

The Supreme Courts Business in 2009

The Supreme Court's Main Objectives

The Supreme Court is the court of final instance and is the appellate court for the rulings of the lower courts. The Supreme Court hears both civil and criminal cases and has general jurisdiction in all areas of law. The main objective of the Supreme Court is to ensure uniformity, clarity and development in the law. As a consequence, the Supreme Court focuses on cases which involve issues of legal principle and cases that give guidance on important legal issues.

Caseload

The Supreme Court deals with a large variety of different cases and the caseload has increased over recent years. In total, the Court dealt with more cases in 2009 than in 2008. The figures include cases that were determined pursuant to the procedure in the now-abolished Civil Procedure Act and cases that were determined pursuant to the procedure in the Resolution of Disputes Act, which replaced the Civil Procedure Act. The same applies to the figures provided below.

In 2009, the Supreme Court received 482 notices of civil appeal against judgment. The corresponding figure for 2008 was 503. Approximately 12 % of the appeals against judgment in civil cases were referred to a chamber of the Court for hearing. The Court received 478 notices of civil interlocutory appeals (appeals against procedural orders and decisions) in 2009, while the corresponding figure for 2008 was 387.

The Supreme Court received 410 notices of criminal appeal against judgment and 644 notices of interlocutory appeal in 2009. The corresponding figure for 2008 was 424 notices of appeal against judgment and 597 notices of interlocutory appeal. Approximately 17 % of the appeals against judgment in criminal cases were referred to a chamber of the Court for hearing.

In 2009, a total of 60 civil cases were heard by a chamber of the Supreme Court, while the corresponding figure for 2008 was 88. 77 criminal cases were heard by a chamber of the Supreme Court in 2009, while the corresponding figure for 2008 was 86. The caseload includes a considerable number of complex and demanding cases. Many of the cases have raised legal issues where international sources of law have been significant.

The Grand Chamber

At the same time as the Resolution of Disputes Act entered into force on 1 January 2008, section 5 of the Courts of Justice Act was amended to provide that where leave to appeal is granted by the Appeals Committee, the case can be referred to a Grand Chamber comprised of 11 justices. The Grand Chamber is an alternative to ordinary hearing by five justices in a chamber of the Supreme Court, or to hearing in plenary where all of the justices of the Supreme Court participate. The Courts of Justice Act provides that hearing by the Grand Chamber shall be reserved for cases or matters of exceptional importance.

In 2009, the Grand Chamber of the Supreme Court heard five cases. Two such cases were heard in September 2009. The issue in these cases was whether an unreasoned refusal to grant leave pursuant to section 29-13 subsection 2 of the Resolution of Disputes Act represents a breach of Article 88 of the Norwegian Constitution, which provides that the Supreme Court passes judgement in the final instance, or a violation of the right to a fair trial in Article 6(1)

of the European Convention on Human Rights (ECHR) or Article 14(1) of the International Covenant on Civil and Political Rights (ICCPR).

In October 2009, the Grand Chamber of the Supreme Court heard a case about whether the court, when passing sentencing, should attach independent weight to the fact that the prosecution authority had given an undertaking to enter a particular plea in return for a confession from the defendant. In the two other cases heard by the Grand Chamber of the Supreme Court, also in October 2009, the issue was whether the court should take account of statements in the travaux préparatoires to the new Penal Code which signals a significant increase in sentencing levels when passing sentence for offences committed before the new Penal Code was passed.

The Supreme Court in Plenary

The Supreme Court sitting in plenary heard two cases in 2009. The issues in these cases were whether the fact that the question of guilt was determined by a jury, which does not give reasons for its decisions, violates the right to a fair trial or the right to review of a criminal conviction.

Case Handling Time

In 2009, the Supreme Court maintained the very satisfactory case handling time from 2008. Cases are listed for trial as soon as possible bearing in mind the preparation time needed by legal counsel and their availability. There is no backlog of cases in the Supreme Court. On average, it takes less than a month from notice of appeal is filed with the Supreme Court until the Appeals Committee decides on whether to grant leave to appeal. The average time from notice of appeal is filed with the Supreme Court until appeals are listed for trial is approximately three months in criminal cases and six months in civil cases.

Changes in the Constitution of the Supreme Court

Supreme Court Justices Mr Lars Oftedal Broch, Mr Eilert Stang Lund and Mr Ketil Lund retired on 31 January, 31 July and 31 October 2009 respectively. Court of Appeal Judge Mr Erik Møse and lawyer Ms Bergljot Webster were sworn in as Supreme Court Justices on 15 August 2009, and lawyer Mr Wilhelm Matheson was sworn in on 1 November 2009.

