
SUPREME COURT OF NORWAY

2016





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*From the Supreme Court entrance hall, brass
sculpture of a lion modelled by Lars Utne.
Photo: Sturlason*

THE SUPREME COURT IN 2016



In 2015, the Supreme Court celebrated its bicentenary and in 2016, yet another milestone was reached. Tore Schei retired as Chief Justice on 29 February 2016, after having been a Supreme Court justice for exactly 30 years - to the day. No one since World War II has been a Supreme Court Justice as long as he has. He served more than 13 of these years as Chief Justice.

Chief Justice Schei's retirement was duly celebrated. The main event was the farewell ceremony on 29 February 2016 in the Supreme Court's Grand Chamber attended by the King, the President of the Norwegian Storting, the Norwegian Prime Minister, the Minister of Justice and other invited guests. Later that day, a reception was held in the Supreme Court meeting hall. On 17 February 2016, the Prime Minister held a farewell dinner for Tore Schei. On his 70th birthday on 19 February 2016, he was presented with the *Festschrift* "Rettsavklaring og rettsutvikling" (*Clarity and Development of the Law*) with articles from the Supreme Court's own justices and from prominent persons outside the Supreme Court.

As Chief Justice, Tore Schei has invested significant time and energy into ensuring that the Supreme Court performs its duties in the best possible way. And the recognition he has received for his efforts is clear:

People have a great deal of confidence in the Supreme Court, both in a national and international context. There have been many professional challenges. Not least, increasing specialisation and internationalisation of the law has created far more complex sources of law.

In this legal landscape, Tore Schei has continued the process of focusing on the Supreme Court's main tasks so that today, the Supreme Court is a court of precedence. He can also take a great deal of the credit for the Supreme Court being able to schedule its cases with no waiting time and being an open court.

After its establishment in 1957, the main task of the legal secretariat has been to assist the Supreme Court Appeals Selection Committee. In view of the increasingly more complex sources of law, the legal secretariat must now provide assistance to a greater extent than previously to the Supreme Court in chambers. In the 2015 National Budget, the Supreme Court was allocated three new law clerk posts, with effect from June 2015. This gave us the opportunity to start organising increased law clerk assistance in appeal cases, which have been referred for oral hearing in chambers, the Grand Chamber or plenary. 2016 has been the first full year with such increased

Photo above: The next Chief Justice Toril M. Øie and Chief Justice Tore Schei on the day of Øie's appointment. Photo: Supreme Court

Photo on the right: From the entrance of the Supreme Court. Photo: Sturlason



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law clerk assistance. The initial period has been successful and the law clerks have provided valuable assistance. It is hoped that this expansion will continue. This means that the legal secretariat must be strengthened further by allocating new positions to the Supreme Court.

People have a great deal of confidence in the Supreme Court both in a national and international context.

We are in an age of large-scale digitisation, and the courts must take part in this social development. Therefore, in March 2016, the Supreme Court launched digital abstracts and today, court documents are read using tablets instead of on paper in many of the cases in chambers. The experiences so far have been positive. The Supreme Court is involved in the Court Administration's initiative "Digital Courts", which is a project that is aiming at digitising all parts of the procedure within a few years.

The number of cases brought before the Supreme Court has increased in the last few years and now seems to have reached a stable high level.

In 2016, the Supreme Court received 2,331 cases. Over time, however, the number of cases referred for hearing in chambers has declined. This has been a desirable development in order for there to be more time for each case, as the sources of law have become increasingly more complex and the Supreme Court has evolved into a court of precedence. In 2016, 113 cases were heard in chambers, the Grand Chamber and plenary. The equivalent number in 2015 was 117.

In 2016, a relatively large number of cases were heard with a strengthened court - three in the Grand Chamber and one in plenary. Two of the Grand Chamber cases concerned ground lease, while the third concerned the question of a reduced sentence due to a long processing time.

The plenary case dealt with the legality of an announced boycott. It raised the question of whether the boycott was unlawful as a result of the right of establishment under the EEA Agreement Article 31 in light of section 101 of the Constitution and the European Convention on Human Rights Article 11 relating to freedom of association. Cases heard before a strengthened court are regarded as being particularly important.

In recent years, the number of dissenting judgments has been between 16 and 26 per cent. In 2016, the number was 16, i.e. significantly lower than the previous year, when it was at 24 per cent.

Fast processing is an important part of good administration of justice. At year-end, there was still no waiting time for a case to be heard by the Supreme Court - in general, referred cases may be heard in chambers as soon as the parties' legal representatives are available.

The Supreme Court must be an open court, both to the press and the general public. In the winter of 2016, it was customary to hold a press breakfast attended by representatives of press agencies, daily newspapers and trade press. In November, a meeting was also held at the Supreme Court - which judges from Borgarting Court of Appeal also attended - where representatives from the Norwegian Press Complaints Commission (PFU) informed about PFU and the commission's work. In cooperation with the national broadcasting company, NRK, the ruling in the plenary *Holship* case was streamed. Furthermore, we have welcomed approximately 1,950 visitors in 78 groups.

In addition to this, there are a large number of people who over the course of the year follow one or more appeal cases in the Supreme Court's courtrooms.

Oslo, 3 January 2017



Toril Marie Øie



A BRIEF ACCOUNT OF THE ROLE OF THE SUPREME COURT AND PROCEDURE

The Constitution is based on the principle of separation of powers. It distributes state power among three branches of government: legislative power, which is the Storting, executive power, which is the King in Council, i.e. the Government, and judicial power, which is the courts. The Supreme Court is the highest court in Norway and thus one of the three branches of government.

Norway has a judicial system with courts at three levels - 64 district courts in the first instance, six courts of appeal as general courts of appeal in the second instance and the Supreme Court at the top. Section 88 of the Constitution states the following: “The Supreme Court pronounces judgment in the final instance.”

In principle, all legal disputes may be brought before the Supreme Court - civil disputes, including administrative cases, and criminal cases.

The Supreme Court also deals with constitutional issues. Consequently, the Supreme Court is the realm’s supreme constitutional court, administrative tribunal, dispute and criminal court.

The Supreme Court is a court of precedence, whose principal goal is clarity and development of the law within the framework that follows from the Constitution and law. The Supreme Court decides with final force and effect the legal relations between the parties in cases that have been brought before the court. However, the Supreme Court’s interpretation of the law is also followed

by the other courts and to a significant extent by the Supreme Court itself. Thus, the Supreme Court has decisive influence on what is the law of the land.

Approval is required before an appeal against a judgment may be brought before the Supreme Court. It is a tough selection process. Under the law, such consent must “only be given when the appeal concerns issues that have importance outside the case in question, or if for other reasons it is particularly important to have the case heard by the Supreme Court”. The Supreme Court primarily hears cases of great public importance - cases that also provide important legal guidance to other cases.

The Supreme Court’s Appeals Selection Committee decides whether an appeal may be brought before the Supreme Court. In each case, the Appeals Selection Committee is composed of three Supreme Court justices. The Appeals Selection Committee makes its decision on the basis of the case documents. The cases that go forward are decided by one of two chambers with five justices, or in exceptional cases, by a so-called strengthened court - a plenary session of the Supreme Court or in the Grand Chamber with 11 justices.

The proceedings are oral and open to the public. This means that anyone who wishes may come to the courtrooms to listen without prior agreement.

The Supreme Court’s website, www.hoyesterett.no, provides information on the cases to be heard, what the cases concern and the date of the oral hearing. When a judgment is pronounced, it is published on the website, shared on Twitter and sent to the press - both as a brief summary and in full text.

The Supreme Court Building Photo: Cathrine Brandt



New Chief Justice



HRH King Harald attended the farewell ceremony for Chief Justice Tore Schei on 29 February 2016. Photo: Supreme Court

Photo on the right:

From the handing over of the festschrift to Tore Schei on 19 February 2016.

From the left: Justice Magnus Matningsdal, Chief Justice Tore Schei, justices Jens Edvin A. Skoghøy and Toril M. Øie, as well as Secretary General of the Supreme Court Gunnar Bergby. Photo: Supreme Court

RETIREMENT OF THE CHIEF JUSTICE

On Monday 29 February 2016, Tore Schei retired as Chief Justice of the Supreme Court of Norway upon reaching the mandatory retirement age. He had then served as Chief Justice of the Supreme Court for 30 years, initially as a justice, then as Chief Justice from August 2002.

His retirement was celebrated with a formal ceremony in the courtroom of the Second Chamber followed by a reception in the Supreme Court's meeting hall.

HRH King Harald, President of the Storting Olemic Thommessen, Prime Minister Erna Solberg and Minister of Justice Anders Anundsen were present, in addition to many other invited guests.

There were speeches by Chief Justice Schei himself, his newly appointed successor, Supreme Court Justice Toril M. Øie, President of the Storting Olemic Thommessen, Minister of Justice Anders Anundsen, Senior Presiding Court of Appeal Judge Arild O. Eidesen, Chairman of the Norwegian Bar Association Erik Keiserud, Director General of Public Prosecutions Tor-Aksel Busch, Attorney General Fredrik Sejersted and the Secretary General of the Supreme Court Gunnar Bergby.

On the occasion of his retirement, Prime Minister Erna Solberg held a dinner for Schei and a number of guests at the Prime Minister's official residence at Parkveien 45.

The Supreme Court justices wished to honour Schei with a festschrift and Universitetsforlaget were responsible for its publication. The festschrift was presented to Tore Schei in the Supreme Court's meeting hall on his 70th birthday on 19 February. When selecting authors and topics for the articles, the editorial committee chose from key judgments, where Tore Schei had either been the justice giving the leading judgment or the presiding justice, and also key new amendments to the Dispute Act, which were prepared by the Civil Procedure Commission, of which Tore Schei was the chairman. The articles have been written by the Supreme Court's own justices and by prominent persons outside the institution.

Reflections from Tore Schei after 30 years at the Supreme Court:

DEAR READERS OF THE SUPREME COURT'S 2016 ANNUAL REPORT



1 March 1986 was my first day of work as a justice of the Supreme Court and 29 February this year was my last. I have been asked to write a brief review of my thirty years at the Supreme Court, of which the last thirteen and a half years as Chief Justice.

The period from 1986 to 2016 is undoubtedly one of the periods in the Supreme Court's more than 200-year history that has seen the most significant changes, and which involved changes in the most fundamental aspects of the court's activities. Key words are internationalisation of the legal material, the Supreme Court as a pure court of precedence, expansion of the legal secretariat and not least a more open court.

Up to around 1990, the rules of law applied by the courts and the Supreme Court in their cases were in all respects national law. The laws were passed by the Storting. Only occasionally could the laws be inspired by legislation in other countries, but the Storting had full control over the wording and contents of these. But then international influence took hold.

