



**FOLKETINGET
STATSREVISORERNE**



**FOLKETINGET
RIGSREVISIONEN**

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The processing of industrial injury cases

1. Introduction and conclusion

1.1. Purpose and conclusion

1. This report concerns the processing times for industrial injury cases and the efficiency of processing at the Arbejdsmarkedets Erhvervssikring (AES– Danish labour market insurance). Industrial injury cases concern either injuries sustained by the employees of a company during the course of their work, or diseases caused by their work or work conditions. Such cases are processed by the AES, as the authority of first instance. In a report from June 2019, Rigsrevisionen examined the case processing times and efficiency of the Danish National Social Appeals Board, which is the authority of second instance for industrial injury claims.

In the period from 1 January 2011 to 1 July 2016, industrial injury cases were processed by an agency under the Danish Ministry of Employment: the National Board of Industrial Injuries. In July 2016, the AES was established as an independent government institution under the ATP and took over the responsibility for processing industrial injury claims. The period covered by the study is thus characterised by a change in governance: In the period from 1 January 2011 to 1 July 2016, the Ministry of Employment was directly responsible for defining the framework and operating the processing of industrial injuries, because the National Board of Industrial Injuries was an agency under the Ministry of Employment. The change in governance occurred, when case processing was transferred to the AES, which is managed by a board with members representing the labour market parties. The Ministry of Employment monitors whether the board execute their duties in compliance with the legislation, cf. section 15 in the Danish Labour Market Insurance Act. It appears from the notes to the act that the board of the AES are responsible for setting the framework for the processing of industrial injury cases and for the operation of the AES, whereas the minister of employment supervises the board without having any power of instruction over the management of the AES. In accordance with the act, the board report, financial statements, audit reports and the Social Appeals Board's annual statement on case processing provide the basis for the minister's supervision.

It further appears from the notes to the act and from the minister of employment's presentation of the bill that the purpose of establishing the AES with access to technical and administrative assistance from the ATP, was to derive benefit from the ATP's long-standing experience with large-scale administration and its ability to handle case processing securely and efficiently.

AES (The Danish Labour Market Insurance)

The AES was established by the Danish Labour Market Insurance Act (act no. 394 of 2 May 2016), which defines the framework for the activities of the AES.

ATP (Supplementary Labour Market Pension Fund)

The ATP manages key welfare benefits and schemes on behalf of the government, municipalities and labour market parties. The ATP provides services within pension and investments and administration. The administration part of the business handles various services and schemes related to, for instance, holiday allowance, maternity/paternity leave and a guarantee fund for wage earners (LG). The ATP manages many of the services and schemes on behalf of a government agency called Udbetaling Danmark.

Loss of work ability

Loss of work ability means that the injured person's wage earning capacity has been affected. Persons who have lost more than 15% of their work ability are entitled to compensation according to the Danish Workers' Compensation Act.

Criticism by the Parliamentary Ombudsman

On 9 June 2019, the Ombudsman issued his latest statement on the processing time for cases concerning claims for compensation due to loss of work ability. The Ombudsman notes that seen from the perspective of the citizens, the processing time for new cases on loss of work ability has for a number of years been far from satisfactory.

2. For an extended period, the case processing times for industrial injuries have been long, particularly for industrial injuries resulting in loss of work ability. The issue has been discussed by the members of the Employment Committee under the Danish Folketing (parliament), and was criticized by the Danish Parliamentary Ombudsman in June 2019. In 2003, the Danish Folketing passed a law on labour market insurance with the primary purpose of expanding and simplifying the concept of injury. The bill was accompanied by a wish to speed up processing by tightening some of the statutory time limits set for case processing, for instance. Long processing may have consequences for the citizens and companies that are waiting to have their cases processed, because they may affect, for instance, the citizens' association with the labour market.

This study provides an overall picture of the development in case processing times for all industrial injury cases over an extended period, and it particularly looks into the extent to which the statutory time limits set for case processing are observed. The study also contributes new knowledge about the development in processing efficiency over an extended period and new knowledge about periods of inactivity. This information is relevant, because the level of efficiency may have an impact on processing times and indicates whether industrial injury cases are processed effectively. Speed of processing and efficiency are essential parameters in managing case processing, but the AES should also consider other aspects such as transparency with emphasis on quality, rule of law and effective operation.

3. The purpose of the study is to assess whether the Ministry of Employment and the AES have ensured that industrial injury cases are processed within the statutory time limits, and that the efficiency of processing of industrial injury cases has improved. The report answers the following questions:

- Has the Ministry of Employment and the AES ensured that industrial injury cases are processed within the statutory time limits?
- Has the AES made progress towards improving the efficiency of case processing?

