

THE SUPERVISORY COMMITTEE FOR JUDGES

ANNUAL REPORT

2014

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 applies to 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 both in and outside of the judges' judicial 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. Decisions on critical statements or warnings are forwarded to the National Courts Administration and the Ministry of Justice by routine.

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 fourth paragraph of the Courts of Justice Act. Another limitation on the Committee's authority is laid down in section 236 fourth paragraph 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 land consolidation court judge, 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 2014, the Committee was composed as follows:

Name	Position	Title, place of work	Period of appointment
Unni Sandbukt	President	Chief Judge, Nord-Troms District Court	01.05.10 - 30.04.18
Ragnhild Olsnes	Personal Deputy	District Court Judge, Stavanger District Court	01.06.13 - 31.05.17
Randi Grøndalen	Member	Court of Appeal Judge, Frostating Court of Appeal	01.01.10 - 31.12.17
Bjørn Eirik Hansen	Personal Deputy	Court of Appeal Judge, Eidsivating Court of Appeal	15.08.14 - 14.08.18
Jeppe Normann	Member	Advocate, Advokatfirmaet Selmer	01.11.10 - 31.10.16
Bjørn Hübert Senum	Personal Deputy	Advocate, Advokatfelleskapet	01.11.11 - 31.10.15
Turid Ellingsen	Member	Director, the National Mapping Authority	01.11.14 - 31.10.18
Anne-Birgitte Sveri	Personal Deputy	Chief Administrative Officer, Nittedal Municipality	01.06.13 - 31.05.17
Svein J. Magnussen	Member	Professor of psychology, University of Oslo	01.06.11 - 31.05.15
Gerd Ingunn Opdal	Personal Deputy	Regional Director, Statped [<i>national service for special-needs education</i>]	01.11.10 - 31.10.18
Trond Berge	Member	Chief Judge, Sør-Rogaland Land Consolidation Court	02.09.11 - 01.09.15
Vidar Bergtun	Personal Deputy	Chief Judge, Nord- og Midhordland Land Consolidation Court	01.11.11 - 31.10.15

Court of Appeal Judge Rune Jensen (personal deputy) of the Agder Court of Appeal, held office until 14 August 2014, and Rector Bjørg Tørresdal (member), Levanger Municipality, held office until 31 October 2014.

ACTIVITIES OF THE SUPERVISORY COMMITTEE

Meetings

The Supervisory Committee held seven meetings in 2014, five ordinary meeting and two extraordinary meetings. Six meetings were held in Oslo and one in Trondheim. The Committee reviewed several major cases in 2014, including one that resulted in two warnings.

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 fourth paragraph of the Courts of Justice Act. Pursuant to section 238 sixth paragraph 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 on improprieties 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 the Asker og Bærum District Court, and at regional gatherings of judges. The Committee's President also delivers lectures on the role of judges at the annual introductory courses for newly-appointed judges.

Courses, lectures, etc. in 2014

- Introductory course for newly-appointed judges
- Nordic seminar on judicial ethics in Stockholm
- Lecture on judicial ethics to the Special Court for Finnmark¹

¹ Utmarksdomstolen = the Uncultivated Land Tribunal

The ethics project

The Committee's President is participating 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. A case-based educational program with ethical dilemmas and a film have been prepared under this project. The educational program was presented for the first time at a seminar on judicial ethics for judges in the counties of Troms and Finnmark on 17 and 18 September 2014. The program will also be used in the introductory course for new judges and at the national judicial seminars in the spring of 2015.

