# 17.最高法院刑事上訴發回或發交更審案件次數及原因─按機關別分

## 17. Frequencies and Causes of Criminal Appeals Cases Remanded or Assigned for New Trial by Supreme Court – by Organ

中華民國 111 年 (2022)

單位：件;%
Unit: case;%

| 機關別 Organ | 裁判件數 Cases repealed | 發回或發交更審原因 Grounds for remand or assignment for new trial | | | | | | | | | | | | | | | 機關別 Organ |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 合計 Total | | 調查證據不詳或未予調查 Incomplete or no investigation of evidence | 採用證據未說明理由 No reason provided for evidence admitted | 未採用證據未說明理由 No reason provided for evidence not admitted | 判決理由矛盾 Contradiction of reasons for judgment | 其他理由不備 Other non-provision of reason | 事實認定錯誤不符或不明或記載不明 Erroneous, inconsistent, or unclear ascertainment of facts or unclear record | 已受請求事項未為判決 No judgment on a claimed matter | 未受請求事項而為判決 Judgment on an unclaimed matter | 判決不適用法則或適用不當 Judgment that does not apply or improperly applies a law or regulation | 法院組織不合法 Illegal court organization | 應迴避之法官參與裁判 Disqualified judge participates in adjudication | 未將證據提示被告 Failure to present evidence to the defendant | 未與被告以最後陳述之機會 Failure to avail the defendant with opportunity to present final statement | |
| | | 全部 All | 部分 Part | | | | | | | | | | | | | | |
| **合計 Total** | **5 432** | **378** | **178** | **301** | **-** | **4** | **53** | **84** | **9** | **12** | **2** | **63** | **-** | **-** | **-** | **-** | **合計 Total** |
| 臺灣高等法院 Taiwan High Court | 2 509 | 208 | 83 | 165 | - | 1 | 29 | 46 | 5 | 8 | 1 | 28 | - | - | - | - | 臺灣高等法院 Taiwan High Court |
| 臺灣高等法院臺中分院 Taiwan High Court, Taichung branch | 1 315 | 70 | 55 | 55 | - | 2 | 11 | 18 | 3 | 2 | 1 | 18 | - | - | - | - | 臺灣高等法院臺中分院 Taiwan High Court, Taichung branch |
| 臺灣高等法院臺南分院 Taiwan High Court, Tainan branch | 632 | 32 | 17 | 25 | - | 1 | 6 | 7 | 1 | 1 | - | 6 | - | - | - | - | 臺灣高等法院臺南分院 Taiwan High Court, Tainan branch |
| 臺灣高等法院高雄分院 Taiwan High Court, Kaohsiung branch | 842 | 53 | 21 | 46 | - | - | 5 | 12 | - | 1 | - | 7 | - | - | - | - | 臺灣高等法院高雄分院 Taiwan High Court, Kaohsiung branch |
| 臺灣高等法院花蓮分院 Taiwan High Court, Hualien branch | 91 | 7 | 2 | 4 | - | - | 1 | 1 | - | - | - | 3 | - | - | - | - | 臺灣高等法院花蓮分院 Taiwan High Court, Hualien branch |
| 福建高等法院金門分院 Fujian High Court, Kinmen branch | 11 | 2 | - | 2 | - | - | - | - | - | - | - | - | - | - | - | - | 福建高等法院金門分院 Fujian High Court, Kinmen branch |
| 智慧財產及商業法院 Intellectual Property and Commercial Court | 31 | 6 | - | 4 | - | - | 1 | - | - | - | - | 1 | - | - | - | - | 智慧財產及商業法院 Intellectual Property and Commercial Court |
| 其他 Other | 1 | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 其他 Other |

# 17.最高法院刑事上訴發回或發交更審案件次數及原因—按機關別分(續完)

## 17. Frequencies and Causes of Criminal Appeals Cases Remanded or Assigned for New Trial by Supreme Court – by Organ (Cont. End)

中華民國 111 年 (2022)

