

## THE SUPERVISORY COMMITTEE FOR JUDGES

### ANNUAL REPORT

2013

### THE SUPERVISORY COMMITTEE FOR JUDGES

The Supervisory Committee for Judges is a disciplinary body for Norwegian judges, including the professional judges in the district courts, the courts of appeal, the Supreme Court, the land consolidation courts and the land consolidation appeal courts. In addition to regular judges, the mechanism also includes temporary judges and deputy judges.

The statutory framework applying to the functions and procedures of the Supervisory Committee is above all Chapter 12 of the Norwegian Courts of Justice Act. The Public Administration Act and the Freedom of Information Act also apply to the Supervisory Committee's hearing of complaints, with the exceptions that follow from sections 238 and 239 of the Courts of Justice Act.

The Supervisory Committee may adopt disciplinary sanctions when a judge "either wilfully or negligently breaches the obligations that are incumbent on the position or otherwise acts in breach of proper conduct of judges", see section 236 of the Courts of Justice Act.

This includes the judge's obligations under procedural legislation and typical obligations under labour law. In the assessment of what constitutes proper judicial conduct, the Principles of Judicial Ethics, adopted by the Norwegian Association of Judges, Tekna's Sector Union for the land consolidation courts and the National Courts Administration are important tools for the Committee. In the Committee's decisions, these principles are being more actively applied. The principles apply to professional judges in the ordinary courts and judges in the land consolidation courts, and they are applicable to conduct both in and outside of the judges' official functions.

The Committee may also take decisions concerning disciplinary measures due to circumstances when the judge is not acting in an official capacity, but in that case, only the Ministry of Justice, the Norwegian Courts Administration and the chief judge of the court in question have a right of complaint, see section 237 of the Courts of Justice Act.

The Supervisory Committee considers it one of its duties to draw attention to general issues and questions of judicial ethics.

The Courts of Justice Act describes two forms of disciplinary reactions. The most severe form of reaction is a *warning*. A *critical assessment* is the most common form of reaction. The Committee may also issue general statements in connection with its hearing of complaints.

The Committee's decisions on disciplinary measures may affect the further assessment and follow-up of reactions under labour or criminal law against a judge. Where the Committee finds the matter to be so serious that it may qualify for suspension and dismissal, it must notify the Ministry of Justice. A civil dismissal procedure against a judge is currently pending in the courts,

in which the Committee first reacted with a warning in an ordinary disciplinary case, and the State then initiated a dismissal procedure before the courts.

The Supervisory Committee's authority is limited, as it may not review matters that have taken place more than one year ago; see section 237 (4) of the Courts of Justice Act. Another limitation on the Committee's authority is laid down in section 236 (4) of the Courts of Justice Act, which reads as follows: "*The Supervisory Committee may not consider matters that could be reviewed pursuant to other provisions in legislation pertaining to the administration of justice.*"

Further information about the Supervisory Committee for Judges is available on <http://www.domstol.no/no/Enkelt-domstol/Tilsynsutvalget-for-dommere/>. This website contains general information about the Committee and practical information for potential complainants. The Committee's decisions are also published here in an anonymised form. All decisions adopted at Committee meetings are published in this way.

The decisions are also published on Lovdata [*Foundation establishing and operating legal information systems on a non-profit basis*].

## **THE ORGANISATION OF THE SUPERVISORY COMMITTEE**

The Supervisory Committee is an independent and autonomous administrative body. The Secretariat of the Supervisory Committee is placed with the National Courts Administration.

The Supervisory Committee consists of six members with personal deputies. It is composed of two judges from the ordinary courts of law, one judge from the land consolidation courts, two representatives of the public and one lawyer; see section 235 of the Courts of Justice Act.

When the Supervisory Committee hears complaints against a judge of the ordinary courts of law, two judges from the ordinary courts, the lawyer member and the two representative of the public attend. When hearing complaints concerning a judge of the land consolidation appeal court or the land consolidation court, a land consolidation court judge will replace one of the judges from the ordinary courts of law.