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

	2013	2013	2013	2014	2014	2014
Complaints received	Total	Ordinary Courts	Land Consolidation Courts	Total	Ordinary Courts	Land Consolidation Courts
Incoming complaints during the period	93	87	6	122	115	7
Requests for statements on good judicial practice	0	0	0	0	0	0
Cases heard <i>ex officio</i>	1	1	0	0	0	0
Other cases	0	0	0	0	0	0
Lawsuits	2			4		
Total	96	88	6	126	115	7
Who are the complainants?						
The parties	87	81	6	105	99	6
The counsel:	3	3	0	4	3	1
- Lawyers/defence counsel	3	3	0	7	7	0
- Prosecutors	0	0	0	0	0	0
- Others	0	0	0	0	0	0
The aggrieved party	1	1	0	0	0	0
Witnesses/experts	2	2	0	9	9	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	0	0	0	3	3	0
Total	96	90	6	128	121	7
Rejections						
Decided by the Committee	11	8	3	6	6	0
Decided by a member by delegation	58	51	7	40	38	2
Total	69	59	10	46	44	2
Grounds for rejection						
No right of complaint	1	1	0	1	1	0
Complaint received too late	16	12	4	13	12	1
Concerns matters for which legal remedies are available	33	29	4	26	25	1
Combination of grounds for rejection	14	13	1	7	7	0
Total	64	55	9	47	45	2
Cases heard on their merits						
Decided by the Committee	27	24	3	33	31	2
Decided by the president or the vice-president by delegation	6	6	0	8	8	0
Total	33	30	3	41	39	2
Subject matter of complaint						
Conduct while on official duty	27	24	3	38	36	2
Judicial conduct	27	24	3	37	35	2
Delayed proceedings	9	8	1	11	10	1
Administrative matters	2	2	0	1	1	0
Off-duty conduct	1	0	1	2	2	0
Total	66	58	8	89	84	5

Results						
No disciplinary reaction	13	13	0	13	13	0
No disciplinary reaction. Ruled obviously unfounded	8	8	0	5	5	0
Partly rejected. No disciplinary reaction	12	9	3	15	13	2
Partly rejected, partly ruled obviously unfounded	2	2	0	5	5	0
Disciplinary measures:						
Critical assessment	2	2	0	4	4	0
Warning	0	0	0	2	2	0
Total	37	34	3	44	42	2
Statements on good judicial practice	1	1	0	0	0	0
Concluded in other ways						
Complaints withdrawn	1	1	0	0	0	0
Complaints lapsed	5	5	0	4	4	0
Transferred to the National Courts Administration	1	1	0	0	0	0
Other reasons	3	3	0	5	5	0
Complaints pending at 31.12	12	12	0	43	41	2

Complaints in 2014

In 2014, the Supervisory Committee received 126 complaints and two lawsuits. Of these, seven complaints were against land consolidation court judges. 87 decisions were adopted in 2014, of which 48 decisions by the Committee's president or another member by delegation. 39 decisions were made by the joint Committee.

41 complaints were treated on their merits in 2014. All of them concerned matters arising in the judge's performance of his duties: 37 complaints concerned judicial conduct and 11 concerned the length of court proceedings. The same complaint may include various matters. A disciplinary sanction was imposed in six cases, four in the form of a critical assessment and two in the form of a warning. Five cases were concluded in other ways.

The Committee held five ordinary and two extraordinary meetings in 2014.

The Supervisory Committee for Judges 2002-2014

From 2002 to 2014, the Committee received 1351 complaints. It adopted 1308 decisions, of which 636 were rejections. 576 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 66 cases, and in six 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".

March 2015

Unni Sandbukt

Randi Grøndalen

Turid Ellingsen

Jeppe Normann

Svein J. Magnussen

Trond Berge

The Supervisory Committee's decisions in 2014

Case 13-075: Judicial conduct. Warning. The case concerned complaints to the Committee concerning the chief judge's conduct both in and outside of his judicial capacity and various statements he made in connection with the case.

The Committee reviewed the case as a disciplinary matter on its own initiative pursuant to section 237 third and fourth paragraphs of the Courts of Justice Act. The background was a letter from a law firm, which requested an assessment of the chief judge's conduct in connection with a brief the law firm had received in a pending dispute, in which the chief judge had a close personal relationship with the opponent. The chief judge was not himself a party to the case. He claimed that one of the lawyers in the firm had contributed to criminal libel by sending a biased presentation to the court, and that he therefore had to intervene.

The chief judge's conduct was related to a private matter, where he acted basically outside of his judicial duties, but where it was argued that he was mixing roles. The Committee therefore considered it obvious that the matter was significant to his judicial role, see article 11 of the Principles of Judicial Ethics.

The Committee held that on two occasions the chief judge had contacted one of the partners in the law firm to express views about one of the other lawyers' performance of an ongoing case. The Committee also held that the chief judge had made a number of allegations and had made accusations against and disparaging comments about both the lawyer and his client.