In 1999, the Storting issued the so-called Human Rights Act and through the Act the key international Human Rights Conventions, not least the European Convention on Human Rights, were incorporated into Norwegian law. The Human Rights Act states that if there is conflict between the Human Rights Conventions and other Norwegian law, the Human Rights Conventions will have precedence. The Human Rights Conventions provide extensive rights and are now very important for the courts' decisions in very many criminal and civil cases. When applying the convention rules, decisions by international ruling bodies, perhaps in particular the European Court of Human Rights, are very important.

From the celebration of the Supreme Court's bicentenary on 30 June 2015, Chief Justice Tore Schei Photo: Morten Brakestad



New Chief Justice

The EEA Agreement was signed in 1992. In this agreement, Norway undertakes obligations, including incorporating the regulations adopted within the EU into Norwegian law. Gradually, extensive regulations have been established in Norway, formally issued by the Storting, but where the contents of the regulations must conform to the EU regulations, as the law does to Norwegian law. This means that in very many cases, the courts apply Norwegian laws that must be in accordance with similar laws that apply to the other countries within the EEA area. Among other things case law from the European Court of Justice and the EFTA Court may be decisive here when it comes to how the Norwegian statutory rules must be applied.

Very many of the rulings by the Court of Appeal have little public importance. They are of course important for the parties in the disputes or the criminal cases, but the majority of the cases require a specific assessment of the facts on which the decisions must be based. However, a few of the cases have great public importance. They raise legal issues of great importance, which it is important that the Supreme Court clarifies.

When amending rules of procedure and evidence for criminal case and civil legal disputes, it was decided in 1994 and 2005 that the consent of the Supreme Court was required in order for an appeal against a judgment by the Court of Appeal to be brought before the Supreme Court. Such consent will usually only be granted if the case raises legal issues of great public importance. Each year, the Supreme Court grants consent to approximately 60 civil cases and almost the same number of criminal cases. This means that consent is granted in 10-15% of the appeals against judgments by the Court of Appeal, in other words that 85-90% of the appeals are not brought before the Supreme Court. Through this filtering process, the Supreme Court ensures it has the necessary time required to hear the cases of great public importance.

The case-load of the Supreme Court has increased significantly, and the Appeals Selection Committee has a large and growing volume of work on deciding whether to allow an appeal against a judgment by the Court of Appeal to be brought before the Supreme Court, but must also when making a number of other decisions. Primarily to be able to ensure proper processing by the Appeals Selection Committee, the number of personnel in the legal secretariat has been significantly increased. Today, there are 23 legal clerks, including one head and one deputy head law clerk in the legal secretariat - all outstanding young lawyers. The law clerks also assist the chambers, Grand Chamber and plenary to source the legal material in the cases. The reason for expansion of the legal secretariat is because the number of justices in a court of precedence, such as the Supreme Court, must be kept at as low a level as possible.

The latest major change to the Supreme Court in my period of office has been the work on making the Supreme Court an open court in the sense that there must be as much transparency in the Supreme Court's activities as is practically possible. A lot of effort is put into informing about the cases and decisions, about working methods and those who work at the Supreme Court and about the court in general. This information activity must continually evolve. In my opinion, it is very important to make the so-called principle of public access, the right of access to court cases, also a reality for those who do not live in the Oslo area. It should be possible to do so by allowing the court hearings, within the framework of the law, to be streamed, i.e., transmitted online.

Otherwise, the Supreme Court has of course, like very many other workplaces, changed significantly with respect to the relationship between employees over the last thirty years. My definite impression is that the Supreme Court is a workplace where the employees thrive and that they are proud of. I personally have had enjoyed my time at the Supreme Court immensely.

Tore Schei



New Chief Justice



New Chief Justice Toril M. Øie looks ahead:

HER THOUGHTS ON BECOMING THE NEW CHIEF JUSTICE

In the 201-year history of the Supreme Court, the court has had 20 Chief Justices. The first 19 of these were men, many of them were strong personalities who left their mark on the Supreme Court and on the court life. All the portraits of former Chief Justices are hanging in the first chamber courtroom, except for Tore Schei - his portrait has not been finished yet. This is apparently the most complete portrait collection in Norway.

The Norwegian government appoints the Chief Justice, who then appoints the other Supreme Court Justices. However, unlike for ordinary Supreme Court Justices, the law has no further provisions concerning the appointment process. The post is announced in the newspapers, professional journals and on the internet and the list of applicants is public. To find a new Chief Justice in the winter of 2016, the appointment was managed by a special committee. This committee was composed of the Judicial Appointments Board, the Chairman of the Norwegian Bar Association and the Assistance Secretary in the Ministry of Justice and Public Security. The committee interviewed relevant candidates, obtained references and submitted a report to the Ministry of Justice and Public Security about each candidate.

While the application process was in progress, views on the role of the Supreme Court today and in the future were publicly made known by various sources. I find it positive that key aspects of the Supreme Court's activities arouse public interest.

The most important task of a Chief Justice is to be a justice. The Chief Justice must always attend when the Supreme Court is set with a strengthened court, i.e. in plenary or in the Grand Chamber with 11 justices. The Chief Justice also attends the hearing of general cases where the court is set with five justices, and is always the presiding justice in the cases in which he or she participates. One of the aims of my predecessor, Chief Justice Tore Schei was to participate in the judicial operations on an almost equal footing with the other justices - both in chambers and the Appeals Selection Committee. As far as practically possible, this is also my ambition.

The Chief Justice is also the judicial head of the Supreme Court. The Assistant Director is responsible for the day-to-day management of the administration, but the Chief Justice has the overall, administrative responsibility. In addition, the Chief Justice represents the Supreme Court outwardly. Among other things, the Chief Justice attends a number of events organised by the Royal Family, the Storting and the Government. The Chief Justice also participates in seminars and meetings that particularly affect the Supreme Court, receives visitors from home and abroad and participates in international cooperation.

*Chief Justice Toril M. Øie in the justices' chambers of the First Chamber courtroom.
Photo: Monica Kvaale*

Over the course of the Supreme Court's two hundred year history, its role and tasks have changed significantly. Today, the Supreme Court is a court of precedence, the main task of which is to work for clarity and development of the law within the framework set forth by the Constitution and law. In my view, this has been a correct development. The quality of the work of the district courts and the courts of appeal is so good that there is no need for the Supreme Court to be a purely third instance court that quality assures decisions and corrects any errors. The expertise and resources of the Supreme Court are best employed by the Supreme Court primarily hearing cases of great public interest that can provide important legal guidance for other cases.

If a decision is justified in concrete terms, underlining the facts of the case, the decision will not be far-reaching and thus have little precedence effect. The decision would be more far-reaching if it is justified by a more general legal principle. How broad and general the grounds can and should be will however vary from case to case.

I had the privilege of taking over management responsibility for a very well-run court with very competent and committed employees at all levels of the organisation - among the justices, the law clerks and the administration. In order for the Supreme Court to continue to fulfil its task as a court of precedence in a good way in future, we must be able to continue to recruit highly qualified justices, law clerks and other personnel, and that the justices have a varied background. The Supreme Court must also remain a good workplace where employees thrive and are motivated to do their best. The work of expanding the Supreme Court's legal secretariat must continue so that the law clerks to a greater extent than today can assist with the Supreme Court's work in chambers. It is also important that counsel in civil cases and defence counsel and prosecutor in criminal cases before the Supreme Court highlight the fundamental aspects of the case and provide a good legal analysis of the legal issues the case raises.

The work of digitisation should continue. It is also important that more of our judgments can be translated into English so that Norwegian law and the Supreme Court's decisions can have a clearer voice in the international dialogue.

On the appointment of a new Chief Justice, the Supreme Court built on core values that were firmly rooted in the court's daily work. I would particularly like to emphasise the importance that in practice there is no waiting time for an appeal case to be heard by the Supreme Court - the cases are heard as soon as the legal representatives are available to appear in court - and that the Supreme Court is open to the press and the general public. That is how it must also be in the future!

Toril Marie Øie



SUPREME COURT

procedure

The Supreme Court pronounces annually between 110 and 130 judgments and orders following oral hearings. The remainder of the more than 2,000 appeals against judgments, orders and decisions received each year are decided following written proceedings. The justices' work on the cases that are heard orally, follows a fixed procedure. You can read below what Supreme Court Justices Wilhelm Matheson and Ragnhild Noer say about the way of working.

1

PREPARATION *for the appeal hearing*

Each of the Supreme Court's two chambers hear between one to three cases a week. Every Monday is set aside for the justices' preparation of the week's cases.

"Before I go to court, my aim is to understand the case on which we must pronounce judgment. I try to have an overview of the legal issues it raises. It is primarily important to familiarise oneself with the District Court and the Court of Appeal's judgments, and the appeal and the respondent's notice to the Supreme Court. It is also important to familiarise oneself with the legal material presented in the case documents", Wilhelm Matheson says.

*From the justice's chamber of the First Chamber courtroom. From the left Clement Endresen, Arnfinn Bårdsen, Arne Ringnes, Ragnhild Noer and Wilhelm Matheson.
Photo: Supreme Court*



2

THE APPEAL HEARING

In most cases, the appeal hearings begin at 9 a.m. They are led by the presiding justice who is always the Chief Justice, if she is attending or the oldest in seniority among the justices in the case. The lawyers argue their views and try to convince the justices as best they can. The oral appeal hearings can be lengthy, and play a greater role in Norway than in most other countries. The justices often gather together in the justices' chamber 5-10 minutes before "court time" as it is called internally.

"When we meet, we have not previously discussed the case. Each justice forms an independent opinion of the dispute, based on what emerges during the appeal hearing. It is important that we have not conferred beforehand or developed any common opinion along the way", Wilhelm Matheson says. "Our fixed breaks are not used to clarify positions, but we use them to clarify problems or discuss whether there are any questions that we should ask the lawyers", Ragnhild Noer adds. "We talk about a lot of other things too", she says. "The cases are often complex, so the break can help us clear our heads and talk about other things.

3

PREPARATION for the deliberations

"I need more time to think this over", the presiding justice says as he hangs up his robe. "Yes, I also think this is a tough one", says another. "But the reply was brilliant", says the third to the person beside him.

The presiding justice opens the door of the clerk of record's office and notifies when the deliberations will be held. Thus ends a typical day at the Supreme Court.

"The Supreme Court works at a fast pace", Matheson says. "We have to work on 'fresh information' and usually discuss, or deliberate, as we call it, after conclusion of the appeal hearing.

"Preparation for the deliberations is lonely work. We have the same attitude about discussing a matter after conclusion of the appeal hearing as while it is in progress", he says. "Therefore, the justices' deliberations are like a thriller, no one knows what the outcome will be until everyone has presented their opinion!"

