**Interpreter**

According to the European Convention on Human Rights, any person who is

accused of a crime has the right to the assistance of an interpreter if the accused does not understand or speak the language used in court. It is crucial that all parties involved in a criminal case understand the legal proceedings and are able to participate.

**Legal representative**

Some cases will have a legal representative who is the victim's lawyer in the case. The legal representative represents the interests of the victim during the legal proceedings and may help assess claims for damages etc.

**Participants in a civil case**

Civil court cases typically have a judge, a defendant, and a plaintiff.

The plaintiff is the person who brings a lawsuit against another party - e.g. in a case where another person owes money to the plaintiff. The defendant is the person who is sued in a civil proceeding. Both the plaintiff and the defendant are entitled to be represented by a lawyer in court.

The plaintiff and the defendant both have the opportunity to summon witnesses in the case if such are needed to testify and provide details that are important for the ruling.

A surveyor may be involved in the case as well if a neutral assessment of technical questions is needed. For example, if a building owner and a bricklayer disagree on the quality of the wall built by the bricklayer, an external building expert may serve as a surveyor in the case.

# Do you need further information?

Learn more about the different participants in criminal and civil cases by visiting the learning universe of the Courts of Denmark: [www.kenddinret.dk](http://www.kenddinret.dk). Further information is also available on our website [www.domstol.dk](http://www.domstol.dk).







# Digital access to the courts

The Courts of Denmark are currently undergoing a comprehensive digitalisation process. The right digital tools are crucial for the courts to perform their constitutional function. With the digitalisation of the courts, the users are able to access the Courts of Denmark digitally and efficiently.

The digitalisation is an important tool to ensure a modern and contemporary processing at the courts. The courts must continuously adapt to the public expectations for the court system and the law by offering up-to-date solutions. This is done by supporting internal working procedures at the courts and by developing new IT systems that allow electronic communications and exchange of case documents between users and courts in the most efficient manner.

## How to file a lawsuit on the portal minretssag.dk

Today, citizens can file and process civil lawsuits at a court via the portal minretssag.dk. Summons, defences, other pleadings, and appendices are recorded on this portal. Appeals and requests for reopening of cases etc. are conducted here as well. The ordinary correspondence with the court is also done via minretssag.dk. On minretssag.dk all parties and participants in the case can read all materials related to the case. The communication between the participants and the court also takes place here. Additionally, the court staff handles internal correspondence by means of the Civil System. The implementation of the Civil System has thus replaced the need for internal emails and mail at the courts.

When filing a lawsuit digitally, you create the summon and upload appendices, if any, on minretssag.dk. On this portal, you can also read messages from the

court and other parties of the case. On domstol.dk, you find further information on how to use minretssag.dk.

## A database of judgments

The Courts of Denmark are currently implementing a database of judgments which gives all citizens free access to judgments delivered by the Courts of Denmark. This database contains judgments selected based on fixed principles of essentiality and will continuously be updated with new rulings. Moreover, the database will contain historic rulings from civil and criminal cases of public interest. The rulings will be pseudonymised.

The purpose of the database of judgments is to ensure transparency in the administration of justice and to provide a public access to rulings. The launch of the database is currently planned for late 2021/early 2022.