The Committee found that the chief judge had mixed his roles and had tried to influence the law firm's litigation. The Committee stated that it is not compatible with the proper conduct of judges to refer to opponents or the other parties involved in a lawsuit or a disciplinary case in the way that was done. The Committee found that the chief judge had acted in breach of proper judicial practice.

The conflict between the law firm and the judge continued after the Committee had commenced its review. The law firm referred to a case where the firm had filed a writ of summons with the district court and the chief judge was asked to withdraw from the Bench and transfer the case to another court due to the ongoing conflict. The Committee reacted to the judge's repetition, in a subsequent order, of the same accusations as those he had made against the lawyer in the disciplinary case, presenting them as facts. This was unnecessary to the result and must have seemed utterly incomprehensible to the law firm's opponent, who did not know of the disciplinary case. The Committee found this highly reprehensible and in breach of good judicial practice and article 7 of the Principles of Judicial Ethics concerning the wording of court decisions.

In the course of the proceedings, the chief judge made statements about the judge who heard the case in the district court (a judge in a parallel court), which were of such a character that the Committee also decided to assess this point. The chief judge invoked his freedom of expression and case law in the European Court of Human Rights, claiming that such expressions do not entail criminal liability or disciplinary sanction. The Committee pointed out that the requirements to proper judicial conduct, including the principles for correct and respectful judicial conduct, should be normative to a judge's comments and observations to the disciplinary body. It must be required of a judge that he is able to express himself in a fair and correct way, without making offensive statements and characterisations. This applies in respect of the parties that have filed a complaint, but not least to third parties, who have in principle no possibility for refuting and correcting the descriptions. The Committee concluded that the chief judge's conduct was in breach of the proper conduct of judges; see section 236 of the Courts of Justice Act. His comments and observations exceeded the limits for acceptable conduct. In the Committee's opinion, he did not pay sufficient heed to his role as chief judge and to the dignity of the judiciary when he made statements about the lawsuit and the district court's handling of it, see article 13 of the Principles of Judicial Ethics.

The objections raised against the Committee's President and the Committee as such concerning legal competence were overruled.

The Committee considered that the judge's general conduct constituted grounds for a disciplinary reaction in the form of a warning. In its decision, the Committee attached decisive weight to the fact that complaints against the chief judge had been filed with the Committee 14 times in the period from 2003 to 2013. No disciplinary sanctions had been imposed previously, but in several of the cases, the Committee has drawn attention to inappropriate aspects of his conduct.

Case 13-077: Judicial conduct. Partial rejection. Disciplinary sanction. Criticism. Complaint filed by a lawyer on behalf of himself and seven parties concerning the judge's conduct during the preparatory proceedings in a comprehensive and lengthy civil dispute. The lawyer was a counsel in the case. The court's review of the case started when a writ was filed with the district court in 2009, and several attempts were made to list the case. Statements in letters from the judge suggested that the complainants had no interest in reviewing evidence that the opponent had made available or contributing to a listing of the case. The Committee concluded that statements made in letters from the judge to the complainants in May and September 2013 were in breach of good judicial conduct. The judge's statements about the lawyer seemed unnecessary and in addition stigmatising. Statements in the last letter also meant that the judge identified the lawyer with his client, which is in breach of the article 6, third paragraph, of the Principles of Judicial Ethics. The Committee viewed the statements in the two letters jointly, although the complaint about the first letter had been submitted more than three months after the fact. The Committee criticised the judge for having acted in breach of good judicial conduct by making the statements in these letters.

A complaint against errors and inaccuracies in two of the district court's orders were submitted more than three months after the fact. The Committee did not find that these circumstances are connected with the other grievances to such an extent that they can be regarded as an ongoing matter, and they were rejected as having been submitted too late. In any case, the complaint was beyond the scope of the Committee's authority, as the court's decision can be appealed.

This decision has been reviewed and a new decision has been adopted - no criticism.

Case 13-080: Legal competence, disciplinary sanction, criticism, deputy judge, time limit for complaint, partial rejection.