*In 2013, the Committee was composed as follows:*

- District Court Judge/Chief Judge Unni Sandbukt, Nord-Troms district court, President  
*Personal Deputy: Head of Division/District Court Judge Ina Elisabeth Strømstad, Oslo District Court (until 31 May 2013)*  
*Personal Deputy: District Court Judge Ragnhild Olsnes, Stavanger District Court (from 1 June 2013)*
- Court of Appeal Judge Randi Grøndalen, Frostating Court of Appeal  
*Personal Deputy: Court of Appeal Judge Rune Jensen, Agder Court of Appeal*
- Headmaster Bjørg Tørresdal, Frol school, Levanger  
*Personal Deputy: Fisher woman and mate Eva Toril Strand, Averøy (until 31 May 2013)*  
*Personal Deputy: Chief Administrative Officer Anne-Birgitte Sveri, Nittedal Municipality (from 1 June 2013)*
- Professor Svein J. Magnussen

*Personal Deputy: Regional Director Gerd Ingunn Opdal*

- Advocate Jeppe Normann, Advokatfirmaet Selmer DA  
*Personal Deputy: Advocate Bjørn Hübner Senum, Advokatfelleskapet Kristiansand*
- Land Consolidation Court President Trond Berge, Sør-Rogaland Land Consolidation Court

*Personal Deputy: Acting Land Consolidation Appeal Court Judge Vidar Bergtun, Gulating Land Consolidation Appeal Court*

## ACTIVITIES OF THE SUPERVISORY COMMITTEE

### Meetings

The Supervisory Committee held six meetings in 2013. Three meetings were held in Trondheim, two in Oslo and one in Rome.

### Study tour

In September, the Committee's members and two members of the Secretariat went on a study tour to Rome. The purpose of this trip was to study how Italy handles disciplinary cases against judges.

The meeting with the *Consiglio Superiore della Magistratura* (C.S.M.) took place at Piazza Indipendenza in Rome. The C.S.M. is made up of 27 members, of which eight are appointed by Parliament and 16 by the courts and the prosecuting authority. All members of the C.S.M. have a law degree. The members appointed by Parliament are professors of jurisprudence and lawyers in private practice, while the other members are judges and prosecuting attorneys. They are appointed for a period of four years. During this period, the members cannot practise their "ordinary" profession.

The C.S.M. handles disciplinary cases against both judges and prosecuting attorneys (public prosecutors) and has far more duties than those of the Supervisory Committee for Judges in Norway. In addition to imposing disciplinary sanctions, the C.S.M. is authorised to appoint, promote and dismiss judges and prosecuting attorneys. As a rule, the C.S.M. holds oral hearings before adopting a disciplinary measure. The Supervisory Committee for Judges attended such a hearing.

The legal authority for disciplinary reactions against judges in Italy is articles 104 et seq. of the Italian Constitution and the Act of 24 March 1958 no. 195.



*Caption: The Committee's members outside the C.S.M. From the left: Jeppe Normann, Unni Sandbukt, Randi Grøndalen, Bjørg Tørresdal, Trond Berge and Svein J. Magnussen*

## **Procedure**

Any inquiries to the Supervisory Committee should be addressed to the Secretariat, which is responsible for preparatory work on complaints until a decision may be rendered.

The Supervisory Committee adopts its resolutions at meetings; see section 238 (4) of the Courts of Justice Act. Pursuant to section 238 (6) of the Courts of Justice Act, the Committee has delegated the right to reject complaints to its President, the judge-member and the lawyer-member with deputies in the following cases:

- A right of complaint does not exist under the law
- The complainant does not have a right of complaint
- The time-limit of three months has expired and the complaint is obviously unfounded

In addition, the examination of the merits of a complaint has been delegated to the Committee's President, the judge-member and the lawyer-member in cases where the complaint is obviously unfounded.

## **Participation in courses, local knowledge-building measures and other outreach activities**

The Committee's core duty is to act as a disciplinary body for judges, but this is not its exclusive purpose. According to the preparatory works, the Committee should also contribute to developing judicial ethics generally, taking initiatives for and participating in educational programs and

issuing statements about inappropriate matters and imbalances in the courts of justice, see for example NOU 1999-19 item 10.6.2.3.

The Supervisory Committee therefore considers it important to communicate its decisions and take part in courses and knowledge-building measures in the area of judicial ethics. As a part of this work, the Committee has attended a variety of courses and meetings in recent years. This includes seminars on criminal procedure for judges, workshops in the courts, for example the Oslo District Court, and regional gatherings of judges. The Committee's President also delivers lectures on the judge's role at the annual introductory courses for newly-appointed judges.