4

THE DELIBERATIONS The review of the presiding justice

The Supreme Court's deliberations take place in the courtroom. The justices sit in the same seats, but their robes are replaced by ordinary office clothes. "Based on what I've just said, my preliminary opinion is that..." It is customary for the presiding justice to conclude his review in this way before passing on to the second oldest justice.

It was only after I came to the Supreme Court that I became aware that it is the "justice delivering the lead judgment" who has the task of writing the judgment and not the justice leading the discussion and receiving approval or facing opposition. During the deliberations, it is the presiding justice that is in the driving seat," Matheson says. "He or she then reviews the case, highlights and discusses facts and legal material and finally gives his or her opinion on the specific solution. The review is an oral rough draft of the judgment and usually takes about an hour; sometimes longer in major cases.

And no one interrupts while the review is in progress - or later for that matter, while any of the other justices offer their views on the preferred outcome.



Supreme Court procedure - continued



5

THE DELIBERATIONS – the justices' opinion

After the review by the presiding justice, the second oldest justice offers his or her opinion and then passes on to the other justices in order of seniority. Everyone adjusts their opinion to what has already been said, to avoid repetition.

“Whoever dissents must of course build their own reasoning on the points on which he or she disagrees”, Matheson says. The other opinions are thorough, but always significantly shorter than that of the presiding justice.

“The trick is to offer your opinion on the case, not on the other justices' opinions”, he says. “Usually it's a bit of both. If the discussions raises serious doubt about the solution and divergent reasoning patterns among the justices, the deliberation develops more into a colloquium. However, everyone still speaks in turn without interruption”, Matheson says. “If there is a basis for it, the presiding justice seeks to find a common core on which everyone can agree. However, dissent is nevertheless inevitable from time to time, on average in about every fifth case. “There is never any pressure on the justice who wishes to dissent, and dissents are also treated with respect”, both Noer and Matheson point out..

6

THE WORK OF THE JUSTICE DELIVERING THE LEAD JUDGMENT with the draft judgment

Justices are never hand-picked, either for an individual case or to write the judgment. The justice delivering the lead judgment is determined by a fixed rota. However, if the justice who is to write the judgment ends up in a minority, the order is changed. Then one of the justices that belongs to the majority must take over the tasks of preparing a draft. The justice who writes the judgment usually submits a draft to the other justices within 4 - 6 days.

Justice Noer says that the justice delivering the lead judgment is usually excluded from the next case and replaced by one of the justices on the Appeals Selection Committee. “That way the writing work can get underway quickly. However, you're not left in peace for long and evenings and parts of the weekend are usually spent trying to get finished in time. In return, we have several so-called office weeks during the year where we have no cases on our agenda”, she adds. “In the office weeks we have greater freedom to attend meetings and conferences.”



7

THE COOPERATION PHASE

The other justices in the case comment on the draft judgment of the justice delivering the lead judgment down to punctuation errors. The comments are delivered in writing. The round of comments ends with the justice delivering the lead judgement distributing a revised draft to the other justices.

“The organisation of our work is based on we as a collegial court having a shared responsibility for the judgment. Therefore, we carry the load together down the final stretch. A complete first draft is the basis for an intense cooperation phase up to delivery of the judgment. Everyone contributes opinions and comments”, Noer says. “However, as the justice delivering the lead judgment, it is still basically me who decides which proposed amendments of a more editorial nature from the other justices I will include,” she continues. With respect to facts, however, I can be overruled. “However, the comments come from someone who has read the text with fresh eyes, and therefore the suggestions are mainly improvements that are easy to follow. However, we are individuals, and the writing style of the justice delivering the lead judgment is respected”.

8

COURT CONFERENCE and voting

One to three weeks after conclusion of the appeal hearing, the justices are ready for the last phase of the work on the judgment; the court conference and voting. This also takes place in the court and with the justices sitting in the same seats; still not wearing their robes.

“Has any changed their opinion since the deliberation?”, the presiding justice asks. “The question is meant seriously. A justice is allowed to change his or her mind. It does happen, but usually not as late as in the minutes before the judgment is delivered”, Matheson says. “At the court conference we go over the revised draft page by page, move words around and polish phrasing once again so that the statements and legal principles are as clear as possible”, he says. “Are we then ready to vote?” the presiding justice asks and receives confirmation from the other justices, and the justice delivering the lead judgment is requested to read out the decision he or she is voting for. It is always a serious moment. The other justices follow with familiar phrases about “in the main and on the outcome agree with the justice delivering the lead judgment” and “likewise - that is as long as there is no dissenting opinion. The justices’ signatures seal the final judgment. Supreme Court judgments are a delight to some and a disappointment to others,” Noer and Matheson conclude.

Left: Deliberation in the Supreme Court's Second Chamber courtroom, justices Wilhelm Matheson, Per Erik Bergsjø and Wenche Elizabeth Arntzen.

In the middle: Justice Karl Arne Utgård in his office at the Supreme Court Building

Above: The court conference in the Supreme Court's Second Chamber courtroom. From the left justices Ingvald Falch, Ragnhild Noer, Wilhelm Matheson, Per Erik Bergsjø and Wenche Elizabeth Arntzen.
Photo: Sturlason



From paper to
TABLET

There has been a small revolution in the Supreme Court. In the court cases, significant volumes of paper documents are in the process of being replaced by tablets. Arnfinn Bårdsen informs:

The written material the justices receive in the cases that are brought before the Supreme Court are collected in abstracts. The factual abstracts include written evidence and key documents from the court case so far. The judicial abstracts include the legal material, such as legal texts and the Supreme Court's previous practice.

The abstracts are usually hundreds of pages long, divided into several volumes. Traditionally, the abstracts have been on paper - bound copies in A4 format,

printed on both sides and with a list of contents. However, large hard-copy abstracts have their disadvantages. It takes time to find the right page, they take a lot of room and are heavy to carry. Production of these is also time-consuming.

Inspired by a study trip to the UK Supreme Court in the winter of 2014, work was initiated to organise a transition to electronic abstracts in the Supreme Court of Norway. This is one of several digitalisation projects in progress in the courts. The Supreme Court started-up tentatively early in 2016. Prior to introduction, we had to clarify the requirements relating to document security, appropriate format and platform. It was very important to have a good balance between the desire to benefit

from new technology and the need for respect for established work processes.

In 2016, almost all the justices have worked with electronic abstracts. An increasing number are now in "full electronic mode" in the sense that they use only electronic abstracts. Others prefer to use a combination of electronic abstracts and paper abstracts. The advantages of electronic abstracts are many, particularly when using a tablet with an A4 screen size, which provides very good readability. Time will show whether the paper abstracts disappear completely from the Supreme Court's court cases.

Justice Arnfinn Bårdsen with a tablet during the appeal hearing at the Supreme Court's First Chamber courtroom.

Photo: Sturlason





CASES IN 2016

When the Supreme Court hears cases that are of “particular importance”, the court is set in plenary (20 justices) or in Grand Chamber (11 justices). This may include cases concerning constitutional matters or provisions by which Norway is bound in international cooperation. In 2016, the Supreme Court heard one civil case in plenary and two in Grand Chamber. The Supreme Court also heard one criminal case in Grand Chamber. In other respects, the Supreme Court heard 61 civil cases and 48 criminal cases in chambers. Cases heard in chambers are set with five justices. You will find more detailed information about the types of cases heard by the Supreme Court in 2016, in the statistics at the back of the Annual Report.

PLENARY AND GRAND CHAMBER

Plenary - is a boycott contrary to EEA law?

The Norwegian Transport Workers Union had notified of a boycott against Holship Norge AS. The boycott was planned to prevent Holship, which is owned by a Danish company, from using own stevedores to load and unload ships in the Port of Drammen. The object was to force Holship to enter into the so-called Framework Agreement, a collective agreement that gives registered stevedores preferential right to loading and unloading work at the port. Under a dissenting judgment (10-7), the Supreme Court concluded that the boycott was contrary to the right of establishment under the EEA Agreement Article 31. The majority were of the opinion that the primary object of the boycott was to prevent Holship from establishing itself in the loading and unloading business at the Port of Drammen, which was consistent with free movement in the EEA. The right to boycott had to give way in the balance between the right of establishment and right to boycott. The majority attached importance to an interpretation statement that was obtained from the EFTA Court on the matter. The minority were of the opinion that the purpose of the preferential right was to protect the employees’ terms and conditions of employment, and that the arrangement of preferential right for registered stevedores did not go further than necessary to ensure this purpose. [HR-2016-2554-P](#)

Grand chamber - Ground lease

Case concerning the relationship between the redemption price and market value of a leasehold

On redemption of a ground lease, a lessor claimed that the 40 per cent rule in section 37 of the Ground Lease Act was contrary to the landowner’s protection of property under the European Convention on Human Rights. The Court of Appeal had determined the redemption price to be NOK 1.5 million. The lessor claimed cover of the whole market value of the plot - approximately NOK 10-15 million. The Supreme Court concluded that the lessor’s financial expectation of being able to use the ground lease at the end of the term of lease had been addressed through the legislation. Redemption at the price determined by the Court of Appeal was not then a disproportionate interference in the lessor’s right of ownership. HR-2016-00304-S

Action against the State’s responsibility as legislator, dismissed from the courts

A lessor was of the opinion that one of the provisions of the Ground Lease Act was contrary to the European Convention on Human Rights and filed a claim for damages against the State regarding legislative error. A Grand Chamber judgment dismissed the action from the courts. The majority of eight justices were of the opinion that the action involved a review of the justness of a Supreme Court judgment from 2006 in the same case complex. Such action was contrary to section 200 of the Courts of

Full versions of the decisions are available at hovesterett.no and at Lovdata.