Supreme Court Justice Mr Ole Bjørn Støle was appointed Judge of the International Criminal Tribunal for the former Yugoslavia (ICTY) in July 2006 and is currently on leave from his post as Supreme Court Justice.

Professor Aage Thor Falkanger JD served as temporary Supreme Court Justice from 1. February to 5 July 2009. Professor Tone Sverdrup JD served as temporary Supreme Court Justice from 5 October to 31 December 2009.

Travel in Norway

As the highest judicial body in Norway and the only court whose jurisdiction covers the whole country, the Supreme Court endeavours to acquaint itself with the whole of Norway. As part of this, the Supreme Court visits different parts of the country to learn about local industry, public institutions and culture. In 2009, the Supreme Court visited Svalbard.

International Business

In addition to its judicial business, the Supreme Court has carried out a substantial amount of international business in 2009. The Supreme Court has received visits from foreign legal

delegations, particularly foreign courts. The Justices and other employees of the Supreme Court have taken part in congresses, seminars and other meetings abroad. The cooperation with the other Nordic countries occupies a special position in this respect.

The purpose of the Supreme Court's international business is twofold: it shall contribute to increasing competence in the Supreme Court, and it shall also to a certain extent contribute to developing the legal systems and the rule of law in other countries.

Visitors to the Norwegian Supreme Court

Nordic Supreme Court Justices Seminar, hosted by the Norwegian Supreme Court (31 March – 1 April)

Visit from members of the South Korean Constitutional Court (15 June)

Visit from the Norwegian American Foundation (24 June)

Visit from delegations from the courts of the Ukraine, including Ukraine's Supreme Court (26 June)

Visit from the Judicial Research and Training Institute of Korea (13 July)

Visit from Bosnia's Court Administration and judges of the courts of Montenegro (10 September)

Visit to the Chief Justice from the Canadian Ambassador Mr John Hannaford (15 September)

Visit from a delegation from Thailand's Supreme Court (16 September)

Visit from a delegation from China comprising Heads of Court in the Shaanxi Province (15 October)

Visit to the Chief Justice from the Chinese Ambassador Mr Tang Guoqiang and two other representatives of the Chinese Embassy (26 October)

Visit from a Chinese delegation on intellectual property rights, including representatives of the Chinese Supreme Court (27 October)

Visit to the Chief Justice from the Chilean Ambassador Mr Juan Aníbal Barría García (23 November)

The Supreme Court has sent delegates to the following events abroad

Visit to the International Criminal Tribunal for Rwanda, the Constitutional Court of South Africa, participation in the World Conference on Constitutional Law organised by the Venice Commission and the Constitutional Court of South Africa, visit to Cape Town High Court and the University of Cape Town Law Faculty (17-27 January)

Visit to the Supreme People's Court of China, Beijing High People's Court, Beijing No.1 Intermediate People's Court, Chongqing High People's Court, Chongqing No.1 Intermediate People's Court and Sanya Intermediate People's Court (23 February–6 March)

Participation in the 40th anniversary jubilee for Egypt's Supreme Constitutional Court, Cairo, Egypt (7-10 March)

Participation in the World Jurist Association's 23rd Biennial Congress on the Law of the World, Kiev (22-27 March)

Visit to Georgia's Supreme Court, Tbilisi (20-23 April)

Participation in the Nordic Ministers Meeting, Helsinki / Åbo, Finland (10-12 May)

Participation in the Nordic Conference on Procedural Law, Middelfart, Denmark (20-23 August)

Participation in the Nordic Supreme Court Presidents Meeting, Öland, Sweden (26-28 August)

Participation in the 200 year jubilee for the Supreme Court of Finland, Helsinki (1 October)

Participation in the 4th Conference of the Secretaries General organised by the Constitutional Court of Turkey and the Venice Commission, Ankara, Turkey (1-2 October)

Participation in the Preparatory Meeting for the XVth Congress of the Conference of European Constitutional Courts – The Circle of Presidents – organised by the Constitutional Court of Romania and the Venice Commission, Bucharest, Romania (15-16 October)

Participation in the Conference of the Network of the Presidents of the Supreme Judicial Courts of The European Union, Brussels (21 October)

Visit (joint seminar) to the Supreme Administrative Court of Finland, Helsinki (2-4 November)

Other events

Talk by Judge Sverre Erik Jebens on the business of the European Court of Human Rights (20 April)

Court Presidents Meeting, Trondheim (7 and 8 May)

Nordic Civil Procedure Meeting, Reykjavik (13 and 14 June)

150th anniversary jubilee of the Land Consolidation Court, Trondheim (29 October)

The Justices of the Supreme Court have acted as judges in the finals of moot competitions at Norwegian universities

Guided tours and lectures

In 2009, the Supreme Court has conducted 38 guided tours of the Court building for 750 visitors.