### **Courses, lectures, etc. in 2013**

In the autumn of 2013, the Supervisory Committee for Judges participated in the following arrangements:

- Asker and Bærum District Court: Workshop on judicial ethics.
- The Judicial Appointments Board for Judges: Lecture on judicial ethics in recruitment work.
- Group of States against Corruption (GRECO)  
In the autumn of 2013, the Committee was convened to a meeting with an evaluation team, the Group of States against Corruption, of the Council of Europe. The evaluation team came to Norway to evaluate the Storting, the courts and the prosecuting authority. The Supervisory Committee for Judges, together with other bodies such as the Norwegian Courts Administration, the Judicial Appointments Board for Judges and the Norwegian Association of Judges, had been asked to give an account of anti-corruption mechanisms and mechanisms to prevent conflicts of interest. This evaluation will conclude with a report that will be submitted to GRECO Strasbourg in the spring of 2014.

### **The ethics project**

The Committee's President is taking part in an Ethics Project under the auspices of the Norwegian Courts Administration, which is aimed at developing competence-building measures for judges in the area of the judge's role and judicial ethics. This work includes preparing a case-based educational program with ethical dilemmas and a film. The educational program will be presented for the first time at a seminar on judicial ethics on 17 and 18 September 2014. The film on the subject is now being produced and will be presented at the seminar for Nordic judges in Stockholm in May 2014.

Accordingly, the Committee is involved in many different areas where issues that are relevant to the Committee's work may be raised and discussed. This outreach activity gives the Committee fine opportunities for an exchange of views with judges and the courts.

The Committee makes a point of being easily accessible and of sharing its knowledge wherever judicial ethics are discussed and developed.

The Committee's coordinator Wench Venås or its president Unni Sandbukt can be contacted in case of any such assignment.

## Statistics

Statistics for the Supervisory Committee  
for Judges 2013

	2012	2012	2012	2013	2013	2013
	Total	Ordinary Courts	Land Consolidation Courts	Total	Ordinary Courts	Land Consolidation Courts
<b>Complaints received</b>						
Incoming complaints during the period	112	99	13	93	87	6
Requests for statements on good judicial practice	0	0	0	0	0	0
Cases heard <i>ex officio</i>	0	0	0	1	1	0
Other cases	1			0	0	0
Lawsuits				2		
<b>Total</b>	<b>113</b>	<b>99</b>	<b>13</b>	<b>96</b>	<b>88</b>	<b>6</b>
<b>Who are the complainants?</b>						
The parties	102	90	12	87	81	6
Counsel	1	0	1	3	3	0
- Lawyers/defence counsel	4	4	0	3	3	0
- Prosecutors	0	0	0	0	0	0
- Others	0	0	0	0	0	0
The aggrieved party	0	0	0	1	1	0
Witnesses/experts	3	3	0	2	2	0
Lay judges	0	0	0	0	0	0
The Bar Association	0	0	0	0	0	0
The National Courts Administration	0	0	0	0	0	0
Others	3	3	0	0	0	0
<b>Total</b>	<b>113</b>	<b>100</b>	<b>13</b>	<b>96</b>	<b>90</b>	<b>6</b>
<b>Rejections</b>						
Decided by the Committee	10	9	1	11	8	3
Decided by a member by delegation	62	55	7	58	51	7
<b>Total</b>	<b>72</b>	<b>64</b>	<b>8</b>	<b>69</b>	<b>59</b>	<b>10</b>
<b>Grounds for rejection</b>						
No right of complaint	2	2	0	1	1	0
Complaint received too late	16	15	1	16	12	4
Concerns matters for which legal remedies are available	47	40	7	33	29	4
Combination of grounds for rejection	8	8	0	14	13	1
<b>Total</b>	<b>73</b>	<b>65</b>	<b>8</b>	<b>64</b>	<b>55</b>	<b>9</b>
<b>Cases heard on their merits</b>						
Decided by the Committee	28	26	2	27	24	3
Decided by the president or the vice-president by delegation	39	36	3	6	6	0
<b>Total</b>	<b>67</b>	<b>62</b>	<b>5</b>	<b>33</b>	<b>30</b>	<b>3</b>
<b>Subject matter of complaint</b>						
Circumstances in the service	65	61	4	27	24	3
Judicial conduct	63	58	5	27	24	3
Delayed proceedings	4	3	1	9	8	1
Administrative matters	0	0	0	2	2	0
Off-duty conduct	0	0	0	1	0	1
<b>Total</b>	<b>132</b>	<b>122</b>	<b>10</b>	<b>66</b>	<b>58</b>	<b>8</b>