## Information about the work of the courts

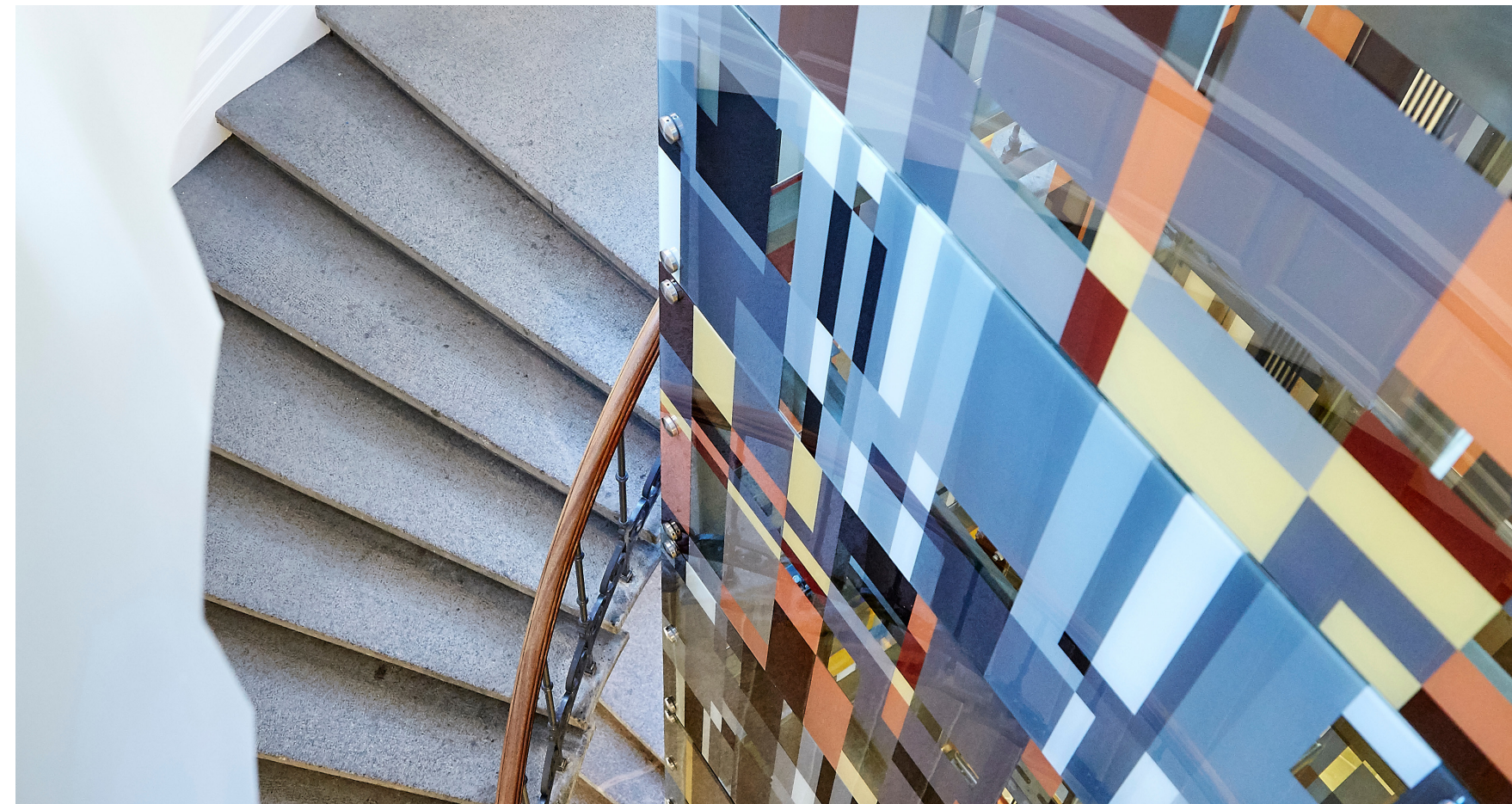
Information about the work of the courts must be publicly available to everybody, and the press coverage of the work of the courts is crucial to the courts' basic principle of transparency in the administration of justice.

Therefore, the Courts of Denmark have launched the Danish website retgodtatvide.dk where journalists can get useful information about the Danish legal

system, the work and structure of the courts, as well as statistics of court cases. Furthermore, an extranet is available to journalists for the purpose of offering journalists access to non-anonymised cause lists of criminal cases across the country.

of law, criminality, and punishment. Moreover, the Courts of Denmark have the shared website [www.domstol.dk](http://www.domstol.dk) where you can find information on court instances and different types of cases as well as relevant guidelines and various forms. The Courts of Denmark are also on LinkedIn.

The Courts of Denmark have created the learning universe [kenddinret.dk](http://kenddinret.dk) targeted at the final levels of primary school up to upper secondary school level where pupils and students can learn about the work of the courts, the rule





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