Statistics 2009 – types of cases heard in chambers
(the list is not exhaustive)

Civil case

Family/inheritance/administration of estates	2
Compensation law	5
Insurance law	3
Tax and duties	11
Compulsory purchase/valuation/ground leases	3
Administrative law	5
EEA law/public procurement law	1
Company law	1
Employment law	4
Immigration law	9
Mortgage law	1
Trademarks/patent law	1
Intellectual property (copyright)	2
Property law (extinction of rights)	1
Social security law	3
Construction law	1
Rights of redemption	1
Allodial law	1
Petitions to reopen	1
Civil procedure law (conditions for instituting proceedings, capacity to sue and be sued, impartiality etc)	4
Requirement to give reasons for decisions	1

Criminal cases

Drug offences	16
Sexual offences	4
Murder/manslaughter	2
Assault/threats	5
Economic crime	2
Road traffic offences	6
Civil claims in criminal cases	1
Corporate penalties	1
Robbery	4
Arson/criminal damage	2
Forgery of documents ("skimming")	1
Fraud//breach of trust/corruption	4
Felonies against personal liberty	2
Breach of special legislation	6
Criminal procedure law	8
Requirement to give reasons for decisions	8

**BUSINESS STATISTICS FOR THE SUPREME COURT
01.01.2009 - 31.12.2009**

**THE BUSINESS OF THE APPEALS COMMITTEE – CIVIL
CASES**

Civil appeals against judgment

Cases pending at the start of the period	36
Cases received	482
Cases determined	490
Cases pending at the end of the period	27

Result:

Appeal referred to the Supreme Court	55 cases
Leave to appeal refused	405 cases
Appeal summarily dismissed	5 cases
Appeal quashed	2 cases
Leave to appeal by permission granted (on grounds of value of the subject matter of the appeal or on direct appeal from the District Court)	2 cases
Leave to appeal by permission refused	3 cases
Other	18 cases

490 cases

Civil interlocutory appeals

Cases pending before the Appeals Committee at the start of the period	27
Interlocutory appeals received	358
Cases determined by the Appeals Committee	345
Cases pending before the Appeals Committee at the end of the period	35

Result:

Interlocutory appeal referred to the Supreme Court	2 cases
Appeal rejected or interlocutory order affirmed	247 cases
Appeal allowed or interlocutory order set aside	46 cases
Appeal summarily dismissed	28 cases

Appeal quashed	4 cases
Other	18 cases

345 cases

Civil appeals against procedural decisions

Cases pending before the Appeals Committee at the start of the period	6
Appeals against procedural decisions received	120
Other cases received	20
Cases determined by the Appeals Committee	132
Cases pending before the Appeals Committee at the end of the period	14

Result:

Appeal against procedural decisions referred to the Supreme Court	2 cases
Appeal rejected or procedural decision affirmed	78 cases
Appeal allowed or procedural decision set aside	20 cases
Appeal summarily dismissed	14 cases
Appeal quashed	3 cases
Other	15 cases

132 cases

THE SUPREME COURT IN CHAMBERS – CIVIL CASES

Civil appeals against judgement

Cases pending at the start of the period	14
Cases referred for hearing	70
Cases determined	56
Cases heard in Grand Chamber	0
Cases heard in plenary	0
Cases quashed	0
Cases pending at the end of the period	28

Cases taking more than six months from filing of notice with the Supreme Court to listing of the appeal proceedings	28
Cases taking less than six months from filing of notice with the Supreme Court to listing of the appeal proceedings	28

Civil interlocutory appeals and appeals against procedural decisions and other cases

Cases pending at the start of the period	1
Cases referred for hearing	8
Cases determined	4
Cases heard in Grand Chamber	2
Cases heard in plenary	0
Cases quashed	1
Cases pending at the end of the period	4
Cases taking more than six months from receipt by the Supreme Court to listing of the appeal proceedings	2
Cases taking less than six months from receipt by the Supreme Court to listing of the appeal proceedings	2

CIVIL CASES - TOTAL

Cases pending at the start of the period	15
Cases referred for hearing	78
Cases determined	60
Cases heard in Grand Chamber	2
Cases heard in plenary	0
Cases quashed	1
Cases pending at the end of the period	32
Cases taking more than six months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	30
Cases taking less than six months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	30

