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The effort to collect and enforce financial penalties imposed by the Danish police

1. Introduction and conclusion

1.1. Purpose and conclusion

1. This report concerns how the Danish Ministry of Justice and the Danish Ministry of Taxation handle the collection and enforcement of financial penalties imposed by the Danish police.

The Ministry of Taxation's effort to enforce payment of debt owed by citizens and companies to the public sector has been limited since the automated government collection system *EFI* was closed down in September 2015. Since then, the Danish Debt Collection Agency has been responsible for the enforcement of debt to the public sector based on a temporary system, *DMI*, which offers a limited range of methods of enforcement. Financial penalties imposed by the police that were in the process of being enforced in the *EFI* system, and the enforcement of penalties imposed after the closure of *EFI*, will be affected by the limited enforcement actions available, until more effective methods have been developed and implemented in a new collection system called *PSRM*, and the Danish National Police has gained access to the new system.

2. Collection and enforcement of penalties imposed by the police is part of the execution of the punishments imposed on citizens or companies that fail to observe the laws of the country. According to the Danish consolidated act on collection of debt to the public sector (the collection act), the responsibility for calculating and collecting penalties lies with the police, whereas the Danish Debt Collection Agency is responsible for the enforcement of the penalties that the police has failed to recover. When enforcement through the *EFI* system ceased in September 2015, the Danish National Police was pursuing payment of financial penalties worth DKK 7.3 billion. Over the period of examination, the Danish National Police was the Danish Debt Collection Agency's third largest claimant surpassed only by the Danish Tax Administration and *Udbetaling Danmark* (a government agency responsible for the payment of a broad range of public services (pension, child support, etc.).)

3. The purpose of the study is to assess whether the effort made by the Ministry of Justice and the Ministry of Taxation to collect and enforce financial penalties imposed by the police is satisfactory. The individual performance of the two departments and the effectiveness of their collaboration determine whether all available enforcement methods are applied to ensure that the penalties are paid. The study covers the period from 2015 to 2018 and encompasses all penalties imposed by the police where the Danish National Police is the claimant and where attempts have been made to collect the debt or enforcement actions have been taken.

Financial penalties imposed by the police

Such penalties include fines, compensation to victims of crimes, prosecutors' costs and costs of confiscations.

Claimant

A person, company or public authority that is entitled to receive a payment from a person or company. *The Danish National Police* is the claimant, when penalties imposed by the police are transferred for enforcement. The police districts issue and collect the penalties in practice.

Collection and enforcement

The authorities that have issued fines and other financial penalties are in charge of the initial collection activities including reminder letters.

When the authorities establish that the penalty will not be paid, and the debtor has neither contested the penalty nor requested an extension, the authorities will transfer collection of the penalty to the Danish Debt Collection Agency for enforcement.

4. Rigsrevisionen initiated the study in December 2018.



Conclusion

The Danish Debt Collection Agency

Part of the Ministry of Taxation's administration of the area was previously placed in the former Danish Customs and Tax Administration, but since 1 July 2018, enforcement has been placed in the newly established Danish Debt Collection Agency. The responsibility for development and simplification of IT solutions and business processes was, at the same time, transferred to another new agency. In the report, we refer only to the new agencies, despite the fact that collection and enforcement was carried out by the Danish Customs and Tax Administration during part of the period studied.

Default fines

These are imposed to enforce compliance with various obligations such as, for example, the environmental legislation, giving evidence and handing over children to a co-parent. Default fines are imposed continuously, e.g. daily or weekly, and payment of the fines should be collected accordingly. When the offenders honour their obligations, any outstanding default fines are revoked.

Confirming the enforceability of claims

That a claim is enforceable means that its legal force is uncontested and that enforcement is not prevented due to inadequate data.

It is Rigsrevisionen's assessment that the effort made by the Ministry of Justice to collect and enforce penalties imposed by the police is not satisfactory. It is also Rigsrevisionen's assessment that the effort made by the Ministry of Taxation to enforce the penalties is unsatisfactory. Furthermore, Rigsrevisionen finds that the collaboration between the two departments to ensure enforcement has been ineffective.

The consequence of the inadequate collection effort is that not all penalties for breaking the law imposed on citizens and companies are enforced. To this should be added that the mass of financial claims issued by the police, but under enforcement by the Danish Debt Collection Agency, has grown by almost DKK 3 billion during the period of examination and totalled approx. DKK 10.5 billion by the end of 2018. In the same period, the Ministry of Taxation enforced payment of due penalties worth approx. DKK 1 billion on behalf of the police.

The study found that in some cases the practice of the police did not comply with current legislation. For instance, the police has not exhausted all collection options as stipulated in the debt collection act, before they have transferred penalties to the Danish Debt Collection Agency for enforced collection. This practice has forced the Danish Debt Collection Agency to bar all financial claims from enforced collection for 30 days after receipt of the penalties to ensure that the last due date had been exceeded and enforcement actions could be taken. The study also found that default fines are neither collected by the police nor transferred to enforcement at a pace that corresponds to the frequency with which they are imposed.

Moreover, the study found that the Ministry of Taxation has failed to prioritise collection of the penalties imposed by the police, despite the fact that these are to take precedence over all other financial claims for the sake of enforcement. This in spite of the fact that 55 to 69% of the financial claims held by the police have been legally enforceable since mid-2017. Rigsrevisionen is aware that sorting out financial claims that are affected by inadequate data or whose legal enforceability is questioned is a huge ongoing task for the Ministry of Taxation. However, it is Rigsrevisionen's assessment that regardless of the limited enforcement actions facilitated by the DMI system, the Ministry of Taxation should have managed to enforce more of the penalties imposed by the police, for instance, through the employment of manual debt collection methods. In addition to the concern for enforcement, the authorities only have limited time to collect the debt, because fines have limitation periods of five or ten years. Although the penalties imposed by the police, including fines, fall within the act on extension of statute of limitations, and a statutory bar, at the earliest, can take effect in November 2021, the Danish Debt Collection Agency will not be able to compensate for missing debt collection activities over several years by collecting more payments in subsequent years. In consequence, a significant part of the penalties imposed by the police risk not being collected, which will result in a loss to the government.

The Danish Debt Collection Agency has not actively pursued enforcement of default fines. Nor has the Debt Collection Agency returned other types of fines to the police in order to start proceedings to have penalties converted into imprisonment for debtors who have the ability to pay, but are unwilling to do so. As a result of this practice followed by the police and the Debt Collection Agency, default fines and the conversion of penalties have not served their intended purpose and served as a means of pressure on the debtors. This is not considered satisfactory by Rigsrevisionen. The Ministry of Taxation has informed Rigsrevisionen that it has noted the criticism and will intensify its effort to enforce default fines.

Lastly, the study found that the Danish National Police and *Udviklings- og Forenklingstyrelsen* (an agency with responsibility for the maintenance, development and simplification of IT systems and solutions) since 2016 have worked on clarifying the practice of the police regarding registration and transfer of claims to the Debt Collection Agency for enforcement. The purpose of this exercise has primarily been to make the claims held by the police ready for the new collection system called PSRM. Rigsrevisionen does not consider it satisfactory that the two ministries have failed to prioritise the Debt Collection Agency's ability to enforce payment of all claims held by the police in the period leading up to the final implementation of the PSRM collection system.

Conversion of penalties

A financial penalty can be converted into a prison sentence. With the exception of cases where objective responsibility has been established, all fines issued by the police can in principle be converted to prison sentences. If a fine is imposed by a court, the conversion sentence will appear from the judgment. The city courts determine the conversion of all other types of fines.