Justice Act. Therefore, the majority of the Supreme Court did not consider the claim for damages. HR-2016-2195-S

Grand Chamber - reduced punishment due to long processing time

In a criminal case it took more than three years from the time the offence was committed until a final judgment was delivered by the Supreme Court. During these three years the case was totally inactive with the police and prosecuting authority for between seven and eight months. The Supreme Court concluded that the total time spent was not in violation of the Constitution or the European Convention on Human Rights. However, it follows from traditional sentencing practice that when there has been a long processing time emphasis must be in favour of the convicted party. This can be done by granting a deduction in the total penalty, or through a full or partial suspended sentence. The Supreme Court stated that the starting point should be a deduction in the total penalty. HR-2016-225-S

CIVIL CASES IN CHAMBERS

Lawful reduction of parliamentary pensions

A retired member of parliament was of the opinion that amendments to the law relating to parliamentary pensions were in violation of the prohibition in section 97 of the Constitution against laws having retrospective effect and against the right to property under the European Convention on Human Rights. The pensioner was not successful. The Supreme Court attached importance, among other things, to the fact that the amendment did not involve a particularly extensive interference, and that the pensioners did not have a legitimate expectation that the pension would remain unchanged. Social considerations such as economic sustainability, equality

and a fair distribution between the generations had to weigh heavily in the overall assessment. HR-2016-00389-A

Right of asylum and human rights

A Somali woman who had been granted asylum in Hungary, sought asylum in Norway. She claimed to have been a victim of human trafficking and being forced into prostitution. The woman was of the opinion that she would not receive the necessary health care in Hungary. The Supreme Court ruled that return to Hungary could not take place if this would be contrary to Article 3 of the European Convention on Human Rights. However, the threshold for the woman's health being an obstacle for expulsion had to be very high. In this specific case the threshold had been reached. The Supreme Court stated that the immigration and the courts must make as broad and thorough an assessment as necessary to decide on a claim that Article 3 of the Convention has been violated. With reference to the fact that the woman had already been granted asylum in another country, UNE refused the application without further processing, cf. section 28 of the Immigration Act. However, in this case the Court of Appeal's assessment was extensive enough. The Court of Appeal's judgment, where the State was acquitted, was upheld. HR-2016-1051-A

Who owns Stjernøya in Finnmark?

A group of Sami reindeer herders who for a number of years had used Stjernøya in Finnmark as a summer grazing area, were successful with their claim that they were owners of parts of the island. The Supreme Court concluded that the reindeer herders had not been the original owners of the island. Therefore, right of ownership had not been established on the basis of the principles of occupation of ownerless land. The State had exercised right of ownership to



CASES IN 2016

Stjernøya since the 18th century and the locals had used the island's outfield land resources. The Sami reindeer herders' use had also not been sufficiently intensive and dominating to be able to establish right of ownership on the basis of immemorial usage. HR-2016-2030-A

Is it possible to claim preferential right to only a part of an announced vacancy?

A part-time nurse claimed preferential right to a part of an announced vacancy, so that in total she would have full-time employment status. Her employer refused this. The woman initiated legal proceedings and claimed compensation. Prior to this, a dispute resolution board sustained her claim that her preferential right had been violated. Although her employer had not brought the decision of the dispute resolution board before the courts within the time limit of the Working Environment Act, the majority of the Supreme Court concluded that it was not too late for the employer to claim that the decision of the dispute resolution board was incorrect. The majority also agreed that the decision was incorrect, and therefore, the woman was not awarded any compensation. Three justices stated that in general, the Working Environment Act precluded dividing up the announced vacancy. HR-2016-867-A

Sick mayor is not entitled to sickness benefit as an employee

A local authority paid wages to a mayor who was on sick leave for a period of three months. NAV dismissed the local authority's claim to have the money refunded. In the subsequent court case, the local authority was unsuccessful with its claim for a refund. The Supreme Court found that a mayor is not entitled

to sickness benefit as an employee, which is a condition for the local authority receiving a refund. A mayor may claim sickness benefit under the regulations for freelancers, but this does not entitle the local authority to a refund for remuneration paid during the sick leave period. HR-2016-589-A

Disputes regarding tradename

In a case concerning registration of a business name, the Supreme Court concluded that registration of the business name Pangea Property Partners AS was not in violation of the previously registered business name Pangea AS. Pangea Property Partners AS offered services within brokerage and corporate finance in the commercial property market, while Pangea AS offered credit card services in the consumer credit market. Following a specific assessment, the requirement regarding the same or similar type of business, which is a necessary condition for there to be a risk of confusion, was deemed not to have been met. HR-2016-1993-A

In another case, the Supreme Court concluded that a company was not entitled to register the term "Route 66" as a trademark for goods and services related to tourism. The Supreme Court concluded that an average Norwegian consumer would perceive "Route 66" to be a geographical place. The conditions for having the name registered as a tradename were not then met. HR-2016-2239-A

Responsibility for a rupture in a power plant pipeline

A rupture in a power plant pipeline resulted in a nine month production stoppage, so that no concessional power was supplied in this period. The rupture was due to the pipeline being undersized relative to the external water pressure. The design was in accordance with the established engineering experience at the time of the development, and there was no negligence in connection with the development. The Supreme Court found that the owner of the power plant was the one who had to bear the risk of the rupture, and that there were then no grounds for exempting the owner from the obligation to supply concessional power due to a force majeure. The owner of the power plant was ordered to pay compensation to the regional authorities, who were entitled to concessional power. HR-2016-1235-A

The estate agent's responsibility to provide a correct sales prospectus

When selling a residential property, the estate agent's sales prospectus did not inform that there was not a certificate of completion for parts of the property. The buyer received a price reduction and compensation from the seller's change of ownership insurance company. The case before the Supreme Court concerned the question of whether the seller's change of ownership insurance company could have its loss claim covered by the estate agent's civil liability insurer. The Supreme Court pointed out that the estate agent has a statutory obligation to prepare a sales prospectus and that he must have been aware that the change of ownership insurance company based the insurance on the sales prospectus being correct and complete. The judgment establishes that an estate agent has the same liability of misrepresentation to the seller's change of ownership company for loss due errors in the sales prospectus as an appraiser has for errors in the valuation. HR-2016-2264-A

Financial instrument agreements

In 2006 and 2007, a local authority's Administration Officer entered in an agreement with a bank regarding purchase of financial instruments. This was contrary to the local authority's internal regulations, and also exposed the local authority to a considerable financial risk. In 2010, the local authority claimed that the agreements were void. As opposed to the lower courts, the Supreme Court concluded that the agreements were binding for the local authority, and found in favour of the bank. It was concluded that the local authority had remained passive over a long period after it became clear that the financial regulations had been infringed. This meant that action to void had been filed too late. HR-2016-476-A

Tax deduction for renovation of commercial building

A property company had carried out extensive maintenance and modification work on a combined residential and commercial building and claimed deduction of the costs as maintenance costs under the Tax Act. In certain case, deduction may be allowed for so-called "intended maintenance", i.e. costs of maintenance that would have been required if the building had not been modified. The Supreme Court concluded that this only applied as long as the functional properties of the relevant section of the building were maintained. The parts of the costs related to new functions and modifications to adapt the premises to new lessees could not then entitle to a maintenance deduction, but had to be capitalised. HR-2016-1801-A

Corporate tax avoidance

In 2007, an international group reorganised its property portfolio in Norway so that the properties were separated from the Norwegian parent company and placed in new, separate companies. The shares in these companies were placed in a newly established property company, and the shares in this company were in turn sold to the original parent company, which then became indirect owners of the same properties. The last acquisition was funded through an inter-company loan of approximately NOK 2 billion. The Supreme Court concluded that based on the non-statutory tax avoidance rule under tax law, the parent company could not be allowed to deduct interest on the inter-company loan, as the main purpose of the reorganisation was considered to have been done to save tax. HR-2016-2165-A



CASES IN 2016

CRIMINAL CASES IN CHAMBERS

Unlawful wolf hunt

Four men were convicted for the attempted unlawful killing of three wolves. One of the men was also convicted of grossly negligent violation of the Nature Diversity Act for having shot a wolf during a fox hunt. He was sentenced to a term of imprisonment of one year. The three others were sentenced to terms of imprisonment from 120 days to 6 months. All of the men lost the right to hunt and trap for three years.
HR-2016-1857-A

Participation in and support of terrorist organisations

The punishment for joining ISIL and serving as a “private” for the organisation in Syria was set at a term of imprisonment of four years and six months. The punishment for attempting to send material support, such as military apparel, to a foreign fighter was set at a term of imprisonment of seven months.
HR-2016-1422-A

Can the police force use of the defendant’s fingerprints to unlock a mobile phone?

In an assault case, the police confiscated a mobile phone they believed had been used to film and photograph the assault. The defendant refused to cooperate by unlocking the phone. The Supreme Court concluded that the law did not allow the police to force use of the defendant’s finger to unlock the phone.
HR-2016-1833-A

Punishment for harassment of justices and insulting the judicial system

A man had disrupted a court hearing and using gestures and words expressed that the justice was an idiot. The following day he called the justice on her private mobile phone and accused her of being a cruel and bad person.

He also sent two text messages with almost the same message. The Supreme Court stated that it must be possible to criticise the content of court decisions to some extent, but that the defendant’s actions in this case had crossed the line and therefore were punishable.

The punishment was set at a term of imprisonment of approximately 30 days.
HR-2016-1012-A

In another case a man was sentenced to prison for seven months for obstruction of justice. In several videos posted on Youtube, he had made extremely offensive statements about justices, lawyers and case handlers at the District Court.
HR-2016-1015-A

Conditions for electronic monitoring do not lead to a reduced sentence

A man was convicted of arson. He was sentenced to two years imprisonment, of which six months were suspended. The arson was regarded as a continuation of previous serious offences against the family that owned the house. In addition, the man was imposed electronic monitoring with a ban on making contact, which will prevent him to entering a geographical area around the victims. The Supreme Court concluded that the restriction zone could be established on the basis of the police response time in the area. Use of welectronic monitoring could not justify a shorter or suspended sentence.

HR-2016-783-A

Tougher sentence for unlawful killing a dog and for serious cruelty

A man had killed a dog by tying it to a concrete pipe and throwing it from a bridge so that it drowned. When determining the sentence, the Supreme Court set a term of imprisonment of 120 days. This is a much tougher sentence compared with previous case law. A deduction was made because the defendant had confessed. HR-2016-295-A

In another case regarding animal cruelty, the punishment was set at a term of imprisonment of one year and eight months. A farmer, who was a beef producer and was responsible for a herd of 92 cattle, suffered a psychological blow and stopped tending the cattle in the barn. The animals died due to lack of food and water and their suffering could have lasted as long as two months. The farmer was aware of what was happening. When determining the sentence, limited importance was attached to personal circumstances, but a limited sentence reduction of two months was granted for the farmer's confession. HR-2016-2285-A

Not an offence to provide passenger transport through the "Haxi" taxi app

Three men were indicted for providing passenger transport in return for payment without the required licence. The transport was provided via the "Haxi" mobile app. The Supreme Court concluded that the service was not offered in a "public place", which was a condition for punishment under section 4 of the Professional Transport Act. The acquittals from the district court and the court of appeal were therefore affirmed. It was stated that it would be the task of the legislator to determine whether to extend the legal requirement to hold a tax service operator licence. HR-2016-1458-A

Juvenile punishment not used for very serious offences

Two convicted persons were found guilty of gang rape with several aggravating circumstances against a minor and particularly vulnerable boy. The convicted persons were approximately 16 years old at the time of the offence. Due to their age, a prison sentence was not the preferred option. However, the offence was considered so serious that "consideration for the object of the punishment" spoke in favour of a prison sentence. The punishment was set at a term of imprisonment of four years, of which three years were suspended. HR-2016-1364-A

Juvenile punishment was also not used in another case where the convicted person was 15-16 years of age at the time of the offence. Over a period of one year, the convicted person had repeatedly committed serious sexual abuse of a child that was 5-6 years of age. The punishment was set at a term of imprisonment of three years and six months, of which two years and ten months were suspended. HR-2016-1365-A

Driving a Segway under the influence of alcohol

On a visit to the capital, a man had enjoyed a meal at a restaurant along with a good deal of alcohol. He then test drove a two-wheeled, self-balancing vehicle - so-called Segway. After driving a short distance, he was stopped by the police. The man was charged with drinking and driving. The Supreme Court concluded that a Segway is a "motor vehicle", and that driving such a vehicle under the influence of alcohol is punishable under the Road Traffic Act. HR-2016-2228-A



CASES FROM THE APPEALS SELECTION COMMITTEE

THE APPEALS SELECTION COMMITTEE - THE HEART OF THE SUPREME COURT

The Appeals Selection Committee has two main tasks: To determine which cases will be heard orally in chambers and decide on appeals against orders and decisions. The Appeals Selection Committee may also decide on certain appeals against judgments.