HANDLING TIME IN CIVIL CASES – THE APPEALS COMMITTEE AND THE SUPREME COURT IN CHAMBERS

Average time from filing of notice of appeal with the Supreme Court until appeals against judgment are determined by the Appeals Committee	0.7 months
Average time from filing of notice of appeal with the Supreme Court until appeals against interlocutory orders are determined by the Appeals Committee	0.7 months
Average time from filing of notice of appeal with the Supreme Court until appeals against procedural decisions are determined by the Appeals Committee	0.8 months
Average time in civil cases from filing of notice of appeal with the Supreme Court until the Appeals Committee decision on leave to appeal	0.9 months
Average time in civil cases from the decisions of the Appeals Committee on leave to appeal until the decision of the Supreme Court	5.5 months
Total average handling time in civil cases from filing of notice of appeal with the Supreme Court until the decision of the Supreme Court	6.4 months
Average handling time for all civil cases determined (Appeals Committee + the Supreme Court in chambers)	1.1 months
Average time in civil cases from filing of notice with the Supreme Court until listing of appeal proceedings	6.0 months
Average time in civil cases from referral by the Appeals Committee until listing of appeal proceedings	5.1 months

THE BUSINESS OF THE APPEALS COMMITTEE – CRIMINAL CASES

Criminal appeals against judgment

Cases pending at the start of the period	47
Cases received	410
Cases determined	426
Cases pending at the end of the period	31

Result:

Leave to appeal granted	71 cases
Leave to appeal refused	331 cases
Appeal summarily dismissed	3 cases
Appeal withdrawn/quashed	7 cases
Leave to appeal by permission granted (direct appeal from the District Court)	0 cases

Leave to appeal by permission refused	1 case
Other	13 cases

426 cases

Criminal interlocutory appeals

Cases pending before the Appeals Committee at the start of the period	3
Interlocutory appeals received	300
Cases determined by the Appeals Committee	294
Cases pending before the Appeals Committee at the end of the period	9

Result:

Interlocutory appeal referred to the Supreme Court	1 case
Appeal rejected or interlocutory order affirmed	230 cases
Appeal allowed or interlocutory order set aside	31 cases
Appeal summarily dismissed	28 cases
Appeal withdrawn	2 cases
Other	2 cases

294 cases

Criminal appeal against procedural decisions

Cases pending before the Appeals Committee at the start of the period	114
Appeals against procedural decisions received	344
Other cases received	29
Cases determined by the Appeals Committee	462
Cases pending before the Appeals Committee at the end of the period	25

Result:

Appeal against procedural decisions referred to the Supreme Court	2 cases
Appeal rejected or procedural decision affirmed	288 cases
Appeal allowed or procedural decision set aside	123 cases
Appeal summarily dismissed	10 cases
Appeal withdrawn	8 cases
Other	31 cases

THE SUPREME COURT IN CHAMBERS – CRIMINAL CASES

Criminal appeals against judgement

Cases pending at the start of the period	15
Cases referred to the Supreme Court	71
Cases determined	75
Cases heard in Grand Chamber	1
Cases heard in plenary	2
Cases quashed	1
Cases pending at the end of the period	10
Cases taking more than three months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	33
Cases taking more less than three months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	44

Criminal interlocutory appeals and appeals against procedural decisions and other cases

Cases pending at the start of the period	0
Cases referred for hearing / referred to the Supreme Court	4
Cases determined	2
Cases heard in Grand Chamber	0
Cases heard in plenary	0
Cases quashed	1
Cases pending at the end of the period	1
Cases taking more than three months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	2
Cases taking more less than three months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	1

CRIMINAL CASES - TOTAL

Cases pending at the start of the period	15
Cases referred for hearing / referred to the Supreme Court	75
Cases determined	77
Cases heard in Grand Chamber	1
Cases heard in plenary	2
Cases quashed	2
Cases pending at the end of the period	11
Cases taking more than three months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	35
Cases taking more less than three months from filing of notice of appeal with the Supreme Court to listing of the appeal proceedings	45

HANDLING TIME IN CRIMINAL CASES – THE APPEALS COMMITTEE AND THE SUPREME COURT IN CHAMBERS

Average time from filing of notice of appeal with the Supreme Court until appeals against judgment are determined by the Appeals Committee	0.9 months
Average time from filing of notice of appeal with the Supreme Court until appeals against interlocutory orders are determined by the Appeals Committee	0.3 months
Average time from filing of notice of appeal with the Supreme Court until appeals against procedural decisions are determined by the Appeals Committee	1.1 months
Average time in criminal cases from filing of notice of appeal with the Supreme Court until the Appeals Committee's grant of leave to appeal	0.8 months
Average time in criminal cases from the Appeals Committee's grant of leave to appeal until the decision of the Supreme Court	2.8 months
Total average handling time in criminal cases from filing of notice of appeal with the Supreme Court until the decision of the Supreme Court	3.4 months
Average handling time for all criminal cases determined (Appeals Committee + the Supreme Court in chambers)	1.0 months
Average time in criminal cases from filing of notice with the Supreme Court until listing of appeal proceedings	3.2 months
Average time in civil cases from referral by the Appeals Committee until listing of appeal proceedings	2.6 months