<b>Results</b>						
No disciplinary reaction	10	10	0	13	13	0
No disciplinary reaction. Ruled obviously unfounded	38	35	3	8	8	0
Partly rejected. No disciplinary sanction	14	12	2	12	9	3
Partly rejected, partly ruled obviously unfounded	1	1	0	2	2	0
<b>Disciplinary measures:</b>						
Critical assessment	2	2	0	2	2	0
Warning	2	2	0	0	0	0
<b>Total</b>	<b>67</b>	<b>62</b>	<b>5</b>	<b>37</b>	<b>34</b>	<b>3</b>
<b>Statements on good judicial practice</b>	0	0	0	1	1	0
<b>Concluded in other ways</b>						
Complaints withdrawn	0	0	0	1	1	0
Complaints lapsed	6	6	0	5	5	0
Transferred to the National Courts Administration	1	1	0	1	1	0
Other reasons	4	4	0	3	3	0
Complaints pending at 31.12	36	29	7	12	12	0

In 2013, the Supervisory Committee received 94 complaints and two lawsuits. Of these, six complaints were against land consolidation court judges. 102 decisions were adopted in 2013, of which 64 decisions by the Committee's president or another member by delegation. 38 decisions were made by the joint Committee.

33 complaints were treated on their merits in 2013. All of them concerned circumstances in the service: 27 complaints concerned judicial conduct and nine concerned the length of court proceedings. The same complaint may include various matters. A disciplinary sanction was imposed in two cases in the form of a critical assessment. One case concerned the length of court proceedings and the other judicial conduct. A statement on good judicial conduct was issued in one case and 10 cases were concluded in other ways. The Supervisory Committee held six ordinary meetings in 2013.

### **The Supervisory Committee for Judges 2002-2013**

From 2002 to 2013, the Committee received 1225 complaints. It adopted 1221 decisions, of which 588 were rejections. 537 cases were heard on their merits by the joint Committee. The remaining cases were concluded in other ways, normally because the complaint was withdrawn or had lapsed for other reasons. The Committee adopted disciplinary sanctions in 60 cases, and in four of these, it issued a warning.

The number of complaints has varied slightly from year to year, ranging from 66 complaints in 2003 (the lowest) to 176 complaints in 2011 (the highest). The complainants are above all the parties to the case (normally more than 90 per cent).

One development trend in this period is that the number of complaints has stabilised at a higher level than before. One reason for this could be that the parties, lawyers and others have become more aware of the possibility for filing complaints. Another trend is that the Committee is making statements on good judicial conduct without adopting disciplinary sanctions in an increasing number of cases. This is in accordance with the preparatory works' premise that the Supervisory Committee should develop guidelines for what is considered "the proper conduct of judges".



April 2014

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*Bjørg Tørresdal*

*Jeppe Normann*

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## **The Supervisory Committee's decisions in 2013**

### **Case 107/12: Judicial conduct. The length of court proceedings. Partly rejected. No grounds for disciplinary measures**

Complaint against a chief judge for his handling of a petition for access and for his proceedings in connection with the appointment of an expert. The complainant was of the view that the district court had refused to review a petition for access to documents in a criminal case and that at a hearing in private, the district court had pronounced an order on the appointment of an expert in contravention of the law.

The Committee found no grounds for saying that the judge had been negligent in following up the case. Nor did the Committee think the judge could be blamed for the proceedings in connection with the complainant's appeal against the decision on the appointment of an expert. Consequently, the Committee found no grounds for taking disciplinary measures against the judge.

### **Case 105/12: Judicial conduct. No grounds for disciplinary measures**

Complaint against a deputy judge and a chief judge for their handling of a case concerning the administration of a deceased person's estate. The complainant, who was a relative of the deceased, claimed that the judges in question had failed to answer his questions, that they had withheld information that had a bearing on the case and that there was reason to believe that a last will had been unlawfully exempted from publication after the testator's death.

The Committee concluded that the complainant's inquiries to the court had been answered in a satisfactory way. The allegation that the judges had withheld information and that there was a will, which the judges knew of and exempted from disclosure, was obviously unfounded. The Committee therefore found no grounds for taking disciplinary measures against the judges.

### **Case 101/12: Judicial conduct. No grounds for disciplinary measures**

The background for the complaint was a telephone conversation between the complainant and a deputy judge. The complainant maintained the deputy judge had acted in conflict with good judicial conduct during this conversation. This applied to the way the judge replied to the complainant's questions and to how the conversation was terminated. The deputy judge conceded that he terminated the conversation by hanging up. The Committee found no evidence for saying that the judge had been negligent in providing guidance and in the way this was done. Even if the conversation ended with the judge hanging up the receiver, the Committee was of the view that this did not exceed the threshold for minor errors. In this connection, the Committee emphasised that the judge had tried to answer the complainant by giving him information and referring him to the proper authority, but that the complainant would not accept the judge's limitations on what he could listen to and what he could assist in. The Committee also underlined that the judge had tried to conclude the conversation and had said he would hang up. The Committee therefore found no grounds for any disciplinary measures against the judge.