Rigsrevisionen initiated the study in October 2018.



Conclusion

It is Rigsrevisionen's assessment that over an extended period, the Ministry of Employment and the AES failed to ensure that industrial injury cases were processed within the statutory time limits. The study also found that the AES had failed to make progress towards improving the efficiency of case processing, which actually deteriorated significantly in the period covered by the study. It is the Ministry of Employment and the AES' assessment that speeding up case processing will require a more detailed analysis, but seems difficult to achieve within the current framework.

The Ministry of Employment and the AES refer to various factors that have made it difficult to achieve high efficiency and speed up case processing. The Ministry of Employment and the AES have informed Rigsrevisionen that they have prioritised efforts to improve the quality of case processing over efficiency since 2014, based on the results of a study made by the Legal Adviser to the Danish Government that demonstrated errors in the processing of industrial injury cases. The Ministry of Employment also refers to changes in legal practice and the relocation of the processing of industrial injury cases. Rigsrevisionen's study confirms that turnover of staff for most of the period following the transfer of the responsibility for the area to the AES, has been more than twice as high as the average staff turnover in the public sector. However, neither the Ministry of Employment nor the AES have been able to determine or assess the impact of the remaining factors. Rigsrevisionen notes that the Ministry of Employment was aware of these facts, when the AES was established. It appears from the notes to the act, and from the minister of employment's presentation of the bill, that the purpose of establishing the AES with access to technical and administrative assistance from the ATP, was to derive benefit from the ATP's long-standing experience with large-scale administration and its ability to handle case processing securely and efficiently.

Rigsrevisionen notes that long processing may have consequences for the citizens and companies that are waiting to have their cases processed, because they may affect, for instance, the citizens' association with the labour market.

Rigsrevisionen's study found that the Ministry of Employment and the AES have not ensured that all industrial injury cases are processed within the statutory time limits. It appears from the notes to the act that rule of law for the citizens always takes priority over the speed of processing. It follows that the special circumstances surrounding some cases make it impossible to observe the statutory time limits. The study found that neither the Ministry of Employment nor the AES know or are able to provide documentation of the cases that have exceeded the time limit due to special circumstances. Rigsrevisionen's statements show that the AES, since it took over the responsibility for case processing in July 2016, has made progress towards increasing the number of cases processed within the statutory time limits. However, the statements also show many examples of various categories of cases, where processing times have exceeded the statutory time limits somewhat. Particularly, observance of the time limit set for rejected claims for injury compensation has been low, and since 2014, only 10 to 30% of these cases have been closed within the statutory time limit of three months, according to the AES' quarterly statements. In the fourth quarter of 2018, 70 to 95% of all cases in four of the remaining five categories of cases were closed within the statutory time limit.

The study also found that the average case processing times for all categories of cases are still too long, but have improved from July 2016, when the AES took over the task, and up to 2018. Furthermore, the AES' backlog of cases includes fewer and more recent cases now than when the AES took over the responsibility for the area.

The study further shows that due to an outdated case processing system, the AES does not have access to systematically data-supported information that can document where in the process the delays occur. The AES expects the functionality and set-up of the coming case processing system, the ANS, to facilitate identification and analysis of delays.

Rigsrevisionen's review of 200 cases shows that approx. two-thirds of the time devoted to processing an industrial injury case is waiting time related to obtaining supplementary information from third parties like, for instance, medical doctors or employers. It is Rigsrevisionen's assessment that to achieve a considerable improvement in processing times, information necessary to assess and decide on the cases must reach the AES from the third parties earlier. The AES has informed Rigsrevisionen that third-party relationships are highly prioritised and continuously being developed and improved.

Further, the study found that the Ministry of Employment monitors case processing time continuously and has asked the AES to set targets for the processing of all categories of cases.

Last, Rigsrevisionen's study shows that the AES has failed to improve the efficiency of processing, which is lower in 2018 than it was in 2013. In the course of this period, salary costs for processing an average industrial injury case increased from approx. DKK 1,400 to approx. DKK 2,700. The cause of the lower efficiency is mainly the fact that today more resources are allocated to completing the same number of cases as in 2013, irrespective of the category of cases. The adverse development in efficiency is so marked that the conclusion will not be affected, even if the analyses are subject to some degree of uncertainty. Rigsrevisionen notes that higher efficiency, i.e. the completion of more cases using the same amount of resources, will have a positive impact on case processing times.