APPEALS AGAINST JUDGMENTS

In 2016, the Supreme Court received 2,331 appeals. 829 of these were appeals against judgments. One of the main tasks of the Appeals Selection Committee is to determine which cases to refer for an oral hearing. In 2016, 113 cases were referred. The most important topic of the decision about whether to refer a case is whether it raises an issue of great public importance. In other words, if it can have a bearing on other issues.

The Appeals Selection Committee may also decide on certain appeals against judgments. In criminal cases this applies when the Appeals Selection Committee finds it clear that the judgment has such errors that it must be overturned or that the defendant must be acquitted because the prosecuted act is not punishable. Just as in criminal cases, the Appeals Selection Committee may also decide appeals against civil judgments, which have such errors that the Appeal Selection Committee finds that there are grounds for annulment.

In 2016, the Appeals Selection Committee decided 19 appeals against judgments. Inadequate grounds resulted in the Court of Appeal's judgment in a civil case being overturned HR-2016-574-U. Inadequate grounds also resulted in a conviction being HR-2016-2191-U overturned in respect of the length of the period of preventive custody. In another case, the Appeals Selection Committee revoked the sentencing because the Court of Appeal in a case where there was a question of a drugs programme, had decided the case without

waiting for the outcome of a social inquiry report. HR-2016-2332-U.

APPEALS AGAINST ORDERS AND DECISIONS

In 2016, the Supreme Court registered 1,502 appeals against orders and decisions. This is a very varied group of cases. However, they have in common that they concern procedure, and that they do not decide the case itself. Typical examples are appeals against interim orders, exclusion of evidence and remand in custody. HR-2016-937-U, which concerned the question of whether a party should be forbidden from using a certain trademark until the case was legally settled, is one good example.

Usually, the Appeals Selection Committee decides all appeals against orders and decisions. The Appeals Selection Committee can also choose to transfer the case for hearing in chambers, but this rarely happens.

If the Appeals Selection Committee unanimously finds it clear that the appeal may be disallowed or rejected, this will usually be done using a simplified decision. However, there are also many examples where the Appeals Selection Committee gives further grounds for their decisions. The Appeals Selection Committee decides this based on the complexity and public importance of the issue. An example of a decision that the Appeals Selection found reason to justify closer is HR-2016-2410-U (Snowden).

All cases appealed to the Supreme Court are first processed by the Supreme Court Appeals Selection Committee.

The proceedings before the Appeals Selection Committee are in writing and the cases are decided by three justices. All the Supreme Court justices sit on the Appeals Selection Committee according to a rota.

THE SUPREME COURT AND INTERNATIONAL LAW

Many cases in the Supreme Court today involve international legal material. This gained serious momentum in the 1990s when the EEA agreement was incorporated into Norwegian law. At the same time, the most important human rights conventions were adopted as Norwegian law. In 2014, several human rights were included in the Constitution. Judges from the European Court of Human Rights (ECHR), the EFTA Court and the Court of Justice of the European Union are therefore important sources of law to the Supreme Court.

In 2016, human rights have also been important in several decisions. A key decision here is HR-2016-389-A where the Supreme Court considered the issue of whether a new provision on adjustment of the parliamentary pension was in violation of the protection of property under the European Convention on Human Rights (ECHR) First Protocol Article 1. This provision was also central in two Grand Chamber cases concerning ground lease, HR-2016-304-S and HR-2016-2195-S.

Parties who are dissatisfied with the Supreme Court's decision in a case concerning ECHR may appeal this to the European Court of Human Rights. In 2016, the court heard a Norwegian case in the Grand Chamber, cf. ECHR's judgment of 15 November 2016. The court concluded here that it was not a violation of the ban on being punished twice set out in Protocol 7 to the Convention on Human Rights Article 4 that two people were initially imposed additional tax and then convicted for the same offence. The case concerned the Supreme Court judgment of 27 September 2010 HR-2010-1613-A and the decision of 29 September 2010 HR-2010-1840-U.

Norwegian courts may also request the EFTA Court for advisory opinions on matters concerning interpretation of the EEA Agreement. In 2016, the Supreme Court in plenary heard case no. 2014/2089 after the EFTA court had given such an advisory opinion. The case concerned the legality of an announced boycott of the Port of Drammen, and in a judgment pronounced on 16 December 2016, the Supreme Court concluded that the boycott was in violation of the right of establishment under Article 31 of the EEA Agreement. The request for an advisory opinion from the EFTA court has been sent this year in two other cases to be heard by the Supreme Court. This is case 2015/1026, concerning the legality of open bid rigging and case 2016/928 concerning the boundary between working hours and leisure time under section 10-1 of the Working Environment Act.

In 2016, the Supreme Court also had case regarding other international conventions. In HR-2016-1251-A UCLOS of 1982 was used to resolve the question of whether Norwegian law or the flag state's law should be applied to dismissal of Norwegian sailors, while the ILO Convention on Indigenous and Tribal Peoples was prominent in HR-2016-2030-A, which concerned a claim for right of ownership of Stjernøya in Finnmark.



Supreme Court justices in the justice's chamber of the Second Chamber courtroom. Justice Knut Kallerud not present.
Photo: Sturlason



SUPREME COURT JUSTICES

TORIL MARIE ØIE (56)

Toril Marie Øie was born and raised in Oslo and received her law degree in 1986. She was appointed Supreme Court Justice on 1 August 2004 and came from the position of Deputy Director General in the Ministry of Justice's Legislation Department. Øie was appointed Chief Justice of the Supreme Court on 1 March 2016.

MAGNUS MATNINGSDAL (65)

Magnus Matningsdal was born and raised in the municipality of Hå in the region of Jæren. He received his law degree in 1976 and took up appointment as Supreme Court Justice on 11 August 1997. He came from the position as Senior Presiding Court of Appeal Judge at Gulating Court of Appeal.

JENS EDVIN A. SKOGHØY (61)

Jens Edvin A. Skoghøy was born in Tromsø and raised on Ringvassøya in the municipality of Karlsøy in the county of Troms. He received his law degree in 1976 and took up appointment as Supreme Court Justice on 15 August 1998. He came from the position as professor at the University of Tromsø.

KARL ARNE UTGÅRD (65)

Karl Arne Utgård was born and raised in Sykkylven. He received his law degree in 1976 and took up appointment as Supreme Court Justice on 15 November 1999. He came from his own legal practice in Hamar.

INGSE STABEL (70)

Ingse Stabel was born and raised in Oslo and received her law degree in 1971. She took up appointment as Supreme Court Justice on 1 May 2001. She came from the position of chair of the National Insurance Appeals Council. She will retire on 1 January 2017.

BÅRD TØNDER (68)

Bård Tønder was born in Sjøvegen and raised in Salangen in the county of Troms. He received his law degree in 1975 and took up appointment as Supreme Court Justice on 15 May 2006. He came from the position of Attorney General.

CLEMENT ENDRESEN (67)

Clement Endresen was born and raised in Stavanger and received his law degree in 1974. appointed Supreme Court Justice on 28 August 2006. He came from the position as a private practice lawyer.

HILDE INDREBERG (59)

Hilde Indreberg was born and raised in Oslo and received her law degree in 1987. She was appointed Supreme Court Justice on 1 April 2007. She came from the position as Deputy Director General of the Ministry of Justice's Legislation Department.

ARNFINN BÅRDSSEN (50)

Arnfinn Bårdsen was born and raised in Stavanger and received his law degree in 1992. He took up appointment as Supreme Court Justice on 1 July 2008. He came to the Supreme Court from the position as Senior Presiding Court of Appeal Judge in Gulating Court of Appeal.

BERGLJOT WEBSTER (50)

Bergljot Webster was born and raised in Oslo and received her law degree in 1992. She took up appointment as Supreme Court Justice on 15 August 2009. She came from the position of private practice lawyer.

WILHELM MATHESON (61)

Wilhelm Matheson was born and raised in Oslo and received her law degree in 1982. He took up appointment as Supreme Court Justice on 1 November 2009. He came from the position as a private practice lawyer.

KRISTIN NORMANN (62)

Kristin Normann was born in Oslo and raised in Bærum. She received her law degree in 1982 and took up appointment as Supreme Court Justice on 9 August 2010. She came from the position of private practice lawyer.

RAGNHILD NOER (57)

Ragnhild Noer was born in Oslo and raised in Svartskog and Orkanger. She received her law degree in 1985 and took up appointment as Supreme Court Justice on 1 October 2010. She came to the Supreme Court from the position as Appellate Judge at Borgarting Court of Appeal.

HENRIK BULL (59)

Henrik Bull was born and raised in Bærum. He received his law degree in 1984 and took up appointment as Supreme Court Justice on 17 January 2011. He came from the position as judge at the EFTA Court of Justice.

KNUT H. KALLERUD (60)

Knut H. Kallerud grew up in Hvittingfoss and Kongsberg. He received his law degree in 1983 and took up appointment as Supreme Court Justice on 16 July 2011. He came from the position as Assistant Director General of Public Prosecutions.

PER ERIK BERGSJØ (58)

Per Erik Bergsjø was born in Levanger and raised in Steinkjer. He received his law degree in 1985 and took up appointment as Supreme Court Justice on 1 March 2012. He came from the position as a private practice lawyer.

ARNE RINGNES (61)

Arne Ringnes was born and raised in Oslo. He received his law degree in 1982 and took up appointment as Supreme Court Justice on 18 August 2014. He came from the position as a private practice lawyer.