### **Case 99/12: Judicial conduct. Partly rejected. No grounds for disciplinary measures**

Complaint against the district court judge's proceedings and his conduct during preparatory work in a dispute. The complainant was the counsel for his wife, who was the defendant in the case. He argued that it was contrary to good judicial practice that the judge had not taken into account the defendant's arguments when deciding whether the case should be rejected or a new date listed for the main hearing. Furthermore, the complainant claimed that the defendant, who was not represented by a lawyer, had not been treated in the same way as the claimant, who was represented by a lawyer.

The Committee rejected the part of the complaint that concerned dissatisfaction with the decision on whether the case should be dismissed or a new date listed for the main hearing. These are

circumstances that can only be reviewed by appeal or by re-opening the case. The Committee stated that the judge's suggestion that the defendant should consider retaining a lawyer was not in conflict with the need to treat the parties to the case equally. An imbalance in the use of resources may arise between the parties where only one party is represented by a lawyer. The Committee could not see that there is anything reprehensible in the judge's attempt at righting this imbalance by asking the party concerned to consider retaining a lawyer. Nor could the Committee see that the district court judge showed a lack of respect or acted reprehensibly otherwise by making this suggestion. Consequently, the Committee found no grounds for taking disciplinary measures against the judge.

**Case 97/12: Length of court proceedings. No grounds for disciplinary measures**

The complaint was rooted in a writ of summons in connection with the public administration of a joint estate. The complainant's counsel filed a writ to the district court on 4 July 2012 with a claim for the sale of a sailing boat. The writ contained a detailed plan for how the boat could be brought to Norway from the Mediterranean. After filing the writ, the complainant received no feedback from the district court and the judge in question. An oral reminder was made by telephone and a written reminder by letter of 19 September 2012. By the district court's letter of 8 October 2012, the opponent was ordered to give notice of intention to defend. The complainant claimed that by this, the judge had not acted in accordance with the Principles of Judicial Ethics, including item 10 "Efficiency".

The Committee found that the case had been left sitting for just over two months, from the judge returned from his holidays until he issued the order to give notice of intention to defend. The scope and character of the case could not justify such processing time, which was far too long. However, there was no improper conduct on the judge's part that exceeded the threshold for issuing a critical assessment. The Committee attached weight to the judge's statement that he had a heavy workload, that the character of the case did not give rise to any special prioritising and that the case in question, which had been brought during the public administration of the estate, could not be heard pursuant to the common procedures for civil cases. Nor had the complainant established on a balance of probabilities that he had suffered a higher risk of economic loss due to the court's proceedings, as he had claimed. Consequently, the Committee found no grounds for any disciplinary measures against the judge.

**Case 92/12: Judicial conduct. No grounds for disciplinary measures**

The complainant claimed the judge in question had been unprepared, had subjected the complainant to pressure and that he was not given an opportunity to present his case. The complainant also maintained that the judge was visibly irritated during the hearing and that the case was handled in an arrogant and incompetent way. The Committee found that it had not been proved on a balance of probabilities that the judge had acted in the way described in the complaint. The Committee stated that the complainant had put forward general accusations and subjective characterisations, which were not substantiated by evidence or support from other persons. The Committee found no grounds for taking disciplinary measures against the judge.

**Case 61/12: Judicial conduct. Length of court proceedings. No grounds for disciplinary measures**

Complaint against a deputy judge who was the judge in charge of a case concerning the public administration of a deceased's estate. The complainant, who represented one of the relatives of the deceased, claimed that the deputy judge did not have sufficient control of the executive trustee's work and the progress made in the case.

The Committee agreed with the complainant that the processing of the estate had taken a long time in this case, but could not see that the deputy judge could be blamed for this. She had answered the complainant's inquiries regularly and had also made the necessary inquiries to the executive trustee to follow up his work. Therefore there were no grounds for any disciplinary measures against the deputy judge.