Complaint against a district court judge, a former deputy judge and a chief judge. In the district court judge's absence in connection with the main hearing and judgment writing in a major case of economic crime, the deputy judge managed the remainder of the district court judge's portfolio. This included a case between the complainants and a company. While the deputy judge was in charge of the case, he was offered and accepted a job in the company. The complainants were not informed of this. The Committee underlined that these issues relate to aspects of a judge's legal competence and integrity that differ from matters that can be appealed and that concern matters the Committee cannot review, see section 236 fourth paragraph of the Courts of Justice Act. The Committee is entitled to review the ethical aspects of a judge's proceedings and his views on his own legal competence within the framework of the principles for the proper conduct of judges. The lack of information, the judges' association with the case, their division of responsibilities and their position with respect to any decisions in the case raise fundamental questions and issues of general interest to and importance for judicial ethics. The Committee found it criticisable that the deputy judge did not inform the parties that one of them was his coming employer, nor withdrew from the case. The Committee held that the district court judge became involved in the initial phase of the deputy judge's contact with the company. The chief judge was only informed after the fact. The Committee stated that according to the information received in the case, the district court judge acted injudiciously in his guidance of the deputy judge, but that no circumstances had been found that exceeded the threshold for criticism, and no disciplinary measures were taken against the district court judge. The Committee found that the chief judge's handling of the complainants' enquiries had been satisfactory and found no grounds for disciplinary measures against the chief judge.

Case 13-092: Judicial conduct. Proceedings. No disciplinary measures. The complaint concerns the proceedings in connection with a remand order, which the judge in question reviewed in the district court. The complainant was the defence counsel of the person charged. The judge ordered a four weeks' extension of the remand period. The complainant argues that the remand order, which the court sent him on the same day as the remand hearing, was unfinished and was in reality written on the following day, after expiry of the time limit. The complainant claims that the judge acted dishonestly and suggests that he made a false instrument. The Committee found that these charges are very serious ones and should not be made by a lawyer about a judge unless there are very clear indications that the allegations are true. The Committee found that it had not been proved on a balance of probabilities that the judge acted as claimed in the complaint.

Case 14-012: Reversal of decision concerning criticism. No grounds for disciplinary measures.

Complaint made by the claimant in a case concerning a distress sale of a condominium unit. The Committee had previously issued a critical statement against the judge because he had not forwarded pleadings from the claimant to the defendant within a reasonable time after receiving them. At the judge's petition, the decision to issue a critical statement was reviewed again.

The Committee found that it was still difficult to understand why the judge did not forward the claimant's pleadings to the defendant currently. The Committee agreed unanimously that there was reason to level criticism against the judge's conduct. The Committee could not see that the decision was invalid because of any errors in the application of law or in the proceedings. The Committee's majority (3-2) concluded that the threshold for criticism had not been exceeded. In the assessment of this, the majority took into consideration factors such as the judge's account of the matter and the Committee's former practice in comparable cases. The minority could not see that there was any new information in the case that could justify a reversal of the Committee's decision. The minority was still of the view that the threshold for a critical statement against the judge had been exceeded.

Consequently, the earlier decision was reversed, and the Committee found no basis for adopting disciplinary measures against the judge.

Case 14-015: Proceedings. No disciplinary measures. Rejection. The complaint concerns a bankruptcy estate, which the judge in question heard in the district court. The Committee held that the complainant is directly affected by the complaint as he is the chairman of the board of the company in liquidation and that he therefore has a right of complaint. The complaint has three parts. The first grievance is that the judge allegedly failed to follow up section 121 of the Bankruptcy Act. The executive trustee failed to submit two annual reports within the time limit, and the complainant thought the judge should have sent him reminders concerning this. The Committee considered the failure to send reminders as an ongoing matter and that the complaint had thus been submitted within the time limit for both matters. The Committee found that in the administration of the estate, there had been current contact between the executive trustee and the court, for example through processes initiated by the complainant. Consequently, the administration of the estate seem largely to have been clarified. Failing to follow up the trustee's late submission of annual reports can mean that unfortunate matters will not be disclosed early enough. Nevertheless, the Committee could not see that the judge's failure to follow up the trustee on this point alone could be a breach of good judicial practice.