WENCHE ELIZABETH ARNTZEN (57)

Wenche Elizabeth Arntzen was born in Oslo and raised in Bærum. She received her law degree in 1986 and took up appointment as Supreme Court Justice on 29 September 2014. She came from the position as judge at Oslo District Court.

INGVALD FALCH (53)

Ingvald Falch was born in Bærum and raised in Vadsø. He received his law degree in 1989 and took up appointment as Supreme Court Justice on 1 September 2015. He came from the position as a private practice lawyer.

ESPEN BERGH (55)

Espen Bergh was born and raised in Oslo and received his law degree in 1987. He took up appointment as Supreme Court Justice on 15 August 2016. He came to the Supreme Court from the position as Appellate Judge at Borgarting Court of Appeal.

Justices Erik Møse (66) and Aage Thor Falkanger (51) have been granted long-term leaves of absence after being appointed judge at the European Court of Human Rights in Strasbourg and Parliamentary Ombudsman for Public Administration respectively.

A more detailed list of justices and their backgrounds is available on the Supreme Court's website www.hoyesterett.no.

THE JUSTICE WITH THE EARRINGS

It may not be politically correct to introduce Supreme Court Justice Ingse Stabel - former Equal Status Ombud - as an elegant woman with dark eyes, large earrings and cheery disposition. However, that is a fitting description of the justice who turned 70 and retired in December 2016.

“When I took up appointment at the Supreme Court in 2001, there was work morning, noon and night. This really affected by daily life and my social life. Working conditions are much better these days. The Supreme Court has become a more normal workplace.” However, the relationship between the justices has not changed:

“It is the same as before. We have always had fun together.

That is perhaps the reason why Ingse Stabel loves lunch:

“We have fun discussions about all kinds of things. Even in periods where I can sit at home and work, I’m usually in my office so that I don’t miss the lunch”, she says and laughs.

Ingse Stabel began her career in the Legislation Department where she worked for 15 years. After a few years as a lawyer at the Office of the Attorney General, as Ombud for Equal Status and chair of the Social Security Tribunal, she became a justice of the Supreme Court.

“Through my previous work I gained respect for all the talented lawyers who work in the administration. And I acquired a “down-to-earth” relationship with reality”, she says.

The latter also characterises her view of what has been the most meaningful aspect of her work at the Supreme Court:

“Being involved in clarifying the state of the law in cases concerning completely ordinary people, I think has been the most important aspect of my job”. I have been concerned that decisions must be clear, so that they can act as a guide and prevent new disputes. However, the threshold for ordinary citizens to take legal action has become too high. It is a paradox that important issues, which could use clarification have not been brought before the courts”, she says. This includes everything from consumer issues to cases relating to the breakdown of marriage.

“To put it very simply: You must be resolute, brave and rich to bring cases before the court these days.

Although she has been the Ombud for Equal Status, she is not particularly concerned that the percentage of women among the justices has only increased from six to seven in the time she has been at the Supreme Court. “I’m sure that will change and therefore I have a fairly relaxed attitude to it”, she says. There are now a large number of women studying law, so there have been enormous changes here from when I was young.

Ingse Stabel is also not worried about retiring.

“When I was a child I was someone who “did what they wanted”. And that's what will be good about being a pensioner: Being able to do what you want!



“Being involved in clarifying the state of the law in cases concerning completely ordinary people, I think has been the most important aspect of my job”.

Justice Ingse Stabel in the justices' lunch room on the 2nd floor of the Supreme Court Building Photo: Sturlason



Interview with

JUSTICE ESPEN BERGH

Espen was appointed Supreme Court Justice in 2016. He took up appointment on 15 August and came from the position as Appellate Judge at Borgarting Court of Appeal.

Bergh received his law degree from the University of Oslo in 1987. On completion of his studies, he worked for a brief period at the Ministry of Defence before joining the Ministry of Justice's Legislation Department. Bergh worked here for ten years, none of these as Legal Adviser. While he was working at the Ministry of Justice he managed served a period as a deputy judge and acting District Court Judge at Ytre Follo District Court in the years 1992-1994.

In the period 1999 to 2005, he was a lawyer at law firm Wiersholm, where he had various fields of responsibility. About his time as a lawyer he says:

Being a lawyer is a demanding and exciting profession, and I gained important experiences from the years. As a lawyer, you must at least find a balance between expectations from various groups. These may be clients, opposing parties and their lawyers, the courts and others. As a justice, it is absolutely very useful to have been on the other side of the bench.

In 2005, he was appointed judge at Borgarting Court of Appeal. He explains his decision to become a judge as follows:

Ever since I was a deputy judge I've wanted to return to the courts at some point in my life. As a judge you gain an insight into many aspects of society and face increasingly interesting and challenging problems. The objective role you have as a judge suits me very well.

His next step up the career ladder was to the Supreme Court in 2016. When answering about why he wanted to work as a Supreme Court Justice, he says:

The fact is that the most principle decisions are made by the Supreme Court. For a long time I had no plans to leave such a fantastic workplace as Borgarting District Court, but gradually the idea began to form in my mind that I could perhaps contribute as a justice of the Supreme Court, and that it could be a good place to work. And I have not been disappointed. I have been very well received by friendly colleagues and I have made good progress with the interesting and important tasks.

Espen Bergh also has a number of interests other than law. When he is not at work, he enjoys sports and outdoor activities. For many years, he has been a keen orienteer. However, in the last few years, he has cut back on these activities to enjoy spending time at his cabin in the mountains.



SUPREME COURT'S ADMINISTRATION

The Supreme Court's administration comprises a legal and an administrative support team of approximately 55 people. The Chief Justice is the head of the court, and as such, he also has overall administrative responsibility and takes part in the handling of administrative issues of principle and issue of major practical significance for the court. The day-to-day administration is handled by the Secretary-General.

SECRETARY GENERAL GUNNAR BERGBY (69)

Gunnar Bergby has a law degree from the University of Oslo and has also completed a Total Defence Course at the Norwegian Defence University College. Earlier in his career, he was City Magistrate of Oslo and Chief City Judge of Oslo. He took up his appointment as Secretary-General of the Supreme Court in 1994.

DEPUTY DIRECTOR GENERAL ELIN HOLMEDAL (45)

Elin Holmedal has a law degree from the University of Oslo and an LL.M from the United States. She has also studied at the Norwegian Business School (BI). She has previously been a higher executive officer at the Ministry of Justice's Legislation Department, advocate at the Office of the Attorney General and judge at Borgarting Court of Appeal. She has been Deputy Director-General of the Supreme Court since August 2014.

The Supreme Court's INFORMATION OFFICER, SVEIN TORE ANDERSEN (63), is responsible press officer and webmaster.

ICT ADVISER INGRID LOUISE CHRISTENSEN (33) was responsible for all ICT systems at the Supreme Court until she took up a new appointment at Oslo District Court in October 2016.

THE LEGAL SECRETARIAT

The Legal Secretariat is the largest unit in the Supreme Court's administration, and it employs 20 people, including the Head and the Deputy Head of the Legal Secretariat as well as two clerks of record and one student law clerk.

Law clerks are appointed for a fixed term (seven years). Appointment requires a Master of Law (or a law degrees// cand.jur.). Lawyers from all Norway's law faculties are represented in the legal secretariat.

The Legal Secretariat works to serve the Appeals Selection Committee and the other units of the Supreme Court. When an appeal is received by the Supreme Court, it is allocated to a law clerk. In all types of cases, procedural as well as substantive issues are reviewed.



All cases appealed to the Supreme Court, are considered by the legal secretariat. In the photo we see 19 of the 23 law clerks at the Supreme Court. Photo: Sturlason

In case of an appeal against a judgment, the research is aimed at clarifying whether the case raises issue of principle that ought to be heard by the Supreme Court. If an appeal against an order or a decision is filed, the case will be researched with a view to preparing the Appeals Selection Committee's final decision on the matter. If the Appeals Selection Committee allows the appeal, the law clerk will assist the preliminary justice during the case preparation. The law clerks also have assignments for the Chief Justice, the Justices and the Secretary-General.

All Supreme Court proceedings include a clerk of record. The clerks of record are law graduates, who assist the Justices and counsel during proceedings. In addition, they proofread all Supreme Court decisions.

HEAD OF THE JUDICIAL SECRETARIAT ØISTEIN AAMODT (41)
Øistein Aamodt was appointed law clerk in 2006 and has been Head of the Judicial Secretariat since 2011. He has previously worked as a tax lawyer at Østfold County Tax Office and a senior tax lawyer at the Norwegian Directorate of Taxes.

DEPUTY HEAD OF THE JUDICIAL SECRETARIAT BIRTHE ASPEHAUG Buset (42)
Birthe Asphaug Buset was appointed law clerk in 2006 and has been Deputy Head of the Judicial Secretariat since 2010. She has worked as a lawyer at law firm Kluge.

DEPUTY HEAD OF THE JUDICIAL SECRETARIAT CHIRSTI ERICHSEN HURLEN (38)
She was appointed law clerk in 2008 and has been Deputy Head of the Judicial Secretariat since 2015. She has worked as a trainee advocate at law firm Wiersholm and deputy judge at Drammen District Court. She has also been a special adviser in the Storting's constitutional department.

LAW CLERKS

MARIA BAKKE (32)
She was appointed law clerk in 2016 and has previously worked as an adviser at the Data Inspectorate, an adviser to the Parliamentary Ombudsman and senior adviser to the Storting's Research Services Section.

PERNILLE BIRKELUND (31)
She was appointed law clerk in 2016 and has previously worked as an assistant lawyer at the law firm Steensrup Stordrange and as a deputy judge at Lofoten District Court.

ANDRÉ MATHIAS CARLSEN (36)
He took up appoint as a law clerk in 2016 and has previously worked as a lawyer in law firm Høie and as a deputy judge at Kongsberg District Court.

MARIE FALCHENBERG (29)
Marie Falchenberg was appointed law clerk in 2015 and has previously worked as a trainee advocate at the law firm Thommessen.

ANDREAS HJETLAND (27)
Andreas Hjetland was appointed law clerk in 2014 and has previously worked as a trainee advocate at the law firm Simonsen Vogt Wiig.

KRISTIN SLØRDAHL HJORT (33)
Kristin Slørdahl Hjort was appointed law clerk in 2013 and has previously worked as a trainee advocate at the law firm Thommessen.

MINA HOFF (31)
Mina Hoff was appointed law clerk in 2015 and has previously worked as a trainee advocate at the law firm Wiersholm.

MICHAEL LINDSTRØM (34)

Michael Lindstrøm was appointed law clerk in 2011 and has previously worked as a trainee advocate at the law firm Kluge. From January 2016, Michael has participated in a project team that is developing a new processing system for the Supreme Court.