**Case 52/12: Judicial conduct and delayed proceedings. Partly rejected. No grounds for disciplinary measures**

The background for the complaint was a land consolidation case relating to a right of use. The Committee rejected the complainant's submissions concerning the costs of the case. The complainant also claimed that the judge had acted in breach of good judicial conduct, in that he acted in a biased way and contributed to unnecessary delays in the proceedings. The Committee pointed out that the complainant had been given every opportunity to appear in court and that it had not been proved on a balance of probabilities that the judge had suggested that the complainant need not appear. The Committee found no grounds for claiming that the judge had acted with prejudice. Nor could it be said, to the Committee's view, that there had been any unreasonable delays in the proceedings. The length of the proceedings is a consequence of the fact that the each party must be given an opportunity to refute the other party's allegations. The Committee found no grounds for adopting disciplinary sanctions against the judge.

**Case 3/13: Judicial conduct. No grounds for disciplinary measures**

A complaint was lodged against a district court judge because he had allegedly passed on untrue information about the complainant and had breached his duty of confidentiality. The Committee found that the information the judge had passed on was not subject to a duty of confidentiality. Consequently, the Committee saw no reason for any disciplinary measures against the district court judge.

**Case 4/13: Judicial conduct. No grounds for disciplinary measures**

A complaint was lodged against a district court judge because he had passed on information about the complainant and breached his duty of confidentiality. The Committee found that the information the judge had passed on was not subject to a duty of confidentiality. Consequently, the Committee saw no reason for any disciplinary measures against the district court judge.

**Case 5/13: Judicial conduct. Partly rejected. No grounds for disciplinary measures**

Complaint against a district court judge due to his conduct during a preparatory meeting in a case under the Children Act. The complainant (one of the parties) submitted that through his looks and expressions, the judge blamed the complainant for the parties' failure to reach agreement, and that the judge became noticeably sour and arrogant because of the additional work the preliminary decision would entail.

The Committee examined the complaint on its own initiative as it concerned submissions concerning judicial conduct and as the time limit for complaint had only been exceeded by an insignificant period. Having made a specific assessment, the Committee concluded that it had not been proved on a balance of probabilities that the judge had acted as alleged by the complainant. The complainant's account was supported by his counsel, but not by the opponent's counsel and the judge. Furthermore, the complainant's allegations had not been specified in the form of statements or actions. There was nothing to suggest that the complainant's characterisations were correct. The arguments relating to the content of the decision were rejected, see section 236 fourth paragraph of the Courts of Justice Act. The Committee saw no reason for any disciplinary measures against the judge.

**Case 7/13: Delayed proceedings. No grounds for disciplinary measures**

Complaint against three court of appeal judges due to the length of the proceedings in a civil case concerning guarantee liability. The complainant argued that the case had not been given sufficient priority and that incorrect information had been provided about the reason for the delay in the pronouncement of judgment. The Committee pointed out that both counsel were kept currently informed about the delays, such as the sick leave of the judge writing the judgment. The Committee also pointed out that the delays were due to unforeseen circumstances and that there was nothing to suggest that incorrect information had been given about the reason for the delay. The Committee found that the case in question was taxing and that the judge writing the judgment could not be blamed for the time it took. Nor are there any grounds for blaming the two other judges for not having assumed responsibility for writing the judgment. Consequently, the

Committee found no grounds for disciplinary measures against any of the court of appeal judges.

**Case 13/13: Judicial conduct and delayed proceedings. Disciplinary measures. Critical assessment**

Complaint against a district court judge for the late completion of a judgment in a civil case, in which a price reduction and compensation for defects had been claimed following the purchase of condominium units. The main hearing was held from 15 to 18 November 2011. The judgment was pronounced on 3 December 2012. The complainants (the residents) submitted that this period was far too long and that it came at the expense of the quality and the result of the judgment.

The Committee found it obvious that a space of time of some 12 ½ months from the conclusion of the main hearing until the judgment was delivered is criticisable, objectively speaking, and in breach of the proper conduct of judges. Moreover, the case was not particularly comprehensive or complicated. The Committee relied on the judge's description of his work and health situation.

Nevertheless, the Committee found that the standards for the proper conduct of judges require the judge to inform the parties of any delay and of when a decision can be expected. The Committee emphasised that the judge had not kept the parties informed. The judge gave too optimistic information about when a judgment would be delivered. Nor could the judge's health situation and other circumstances in the case defend the time spent. The Committee found no special circumstances that could explain the delay, and the judge was issued with a disciplinary measure in the form of a critical assessment. To conclude, the Committee observed that the district court's procedures for ensuring compliance with the duty of active case management, for which the chief judge is responsible, had not functioned adequately in the case in question.