The second allegation was that the judge had not made sure that the case was properly explained by ordering the trustee to comply with the requests for further particulars. This part of the complaint can be appealed and cannot be reviewed by the Committee. The last grievance is that the court did not make a ruling to decide the question of the trustee's legal competence. The Committee found no grounds for criticising the judge for dilatoriness in his treatment of this question. The time spent on this was primarily due to input from the complainant.

Cases 14-016 and 14-017: Judicial conduct, consolidation of complaints, no disciplinary sanction.

Two complaints against the same district court judge were reviewed jointly. One party and one witness submitted independent complaints. Both complaints concerned the judge's conduct during the main hearing in the same parental dispute, and they were consolidated for a joint hearing.

The allegations concern the judge's conduct in court, and the complainants maintain that the judge had acted with prejudice against both of them, that he was biased and that he expressed himself in a flippant and condescending way.

The judge disputed the complainant's allegations and claimed that his conduct of proceedings was necessary. None of the other courtroom participants could subscribe to the complainants' descriptions of the judge's conduct, even though they confirmed that the party's living conditions and the question of a move were raised during the main hearing. However, it appears from these statements that the party's independence of his parents was a key issue in the parental dispute. The Committee stated that a judge is responsible for ensuring that cases under the Children Act are properly clarified. The parties and other persons involved must tolerate, within reasonable terms, that critical questions are asked about matters concerning living arrangements in connection with an alternative place of residence for the child. The Committee's view is that the judge asked questions prompted by the facts of the case and that he kept well within the framework for the necessary management of a procedural process.

The Committee added that it is not desirable that parties or witnesses should feel they have been subjected to biased and offensive treatment at a court hearing. The judge pointed out that the case was marked by a high conflict level, something the Committee relied on. This is assumed to have coloured the complainants' perceptions. The Committee cannot base its evaluation of the judge's conduct on subjective experiences with no evidential support, but must rely on objective and proven facts. According to the statements of the other courtroom participants, the complainants were the only parties that felt the judge's conduct to be inappropriate. The Committee found no grounds for imposing disciplinary sanctions against the district court judge.

Case 14-023: Partial rejection, no disciplinary sanction. Complaint against chief judge. Parts of the complaint were rejected because they were submitted too late, partly because the one-year time limit of section 237 fourth paragraph of the Courts of Justice Act had been exceeded, partly because the three-month time limit had been exceeded. The parts of the complaint that concerned matters that may be appealed were also rejected, see section 236 fourth paragraph of the Courts of Justice Act. The complainant claimed that the chief judge holds up cases in which the complainant is involved. The Committee did not find that the matters presented in the complaint had been proved.

Case 14-027: Judicial conduct. Proceedings. Partial rejection. No disciplinary measures. The complaint concerns the hearing of a case concerning contact arrangements and legal custody. The complainant was one of the parties. In broad outline, the case concerned the judge's conduct of proceedings and his exclusion of evidence. The complaint was rejected as regards this part, which is a matter that can be used as grounds for appeal or for a reopening, and which the Committee therefore cannot review. In addition, there was a complaint against the conduct of the judge when dealing with witnesses and the complainant. The complainant maintained that the judge had acted one-sidedly, rudely, offensively and brusquely during the main hearing. The Committee did not find that this had been proved on a balance of probabilities and found no grounds for disciplinary reactions against the judge. In the Committee's view, the parties in such cases will often feel that a judge is biased and harsh when decisions and the conduct of proceedings go against their interests. On certain occasions, furthermore, a judge will also have to be firm when necessary to ensure that the case is correctly explained and heard in an appropriate manner.

Case 14-028: Judicial conduct. No grounds for disciplinary measures. Complaint against the district court judge by a counsel in a dispute. The complaint concerned a letter from the judge in which the counsel was asked to correct the writ of summons in order to comply with the minimum requirements of the Disputes Act. The complainant claimed that the letter was offensive and stigmatising. The complainant felt, for example, that a phrase to the effect that the court and the opponent had to “arrive by guesswork” at what the complainant was pleading was degrading and unacceptable.

The Committee assessed the judge’s letter, but could not see that the judge had exceeded the limits of acceptable formulations in such a letter. A judge’s responsibility for providing guidance includes pointing out what is lacking in a writ, and there was no basis for claiming that the judge had expressed himself in a condescending or unacceptable way. The Committee pointed out that ideally perhaps, the judge might have chosen a word other than “guesswork” and thus have formulated his thoughts slightly differently. However, his wording was clearly within acceptable limits and not in breach of good judicial practice.