KRISTIAN KLEM (29)

Kristian Klem was appointed law clerk in 2015 and has previously worked as a legal adviser to the County Governor of Oslo and Akershus.

JOACHIM LUND (33)

Joachim Lund was appointed law clerk in 2015 and has previously worked as a senior consultant in the Ministry of Finance and as an assistant judge at Bergen District Court.

CHRISTINE LØVF (31)

Christine Løvf was appointed law clerk in 2015 and has previously worked as a lawyer at law firm BAHR and as legal adviser in DNB Bank ASA.

KAROLINE FINDALEN NEDREBØ (30)

Karoline Findalen Nedrebø was appointed law clerk in 2015 and has previously worked as an assistant judge at Hedmarken District Court and as a lawyer at law firm Wikborg Rein.

KRISTOFFER NERLAND (30)

He took up appointment as a law clerk in 2016 and has previously worked as an associate lawyer at the law firm BAHR and at law firm Arntzen de Besche.

SIGRID NYSTED (33)

Sigrid Nysted was appointed law clerk in 2013 and has previously worked as a trainee advocate at the law firm Bing Hodneland.

KARIN ELISABETH NÆSS (35)

Karin Elisabeth Næss was appointed law clerk in 2014 and has previously worked as a trainee advocate at the law firm Wikborg Rein, and BAHR, as an adviser at the Norwegian Centre for Human Rights, and as a lawyer at the law firm Langseth.

MARTE THERESE STRAND SINKERUD (37)

Marte Therese Strand Eriksen was appointed law clerk in 2014 and has previously worked as a trainee advocate at law firm Wiersholm, as a deputy member at the National Insurance Appeals Court and as an assistant judge at Jæren District Court and Oslo District Court.

CHRISTOPHER HAUGLI SØRENSEN (34)

Christopher Haugli Sørensen was appointed law clerk in 2010 and has previously worked as an assistant judge at Oslo Probate Court. He is currently on leave of absence to be an acting judge at Borgarting Court of Appeal.

CECILIE VATNE (32)

She took up appointment as a law clerk in 2016 and has previously worked as an associate lawyer at law firm Selmer and as a deputy judge at Kongsberg District Court and Oslo District Court.

LASSE GOMMERUD VÅG (27)

He took up appointment as a law clerk in 2016 and has previously worked as an associate lawyer at law firm Lund & Co DA.

CHRISTINE SKJEBSTAD WEIGÅRD (31)

She took up appointment as a law clerk in 2016 and has previously worked as a lawyer at law firm Hjort and as a deputy judge at Øvre Romerike District Court.

MONICA MAGDALENA ZAK (28)

Monica Magdalena Zak was appointed law clerk in 2015 and has previously worked as a trainee advocate at the law firm BAHR.

KATHRINE AASHEIM (30)

Kathrine Aasheim was appointed law clerk in 2015 and has previously worked as a trainee advocate at the law firm BAHR.

KNUT ANDRE AASTEBØL (33)

Knut Andre Aastebøl was appointed law clerk in 2014 and has previously worked as a trainee advocate at the law firm Steensrup Stordrange.

STUDENT LAW CLERK LISA-MARI MOEN JÜNGE (28)

She is studying law at the University of Oslo and started as a student law clerk in 2016 (1-year part-time position).

Jørgen Reinholdtsen has been granted long-term leave to serve as a law clerk at the EFTA Court. Law clerks Kristine Rørholdt and Eva Grotnæss Barnholdt are on long-term leave to serve as deputy judge at Oslo District Court and at the Office of the City Recorder in Oslo. Law clerk Siv Myrvold-Torsnes is on long-term leave to serve as a secretary for the Law Reform Commission that will report on a new Public Administration Act.

Four law clerks have left in 2016. Karl Inge Rohde has left to start as a PhD student at the University of Oslo. Geir Sunde Haugland has taken up appointment as District Court Judge at Moss District Court. Benedicte Haavik Urrang has taken up appointment as a lawyer at the Nordic Shipowners' Association. Lola Magnussen left to move abroad.

Johannes Kaasen (31) will take up appointment on 1 January 2017. He comes from the position of deputy judge at Follo District Court and has previously been an associate lawyer at law firm Wiborg Rein.

CLERKS OF RECORD

ANDERS BERG DØNÅS (31)

Anders Berg Dønås is the clerk of record in the Supreme Court's Second Chamber. He has worked at the Supreme Court since 2012 and came from the position as Senior Executive Officer at the Norwegian Directorate of Immigration.

PER ERIK HILD HANSEN (65)

Per Erik Hild Hansen is the clerk of record in the First Chamber. He has extensive experience and has worked at the Supreme Court since 1995. He will retire on 1 January 2017.

ADMINISTRATIVE UNIT

The administrative unit handles a number of administrative staff functions. The unit is headed by PRINCIPAL OFFICER AKMAL HUSSAIN (39). He came from a position as head of department at Oslo Tax Collection Office.

VIVI ØSTBY (49) is the SUPREME COURT LIBRARIAN. There is a library on site, available to the employees. Her responsibilities as a librarian are to expand the collection of printed and electronic source material. He also assists employees searching for information and has day-to-day responsibility for the Supreme Court's administrative archive.

ADVISER MERETE KOREN (63) is SECRETARY TO THE CHIEF JUSTICE and also assists in financial matters.

ADVISER CAMILLA JOHANSEN (34) (leave of absence) is secretary to the Secretary-General and Deputy Secretary-General.

ADVISER LINE WOLDSÆTER (39) is executive secretary for the justices. She also helps arrange events at the Supreme Court Building.

ADVISER TORILL MELLEBY JENSEN (59) assists with the work on the Supreme Court's budget and accounts.

ADVISER RANDI STRANDEN (64) is the Scheduling Officers and handles a lot of the contact with counsel and other parties.

SENIOR EXECUTIVE OFFICER KJERSTI RUUD (60) offers ICT consulting and plays a key role in the plans for digital summaries at the Supreme Court. She also assists with case scheduling.

SENIOR EXECUTIVE OFFICER HELGA MÆRDE GRUER (58) is an ICT assistant.

HIGHER EXECUTIVE OFFICER LISA-BETH PETTERSEN (51) assists the Justices to finalise decisions from chambers, the Grand Chamber and Plenary. Since January 2016, she has participated in a project group that is developing a new case management system for the Supreme Court.

HIGHER EXECUTIVE OFFICER RIZWANA YEDICAM (38) organises the guided tours of the Supreme Court building, in addition to handling other public relations activities. She also often assists with events at the Supreme Court Building.

TORILL AAGOTSRUD (59) and MARILUZ RIVERO ACOSTA (41) arrange events and are responsible for the cleaning at the Supreme Court Building.

COURT USHERS MORTEN ALMÅS (54) and BJØRN VIDAR KRISTOFFERSEN (41) are responsible for files and records mail and organising the courtrooms. Bjørn Vidar Kristoffersen also assists with introduction of digital extracts.

ODDVEIG KNUTSEN retired in September 2016 after 17 years at the Supreme Court.

THE CASE HANDLING UNIT

THE CASE HANDLING UNIT is the Supreme Court's general office. This unit is responsible for registering all the cases submitted to the Supreme Court and all post received and for answering all telephone enquiries. The unit consists of a Head of the Case Handling Unit and six Higher Executive Officers.

THE HEAD OF THE CASE HANDLING UNIT is ELISABETH FRANK SANDALL (62). She has administrative responsibility for the unit as well as updating and preparing procedures in close cooperation with the Head of the Judicial Secretariat. She also carries out general office work.

HIGHER EXECUTIVE OFFICERS MARIANN SOLBAKK (50), METTE MOE (59), MONICA GEREKE HEIA (48) and JULIE SO-MAN NG (35) assist the law clerks and the justices with case handling related to the cases pending before the Appeals Selection Committee. Mette Moe also has daily responsibility for the case files.

CECILIE OLAFSEN (32) has worked in the case processing unit as an intern since January 2016.

THE CHIEF JUSTICE'S SECRETARY

“Congratulations with your permanent post in the Supreme Court” Rolv Ryssdal walks joyfully into her office outside the First Chamber on the 2nd floor. He shook her hand and welcomed her. “He was a dynamic person, Justice Ryssdal”, Merete Koren recalls.

“This was in 1980 and he had recently introduced a less formal manner of address in the Supreme Court. Although it was very formal here, and there was one justice who still used a formal manner of address, we were in a sense close, as there were not so many of us after all. Since then the Supreme Court has occupied the entire justice building and has grown to become a major institution.

She has worked for five Chief Justices, first Rolv Ryssdal, then as secretary for Erling Sandene, Carsten Smith, Tore Schei and now Toril Marie Øie. And she has worked at the Supreme Court for 36 years. “I have even worked for the fathers of two of the current justices”, she adds. “But I can't really say that out loud. It will probably be the grandchildren next,” she laughs.

As secretary to the Chief Justice she has a variety of duties. She is responsible for the anteroom, with all that this implies of practical and formal tasks. Her tasks have varied according to the different people with whom she has worked. All visitors to the Chief Justice pass by Merete Koren.

“There is certainly enough to keep me busy”, she says. She is also responsible for assisting with financial matters, and also web publishing both on the Supreme Court's website and internally on the intranet. Her English skills have often come in useful. “I'm probably a bit anonymous to many, but I've always enjoyed my work and have had many good colleagues.

“However, I must face the fact that I will not manage to work with our current Chief Justice to the end of her tenure”, she adds with smile.



*Merete Koren, secretary to the Chief Justice outside the Supreme Court plenary on the 1st floor of the Supreme Court Building.
Photo: Sturlason*



Left: The Supreme Court justices on a tour of the production line at Porsgrunds Porselænsfabrik.

Above: Up toward Gaustatoppen - Justices Karl Arne Utgård and Bergljot Webster, Chief Justice Toril M. Øie and Justice Knut Kallerud. Photo: Supreme Court

COUNTY TOUR 2016

Every year, the Supreme Court visits one of the counties in Norway and in 2016 it was the turn of Telemark. The County Governor hosts these trips and over three days, the Supreme Court justices gain an insight into the private sector, public administration and cultural life in the county in question.

This year's visit started on Gaustatoppen where on sunny days there is a view to no less than 1/6 of Norway. County Governor Kari Nordheim-Larsen welcomed the group and was a travelling companion and guide the entire trip. From 1882 metres above sea level the group travelled to lower ground at the Norwegian Industrial Workers Museum at Vemork. In 2015, the industrial heritage at Rjukan and Notodden was included on the UNESCO world heritage list.

At Notodden the Supreme Court was shown advanced underwater technology up close. Telemark Teknologipark/Sperre AS has put the town on the technology map. The fruit district of Sauherad was awarded the national landscape prize in 2015 and the Supreme Court justices visited the Nyhuus farm, which is both an apple producer and cultural centre.