**Case 14/13: Judicial conduct. Partly rejected. No grounds for disciplinary measures**

Complaint against a district court judge concerning the judge's review of a case pursuant to the Children Act. The complainant (a counsel) alleged for example that the judge in question was prejudiced and that the hearing of the case had been affected by the judge's close relations with the expert lay judge and the court-appointed expert.

The Committee stated that it could not assess questions of legal competence, but that it may be difficult to make a clear distinction between questions of legal competence and questions concerning judicial ethics. The Committee stated that experts or expert lay judges with whom the judge has or has had a close relationship should not be used in court. The Committee did not find sufficient grounds for taking disciplinary measures against the judge.

**Case 36/13: Judicial conduct. Partly rejected. No grounds for disciplinary measures**

Complaint against a district court judge due to his conduct during a main hearing. The complainant thought the judge seemed unprepared and uninterested and that he made criticisable statements during the hearing. The complainant claimed, moreover, that the judge incorrectly assumed that the parties had previously arrived at a settlement out of court, that he decided to preclude further witness testimonies and that he did not question the opponent. The Committee stated that it had not been proved on a balance of probabilities that the judge has acted improperly, as described by the complainant. The complainant's description of the judge's conduct was not confirmed by the judge in question or by the opponent's counsel. The Committee concluded that the judge had not acted in breach of proper judicial conduct. The complaint was rejected insofar as it concerned matters that could form the basis for an invalidity action pursuant to section 19-12 of the Norwegian Dispute Act. Consequently, the Committee did not find grounds for any disciplinary measures against the judge.

**Case 49/13: Judicial conduct. Partly rejected. No disciplinary reactions**

A complaint was lodged against a district court judge due to the judge's conduct during the main hearing. It was stated in the complaint, among other things, that the judge was prejudiced, biased and acted disrespectfully towards the complainant. The complainant claimed that the judge acted in an aggressive, accusatory and offensive way, for example by accusing the complainant of lying and interrupting him frequently during his testimony. The Committee held that the alleged circumstances had not been sufficiently proved and that there was no basis for imposing disciplinary sanctions. The Committee issued a general statement on what constitutes the proper conduct of judges. Circumstances relating to the case management were rejected.

**Case: 58/13: Judicial conduct. Disciplinary measures. Critical statement**

Complaint against a district court judge for having handed over a court decision in a child welfare case to the child's foster mother. The complainant, the child's mother, argued that this was obviously a breach of the instructions for handling documents and judgments containing information subject to a duty of confidentiality.

The Committee concluded that the judge's conduct was in breach of his obligations under the principles for good judicial conduct. Forwarding information subject to a duty of confidentiality in a judgment of this character to a third party might undermine confidence in judges and the legal system. The fact that the judge in this case thought the foster mother had already seen a lot of the information contained in the judgment does not change this. Once the content is confidential, it cannot be up to the judge to make such an assessment. In its assessment, the Committee did not give weight to the fact that the judge had subsequently apologised for this breach of confidentiality.

Consequently, the Committee decided on a disciplinary measure in the form of a critical statement.

**Case 64/13: Judicial conduct. Delayed proceedings. No disciplinary measures**

A complaint was lodged against a district court judge due to delays in convening an extraordinary general meeting in a housing cooperative. The complainant claimed the judge took too long time in convening an extraordinary general meeting under section 7-6 second sentence of the Norwegian Housing Cooperatives Act. The Committee found that neither the time spent by the judge nor his follow-up otherwise constituted grounds for imposing any disciplinary sanction.

**Case 62/13 and 66/13: Judicial conduct. Partly rejected. No grounds for disciplinary measures**

Two complaints against the same land consolidation court judge from two of the parties in a land consolidation case were heard jointly.

The complainants submitted that the judge's guidance was inadequate, that he permitted the disclosure of a document that should have been rejected and that he failed to postpone the hearing once disclosure of the document had been permitted. The Committee found that these are circumstances that can be used as grounds for appeal and that the Committee therefore cannot assess.

The complainants alleged furthermore that the judge put pressure on them and misled them into accepting a settlement in court and that he established the parameters for what would be the conclusion of judgment. These are circumstances the Committee can examine. However, the Committee could not see that these circumstances had been proved on a balance of probabilities. The statements of the other courtroom participants did not suggest that the judge had acted in an untoward way. Consequently, there was no basis for any disciplinary measures.