Consequently, there were no grounds for imposing disciplinary measures.

Case 14-032: Judicial conduct, partial rejection, no grounds for disciplinary measures. The complaint concerned judicial conduct during the main hearing in a dispute between the complainant and his brother-in-law. The brother-in-law retained possession of the undivided estate of the complainant’s sister. The dispute between the complainant and his brother-in-law was founded on the sale of a house relating to the settlement of the estate of the complainant’s mother.

The Committee rejected the part of the complaint that concerned matters that could be appealed. The Committee did not find that it had been proved on a balance of probabilities that the judge had acted aggressively or improperly during the main hearing, and referred to the fact that neither of the counsel made any comments to the judge’s conduct during the main hearing.

Nor did the Committee find that the judge’s failure to intervene in respect of the opponent’s children was worthy of criticism. A judge should normally intervene if any person present at a trial disturbs the hearing or the other party, but this requires the court to make an evaluation depending on the circumstances in each specific case. For the Committee to impose disciplinary sanctions, reprehensible passivity exceeding a certain threshold must be proved. The Committee could not establish that the judge had acted reprehensibly in this case, and consequently there were no grounds for any disciplinary measures.

Case 14-036: Judicial conduct. Proceedings. The length of proceedings. Partial rejection. No disciplinary measures. Complaint associated with the hearing of a case in a land consolidation court concerning a claim for the clarification of rights to property owned by the complainant. The judge in question is the chief judge of the land consolidation court and the one who heard the case. At the time of the complaint, one year and seven months had passed since the claim was filed. The complainant maintained that the court had still not done anything and complained about the length of the proceedings. The Committee could not see that the judge could be blamed for the delay in this case and attached weight to the fact that the judge had worked actively to reduce the backlog and the length of proceedings after he became the court’s chief judge.

The complainant also complained about the judge’s conduct in the media. His conduct in the media was not directly associated with the complainant’s case, and the Committee did not find this matter criticisable. Moreover, the Committee found that a complaint against proceedings is a matter that can form grounds for appeal and that the Committee therefore cannot review it. The Committee could not see that it had been proved on a balance of probabilities that the hearing was poorly prepared and that the parties’ positioning reinforced an artificial conflict.

Cases 14-037 and 14-065: Judicial conduct. Partial rejection. No grounds for disciplinary measures.

Complaints by the counsel and a witness in a parental dispute were reviewed jointly.

The witness claimed that the district court judge did not show sufficient consideration for the witness when she testified at the main hearing. The witness claims the judge was curt, cross and at times discourteous. The counsel maintained that the judge's conduct at the main hearing towards the claimant, his counsel and witnesses was inappropriate, biased, unprofessional, discourteous and very unpleasant. The judge's conduct was also claimed to be inappropriate during two preparatory hearings.

The Committee found that it had not been sufficiently established that the judge's conduct during the main hearing had been as described by the complainants. The other professional courtroom participants stated that they had not registered or could not remember that the judge had acted in a way that could form grounds for a critical assessment. Nothing substantiated such conduct other than the complainants' allegations. The Committee therefore found no grounds for any disciplinary measures. The parts of the counsel's complaint that concerned the judge's conduct during the preparatory hearings were rejected because they had been submitted too late.

Case 14-039: Judicial conduct and the length of court proceedings. Criticism. Complaint by the claimant in a bankruptcy case. The complaint concerned the judge's handling of the case from the creditors' petition was filed with the district court until liquidation proceedings were commenced five and a half months later.

The complainant alleged that the handling of the case was not in accordance with proper judicial conduct and pointed out that the judge made a number of informal and unfounded deferment decisions, contrary to law, based on what the defendant had said. According to the complainant, the judge ordered new deferments although the defendant repeatedly broke promises made in court. The complainant alleged that by this, the judge contributed to legitimising unlawful operations at the defendant's and to increasing the petitioning creditors' loss or risk of loss substantially. Furthermore, the complainant maintained that the judge was passive in clarifying the facts of the case over and above the defendant's promises and in deciding the creditors' petition.