單位：件;%
Unit: case;%

| 機關別 Organ | 發回或發交更審原因 Grounds for remand or assignment for new trial | | | | | | | | | | | | 發回件數占裁判件數百分比(%) Percentage of remanded cases among total adjudicated cases (%) | 發回或發交更審次數 Frequency of cases remanded or assigned for new trial | | | | | | | | | 機關別 Organ |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 未經參與審理法官參與判決 Judge not participating in argument participates in judgment | 被告未於審判期日到庭而逕行審判 Judgment made without the presence of defendant in court | 加減法定刑未依法律規定或未說明理由 Increase or decrease of sentence inconsistent with law or without reason | 應向被告宣讀之筆錄或書證未予宣讀 Failure to read the record or document-ary evidence to the defendant | 採證違法 Illegal evidence gathering | 禁止審判公開非依法律之規定 Illegal ban on trial in open court | 法院認管轄有無或未論知管轄錯誤係不當 Improdecisio-n on jurisdiction or no pronounce-ment of wrong jurisdiction | 法院受理訴訟或不受理訴訟係不當 Improenter-tainment or refusal of case by the court | 強制辯護要件未經到庭辯護而逕行審判 Judgment made without defense in mandatory defense cases | 未經檢察官或自訴人到庭陳述即為審判 Trial without statement by a public or private prosecutor in court | 應停止或更新審判而未經停止或更新 Trial that shall be stayed or renewed but was not done so | 其他 Other | | 合計 Total | 第一次 First time | 第二次 Second time | 第三次 Third time | 第四次 Forth time | 第五次 Fifth time | 第六次 Sixth time | 第七次 Seventh time | 第八次以上 Eighth or more than eighth time | |
| **合計 Total** | **1** | **2** | **13** | **-** | **8** | **-** | **-** | **-** | **-** | **-** | **-** | **4** | **8.60** | **556** | **488** | **52** | **13** | **2** | **-** | **1** | **-** | **-** | **合計 Total** |
| 臺灣高等法院 Taiwan High Court | - | 1 | - | - | 5 | - | - | - | - | - | - | 2 | 9.94 | 291 | 246 | 33 | 12 | - | - | - | - | - | 臺灣高等法院 Taiwan High Court |
| 臺灣高等法院臺中分院 Taiwan High Court, Taichung branch | 1 | - | 13 | - | 1 | - | - | - | - | - | - | - | 7.41 | 125 | 120 | 4 | - | - | - | 1 | - | - | 臺灣高等法院臺中分院 Taiwan High Court, Taichung branch |
| 臺灣高等法院臺南分院 Taiwan High Court, Tainan branch | - | 1 | - | - | 1 | - | - | - | - | - | - | - | 6.41 | 49 | 45 | 4 | - | - | - | - | - | - | 臺灣高等法院臺南分院 Taiwan High Court, Tainan branch |
| 臺灣高等法院高雄分院 Taiwan High Court, Kaohsiung branch | - | - | - | - | 1 | - | - | - | - | - | - | 2 | 7.54 | 74 | 63 | 9 | 1 | 1 | - | - | - | - | 臺灣高等法院高雄分院 Taiwan High Court, Kaohsiung branch |
| 臺灣高等法院花蓮分院 Taiwan High Court, Hualien branch | - | - | - | - | - | - | - | - | - | - | - | - | 8.79 | 9 | 7 | 1 | - | 1 | - | - | - | - | 臺灣高等法院花蓮分院 Taiwan High Court, Hualien branch |
| 福建高等法院金門分院 Fujian High Court, Kinmen branch | - | - | - | - | - | - | - | - | - | - | - | - | 18.18 | 2 | 2 | - | - | - | - | - | - | - | 福建高等法院金門分院 Fujian High Court, Kinmen branch |
| 智慧財產及商業法院 Intellectual Property and Commercial Court | - | - | - | - | - | - | - | - | - | - | - | - | 19.35 | 6 | 5 | 1 | - | - | - | - | - | - | 智慧財產及商業法院 Intellectual Property and Commercial Court |
| 其他 Oher | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | - | 其他 Oher |