**Case 70/13: Judicial conduct. Partly rejected. No grounds for disciplinary measures**

Complaint against a district court judge. The Committee rejected circumstances that concerned the judge's legal competence and his decision to preclude evidence.

The complainant argued that at the hearing, the judge had acted with bias and prejudice and in a way that was liable to weaken confidence in the courts. The Committee found that the judge had not questioned the complainant too closely. Furthermore, the Committee held that there was nothing criticisable in the judge's case management. The Committee found it had not been proved on a balance of probabilities that the judge had made criticisable statements, that he had been prejudiced or had acted with bias. The Committee concluded that there was no basis for claiming that the judge had acted in breach of proper judicial conduct.

## **Principles of Judicial Ethics**

The ethical principles for judges are aimed at promoting conduct among judges that will generate public confidence in the courts and in court decisions. The principles shall also serve as a source of information about what is considered the proper conduct of judges. These ethical principles were adopted by the Norwegian Association of Judges, Tekna's Sector Union for the land consolidation courts and the National Courts Administration and were prepared by these institutions jointly. The principles apply to both professional judges in the ordinary courts and to judges in the land consolidation courts, and they are applicable to judges' conduct both in and outside of their judicial capacity.

### **1. Basic requirements**

Judges shall conduct themselves in conformity with the law, the legal system and the norms for proper conduct among judges, and in such a way that their conduct will promote general confidence in the courts.

### **2. Independence**

Judges shall exercise their judicial functions independently, free of any extraneous influences from public or private interests.

### **3. Impartiality**

Judges shall perform their judicial duties without partiality and in such a way that their objectivity cannot reasonably be questioned. Judges shall not express any opinions in advance in cases that have been allocated or are likely to be allocated to them. Judges shall exercise their judicial functions without prejudice. Judges shall actively facilitate amicable solutions, but shall not exert pressure on the parties to enter into settlements.

### **4. Integrity**

Judges shall ensure that their conduct is not liable to diminish public confidence in the courts or impair the reputation of the judiciary. Judges shall not receive, for themselves or on behalf of others, gifts or other benefits that may be associated with the performance of their judicial functions.

### **5. Equality**

Judges shall comply with the principle of equal treatment of the parties and the other court participants. Judges shall base their decisions on objective considerations when awarding assignments on behalf of the court.

### **6. Propriety**

Judges shall remain objective and conduct themselves in a dignified and correct manner with everyone with whom they deal in their official capacity. Judges shall ensure that lay judges may take part in the proceedings as full members of the court. Judges shall show due respect for the role of lawyers and public prosecutors in the administration of justice. Lawyers shall not be identified with their clients.

### **7. Formulating court decisions**

In formulating court decisions, judges must pay due regard to all the parties involved, to the extent this is compatible with the requirement that decisions must be adequately justified.

### **8. Discretion**

In addition to complying with the statutory duty of confidentiality, judges shall observe discretion about sensitive matters that come to their knowledge in the performance of their duties, and they shall not use such information for any purpose outside of their judicial capacity. Judges shall keep confidential the content of court conferences and voting in camera. Judges shall not communicate any decision before it has been given.



## **9. Competence**

Judges shall maintain and enhance their professional knowledge and skills.

## **10. Efficiency**

Judges shall exercise their judicial functions with efficiency and reasonable speed, provided this is compatible with the requirement of sound proceedings and professional quality. When significant delays occur in a case, the judge shall notify the parties affected.

## **11. Statements, etc.**

Judges enjoy freedom of expression, freedom of religion and freedom of assembly on equal terms with all citizens, but in exercising these rights, judges shall pay heed to the dignity of the judiciary as well as to the court's impartiality, independence and neutrality. Judges should exercise caution when commenting on pending court cases and on their own decisions.

## **12. Judges' relations with the media**

Judges shall respect the media's role and provide the public with information about cases that are reviewed by the courts.

## **13. Conduct of judges when not acting in an official capacity**

Judges shall act in such a way that their conduct is not liable to lead to a lack of respect or confidence in the courts also when they are not acting in an official capacity. Judges shall not make use of the title of judge in a way that may be seen as a mixing of roles or otherwise when such use is not justified. Judges must exercise caution in giving advice or otherwise engaging in the legal disputes of others.

## **14. Retired judges**

Retired judges should refrain from conduct that may be perceived as an inappropriate exploitation of the title of judge.

## **15. Collegial intervention**

Judges that become aware of breaches of these ethical principles committed by a colleague should address this in a suitable way and intervene if the offence is material.

1 October 2010