The Committee pointed out that the judge's case management had not been very clear to the complainant in the process. The judge's decision to postpone the proceedings by suspending the case was not communicated to any of the parties. The Committee also considers it highly unclear what lay behind this decision and what consequences it could have had if the complainant had not followed the matter up with the chief judge. The complainant's protests against any further deferments should have made the judge revert to the matter with greater formality. The Committee found that it was in breach of proper judicial conduct that the creditors' petition was left for a long time without being heard on its merits and that the proceedings were disorganised. The Committee found grounds for imposing a disciplinary sanction in the form of a critical statement.

Case 14-040: Judicial conduct. Proceedings. Partial rejection. No disciplinary measures. The complaint concerns the hearing of three different cases, which the district court deputy judge was to review. The complainant alleges generally that the deputy judge had a prejudiced antipathy against him, which was expressed in her conduct and decisions. The complainant, who is a lawyer, was a party in the first case and a counsel in the two last cases. In the complaint relating to debt settlement arrangements, the complainant maintains that the judge acted in a very unfriendly way towards him and fixed a too high rent deduction for the debtor. These allegations are not substantiated any further and the rent deduction fixed has been appealed. Therefore, the Committee cannot assess this and the complaint must be rejected on this point. With respect to the judge's hearing of the other case, concerning the usufruct of property, the complainant claims that the judge interrupted him as soon as he was given the floor. When he tried to continue, the judge asked him to shut up. The Committee concluded that, as a consequence of the complainant's lacking respect for her intervention, the judge was so provoked that she lost her temper and had an improper outburst,

asking the complainant to shut up. Seen in the context of the preceding provocation, this outburst will not lead to a reaction in the form of a critical statement. The Committee pointed out that the judge apologised immediately after her outburst. The last part of the complaint concerns the judge's handling of a case relating to deficiencies in real property. The complainant claims that the judge was short-tempered, demanded a justification for appointing lay judges, interrupted the discussion about witness testimonies and seemed prejudiced. The allegations have not been substantiated any further and, in any case, the Committee finds it difficult to see that the judge's conduct exceeds the framework of proper judicial conduct.

Case 14-050: Judicial conduct. No grounds for disciplinary measures. Complaint from the claimant in a case concerning the distress sale of a condominium unit. The Committee had previously reviewed a complaint from the same complainant concerning the judge's conduct in the same matter (case 12/14). The new complaint concerned matters that occurred after the first complaint had been filed.

The complainant maintained that the judge acted in breach of the efficiency requirement when he failed to appoint a co-counsel after the distress sale had been ordered, that the judge insinuated that the complainant was lying, that the judge's order to correct the distress sale petition and the notice of a court fine were acts of revenge, and also that the judge's letter to the defendants' counsel contained statements and representations justifying criticism.

Having seen the judge's account, the Committee could not see that it was reprehensible of the judge to postpone appointing a co-counsel. Nor did the Committee find that it could conclude that the correction order and the notice of a fine were motivated by thoughts of revenge. The Committee could not see that the judge's statements in letters and e-mails were of such a character that they merited criticism. No grounds were therefore present to impose disciplinary sanctions.

Case 14-056: Judicial conduct. Complaint rejected, having been submitted too late. Complaint made by a witness in a parental dispute. The complainant claimed that the judge had acted in breach of proper judicial practice during her witness statements at the main hearing. She felt, for example, that she was met with ill will and hostility and that the examination of her was not marked by dignity.

The complaint was filed nearly five months after the incident took place. The Committee considered whether this was a complaint that could be raised on the Committee's initiative even though the time limit of three months had been exceeded. The Committee concluded, following an overall assessment, that there was no basis for examining the claims in issue. In this assessment, the Committee emphasised that the complainant had not given any reasonable grounds for exceeding the time limit. The Committee also emphasised that the information in the case, including the statements obtained from both counsel and the court clerk, were not of such a nature that it called for an examination of the case.

The Committee observed that in his statement to the Committee, the judge had characterised the complainant and her statements by using expressions such as "downright insulting and malicious", "a pack of lies" and "downright nonsense". The Committee pointed out that it has reacted in several previous cases to the judge's way of referring to the persons that have filed a complaint against him, and the Committee will consider whether the statements are of such a character that it should raise the matter ex officio.