The municipalities of Tinn, Notodden, Sauherad, Skien, Porsgrunn and Bamble were all paid a visit by the Supreme Court justices, and were all well represented by their mayors. At the porcelain museum in Porsgrunn, the justices observed those who pain the straw pattern on the porcelain at work.

At Herøya industrial estate, the justices were given a fascinating insight into solar technology as this is used by Elkem Solar, in addition to information on the challenges facing the industrial estate.

After Herøya, the group visited Venstøp in Skien for a tour of Henrik Ibsen's childhood home.



*The Supreme Court's law clerks pictured at the EFTA Court together with Norwegian judge Per Christiansen and the legal secretaries at the Norwegian cabinet.
Photo: Supreme Court*

THE LAW CLERKS ON A STUDY TOUR TO LUXEMBOURG

Every other year, the law clerks in the Supreme Court's legal secretariat travel on a two-day study trip in Norway or abroad, to acquire more knowledge about a relevant jurisdiction. In October 2016, we travelled to Luxembourg, where we visited the EFTA and the European Court of Justice.

At the EFTA Court we were welcomed by the President Carl Baudenbacher. Legal secretary at the Norwegian cabinet, Jørgen Reinholdtsen (who is on leave from his post as law clerk at the Supreme Court), gave a lecture on the EEA Agreement and the EFTA Court. He informed about the court's organisation, the types of cases, hearing of the cases and the relationship with the European Court of Justice. The law clerks also learned more about the latest cases at the EFTA Court.

Law clerk Marthe Kristine Fjeld Dystland then gave a speech on the fundamental rights (the human rights) in the EEA Agreement. The programme was concluded with a very relevant topic, namely "Changes in the EU - the effect on the EEA", by Norwegian judge Per Christiansen.

The day spent at the European Court of Justice was also very interesting. The law clerks attended the hearing of the Grand Chamber Fahimian case (case no. C-544/15).

The case concerns the question of whether an EU member state can turn down a visa application from a person who wants to come to the EU to continue his doctorate, when his home country is ruled by an oppressive regime and the knowledge acquired in the EU may subsequently be misused by that regime. There were also lectures by a Swedish law clerk on the activities of the European Court of Justice and we met the Swedish judge Carl Gustav Fernlund and the Danish judge Jesper Svenningsen.



Outside the courtroom

GUIDED TOURS AND SEMINARS AT THE SUPREME COURT BUILDING

The Supreme Court Building is a magnificent building that we are only pleased to show off. Every week we welcome groups for guided tours, and at the same time inform about our activities. In 2016, the Supreme Court gave a total of 78 guided tours with 1,944 visitors. To book a guided tour, please call Rizwana Yedicam on tel.: 22 03 59 43 or send an e-mail to post@hoyesterett.no.

Every autumn, the Supreme Court has an Open Day. On Saturday 22 October 2016, approximately 325 people visited the Supreme Court to be treated to a presentation on the Supreme Court and a guided tour of the building. We also opened our doors on the weekend of 24 and 25 September 2016 to participate in the celebration of Statbygg's bicentenary. During the weekend, approximately 530 people visited the Supreme Court for a guided tour.

The Supreme Court also organises a number of professional seminars and events, see separate fact box.

TRIPS IN NORWAY

In 2016, the Supreme Court's the destination for the annual county tour was Telemark, see the separate article on page 38. In addition to the county tour, the Supreme Court's employees attended seminars and events in various parts of the county, see the fact box on the next page for more details.

INTERNATIONAL ACTIVITIES

Supreme Court employees also regularly attend congresses, seminars and judicial meetings in other countries, see the fact box on the next page. The purpose of the international activities is twofold. This will help raise the competence of the Supreme Court, and it will also help build and develop constitutional governments in other countries.

The Supreme Court has close contact with corresponding courts in the other Nordic countries and cooperation here is unique.

THE FOLLOWING EVENTS TOOK PLACE AT THE SUPREME COURT BUILDING

- Press breakfast
 - Introduction course for new justices
 - Course on appeal preparation and procedure at the Supreme Court under the auspices of the Centre for Continuing Legal Education
 - Lunch with Judge Erik Møse from the Court of Human Rights in Strasbourg, Sven Mollekleiv from the Norwegian Red Cross and representatives of the Norwegian Press Complaints Commission.
 - Nordic Supreme Court Justice Seminar
 - Seminars on Digital Courts and Digital Prosecutors
 - Visit by delegations from Moldova, West Balkan, South Korea, Pakistan, Vietnam and Guatemala
 - Visit by the president Carl Baudenbacher from the EFTA court, president Laurent Fabius from France's Constitutional Council and Jean-Paul Laborde, Chairman of the Security Council's Anti-terror Committee
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Details from the Supreme Court Building Photo: Sturlason

EXTERNAL ACTIVITIES AMONG OTHER THINGS, WE ATTENDED OR PARTICIPATED IN THE FOLLOWING:

- Opening of the judicial year at the European Court of Human Rights in Strasbourg, France
 - High-Level Conference of Ministries of Justice and representatives of the judiciary in Sofia, Bulgaria
 - International Judicial Conference 2016 in Washington DC, U.S.A.
 - Meeting of permanent secretaries in Copenhagen, Denmark
 - Meeting of the Association of the Councils of States and Supreme Administrative Jurisdictions of the European Union (ACA), Prague, Czech Republic
 - The Academic Cooperation Association in Prague, Czech Republic
 - International Association of Judges in Mexico City, Mexico
 - 25th anniversary of Slovenia's constitutional court in Bled, Slovenia
 - Annual meeting of the Nordic supreme court presidents in Akureyri, Iceland
 - Nordic Industrial Law Seminar in Copenhagen, Denmark
 - Study tour to the Supreme Court of the United Kingdom in London, England
 - The Network of the Presidents of the Supreme Judicial Courts of the European Union in Madrid, Spain
 - Seminar on EU law at the Universität des Saarlandes in Saarbrücken, Germany
 - The 15th meeting of the Joint Council on Constitutional Justice, Venice Commission, Venice, Italy
 - Seminar on human rights in Strasbourg, France
 - World Environmental Law Congress, Rio de Janeiro, Brazil
 - The 4th annual congress of the World Conservation Union in Honolulu, USA
 - Study trip to Luxembourg, France and seminars at the Støtving Hotel, Larkollen and Vestre Kjærnes farm in Østfold
 - Career days at the Universities of Bergen, Oslo and Tromsø
 - Justice seminars in Oslo, Bergen and Trondheim
 - Bicentenary of Norges Bank in Trondheim and the Office of the Attorney General in Oslo
 - The 2nd meeting of the Forum on Sami dimension in the legal system, Tromsø
 - County tour to Telemark
 - The 27th Nordic Maritime Law seminar in Tromsø
 - Seminar with the consultative body for Nordic justices, MS Hurtigruten Nordkapp
 - The European Law Student's Association in Norway (ELSA) procedure competition, Tromsø
 - The King and Queen's silver jubilee at the Nidaros Cathedral in Trondheim and the palace's garden party in Dronningparken, Oslo
-

STATISTICS

A year with a large number of cases. Below is a list showing the distribution of the different types of cases and subject matters in 2016. Of appeals against judgment, approximately 14% were civil cases and approximately 10% were criminal cases granted a hearing in chambers.

CIVIL CASES

Appeals against judgments received	447
Appeals against orders/decisions	663
Heard in chambers	61
Heard in plenary	1
Heard in Grand Chamber	2
Decisions by the Appeals Selection Committee	4

CRIMINAL CASES

Appeals against judgments received	382
Appeals against orders/decisions	839
Heard in chambers	48
Heard in Grand Chamber	1
Decisions by the Appeals Selection Committee	15

For more detailed information about the cases received in 2016, refer to the business statistics published on [the Supreme Court's website](#).

PROCESSING TIME

In 2016, the Supreme Court has continued to have a satisfactory processing time. There is no waiting time for a case to be brought before the Supreme Court. The cases are scheduled as quickly as possible based on the counsels' preparations and programme. The average processing time from receipt of a case until the Appeals Selection Committee has made its decision, is around one month. The average processing time from the Supreme Court's receipt of a case until appeal proceedings are held is around six months in civil cases and four months in criminal cases.

Types of cases heard by the court in

chambers, Grand Chamber and Plenary in 2016

Each case is only categorised as one type of case and the list does not reflect that a case may raise

CIVIL CASES

Tax law	10
Law of damages	8
Labour law	7
Contract law	5
Limitation	3
Intellectual property law.	
Ground lease	3
Immigration law	3
Child law	2
Insurance law	2
Sami law	2
Corporate law	2
Right of ownership	1
Right of establishment under the EEA Agreement	1
The prohibition against double jeopardy	1
Section 97 of the Constitution/ECHR P1-1	1
Impartiality	1
Pension	1
Co-ownership	1
Social security law	1
Compulsory mental health care	1
Guardianship	1
Other matters pertaining to criminal procedure	4

DISSENTS

In 2016, there has been dissent in 17 of a total of 109 decisions (in a total of 113 cases). The dissent rate is 16 per cent. One of these dissents was in plenary and one in the Grand Chamber. Of these dissents, 16 concerned the outcome of the cases and only five concerned the grounds for the outcome. There was dissenting opinion 3 - 2 in 10 of 15 dissent votes in chambers.

The dissents span a wide range of jurisdictions. One of the dissents was delivered in a criminal case (2 per cent) and 16 in civil cases (26 per cent). In the period 2000 - 2015, the

CRIMINAL CASES

Sexual crimes	5
Drugs	4
Animal welfare.	2
Preventive custody	2
Impartiality	2
Confiscation	2
Corruption	2
Obstruction of justice	2
Unlawful hunting	2
Juvenile punishment	2
The Road Traffic Act	2
Exclusion of evidence	1
Receipt of stolen computer data	1
Participation in a terrorist organisation	1
Conspiracy to commit murder	1
The Fish Sales Act	1
Restraining order with electronic monitoring	1
Long processing times	1
Choice of law - old and new Penal Code	1
Aviation law	1
Human trafficking for prostitution.	1
Environmental crime	1
Abuse in close relationships	1
Commutation of community sentence	1
An expert's role	1
Assault	1
The Commercial Transport Act	1
Unlocking of mobile phone.	1
Other matters pertaining to criminal procedure	5

dissent rate at the Supreme Court has been between 16 - 26 per cent. The rate was slightly lower in criminal cases (11 - 22 per cent) than in civil cases (18 - 33 per cent). Decisions by the Appeals Selection Committee have not been included when calculating the dissent rate.



THE SUPREME COURT OF NORWAY