



Miljøministeriet
Departementet

Access to justice in Denmark

With focus on public interest litigation and collective redress, standing, timeliness, costs, and access to assistance mechanisms.

Task Force on Access to Justice
28. april 2022
The Danish Ministry of
Environment

Access to justice in Denmark

In Denmark, there are the following several schemes, whereby the administration's compliance with applicable law is monitored:

- Parliamentary Commissioner [for Administration] (watchdog)
- Legal remedy
- Administrative supervision and remonstrations
- Judicial review



Judicial review

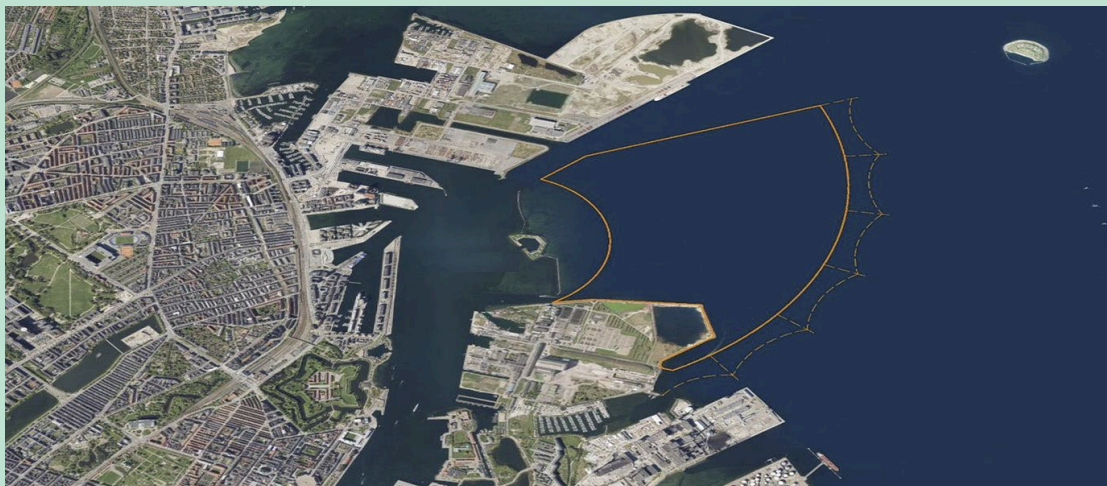
- Judicial review is a constitutional right in Denmark.
- Judicial review differs from legal remedy and administrative supervision by being performed by independent organs outside the administration.
- In contrast to administrative supervision but similar to certain appeal schemes - the courts are not entitled to raise cases themselves, but can only deal with cases raised by persons who have a legal interest in the outcome of the case.
- Judicial review is not limited to deciding cases. There might also be a right to judicial review on other grounds.
- Two-instance principle. The clear starting point in the Danish administration of justice is that a party, also in civil cases, has the right to have his case tried in two instances. The two-instance principle is one basic pillar in Danish justice and has significance for legal certainty, as it helps to ensure that materially correct decisions are made.

Collective redress

- If several citizens have uniform claims against a citizen, company or public authority, they can choose to pursue the case as a class action (collective action) instead of instituting individual lawsuits.
- the conditions for bringing a class action are the following:
 - that these are uniform requirements that apply to several persons,
 - that the uniform requirements can be dealt with in Denmark,
 - that the court in which the collective redress is brought is competent to deal with one of the claims,
 - that a collective redress is considered the best way to process the requirements,
 - the members may be identified and appropriately informed of the matter,
 - and that a group representative can be appointed,
 - It is the court that decides whether these conditions are met.

Public interest in litigation

- An example of a recent case that received a lot of attention in Denmark is the construction of the new artificial island called "Lynetteholmen". The purpose of the construction is to create housing for people and to secure Copenhagen against rising water levels.
- The non-profit organisation "Klimabevægelsen" (the climate movement) is Denmark's largest association of climate-grassroots movements. In 2021 the climate movement took legal action against the Danish Ministry of transportation and the company "By og Havn" for the construction of the new island. The climate movement wanted the construction to stop because they claimed that the construction affected the environment. The climate movement assessed that the construction law for Lynetteholmen was approved on a hasty basis, which is contrary to EU legislation.



Timeliness and cost

- **Judicial review:** A trial in the first instance typically lasts between 8 and 18 months, depending on how complicated the case is, how many witnesses and parties are to be heard, the parties' attitude to advance the case, and the court's other case volume. Judicial review is costly and typically costs a minimum of 50.000 DKK.
- **Legal remedy:** The Environment and Food Complaints Board has an average case processing time of 6 months. As a starting point, it costs 900 DKK for private individuals and 1.800 DKK for companies and organizations to complain to the board. Legal remedy to a higher administrative authority is free of charge.
- **Administrative supervision and remonstrations:** Request about administrative supervision and remonstrations is free of charge. Case proceeding times varies.
- **Parliamentary Commissioner (watchdog):** It is free of charge to submit a complaint to the Parliamentary Commissioner. Case proceeding times varies.

Free legal aid and legal aid insurance

It is possible to obtain free legal aid, where the exchequer pays for expenses related to a lawsuit if a number of conditions are met. Both natural and legal persons can achieve free legal aid.

Free legal aid can be obtained by a natural person if the personal income is below a certain amount limit. The limits are as follows:

Single applicants: *DKK 348,000*.

Applicants in marriage or other cohabitation: *DKK 442,000*.

Increase for each child living at home under the age of 18: *DKK 60,000*.

A legal person can achieve free legal aid if the person is disadvantaged to be able to handle the size of the legal costs.

Apart from free legal aid, many people have legal aid insurance through their house contents insurance, which allows for financial aid to lead a legal case.