Case 14-057: The length of court proceedings. No grounds for disciplinary measures. The complainant was a self-represented litigant in the review of a Social Security Tribunal order, and the complaint was directed at the presiding judge. A judgment was pronounced three months after the main hearing.

The length of the time from a main hearing and until a judgment is pronounced may constitute, depending on the circumstances, a procedural error that may be used as grounds for appeal pursuant to procedural legislation. In accordance with its previous decisions, the Committee holds

that the rules in section 11-6 of the Dispute Act do not bar the Committee from examining delays in the proceedings in the light of the norms for proper judicial conduct.

The Committee stated that the time that passed from the end of the main hearing and until the judgment was pronounced was too long, objectively speaking. The Committee pointed out that when the parties have been led to expect that a judgment will be pronounced at a specific time, it is important that the judge makes efforts to fulfil their expectations. When a significant deviation occurs from the time previously indicated, the judge should inform the parties of this in a clear way. To the extent possible, the parties should also be informed of the new expected date for the judgment.

The Committee found that the judge's failure to inform the complainant fully in this case is very unfortunate, but does not exceed the threshold for criticism. The Committee emphasised that it had not been established that the delay was due to dilatoriness on the judge's part, and that the judge had answered the complainant's enquiries and informed her of the causes for the delay. The Committee found no grounds for any disciplinary measures against the court of appeal judge.

Case 14-068: Judicial conduct. No grounds for disciplinary measures. The complainant claimed that the judge's conduct during the main hearing in a childcare case had been defamatory and disrespectful. She pointed out that the judge decided to limit the length of the main hearing and exclude evidence. These decisions are matters that may form the basis for an appeal, but the Committee can examine the judge's conduct in connection with the decisions taken. The Committee observes that during court proceedings, judges should exercise caution in referring to private contact with the lawyers. The Committee also pointed out that it is very important that judges give thought to what they say about the evidence and the possible outcome of the case during the main hearing. Such statements can easily be misunderstood by parties who are in a vulnerable situation and may have the effect that confidence in the judge is diminished.

The Committee also reviewed an allegation that the judge had fallen asleep during the hearing. If the judge had fallen asleep, the parties could have used this as grounds for appeal and filed a petition for the judgment to be set aside due to a procedural error. However, this is also a matter that touches upon the judge's respect for the parties and thereby confidence in the judge and his management of the proceedings. Consequently, this is a matter the Committee can review. The Committee did not find that it had been established on a balance of probabilities that the judge had fallen asleep during the main hearing, but held that at a certain point, he became tired and acted in such a way that he gave rise to concerns that he was falling asleep. The Committee concluded that the judge's conduct did not exceed the threshold for disciplinary measures. The Committee pointed out that it is very important to the parties in a lawsuit, and to confidence in the courts, that the judge is awake and concentrated in court and shows that he is attentive and listens to what the parties have to say. If the judge becomes so tired that he must close his eyes or support his head in his hand, he should take a break to avoid creating the impression that he is not concentrated or interested in the case.

The Committee found no grounds for imposing disciplinary measures.

Case 14-075: Judicial conduct. No grounds for disciplinary measures. Complaint against the presiding judge. The complainant had impaired hearing and two speech-to-text interpreters were present at the main hearing. The Committee found that it had not been proved on a balance of probabilities that the judge had made offensive statements or otherwise acted in an unacceptable way. The Committee found no grounds for imposing a disciplinary sanction.

Case 14-081: Judicial conduct, repetitive matter. Warning. Pursuant to section 237 third and fourth paragraphs of the Courts of Justice Act, the Committee reviewed on its own initiative a matter raised by a firm of lawyers. The case concerned the chief judge's statements in a ruling he had handed down. The statement that had been included in the order was virtually identical to that of a former

order the chief judge had made and which the Committee had reviewed in a former disciplinary case in which the judge was issued with a warning. The Committee found that the chief judge had deliberately chosen not to respect the Committee's decision. The Committee stated that it takes a very serious view of this lack of respect for the Committee's decisions and issued him with a new warning. The Committee made a statement concerning its right to review the case, both as regards raising the matter ex officio and as regards judges' protection against claims for statements to be declared null and void and against penal sanction.

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