

THE SUPERVISORY COMMITTEE FOR JUDGES

ANNUAL REPORT

2015

THE SUPERVISORY COMMITTEE FOR JUDGES

The Supervisory Committee for Judges is a disciplinary body for Norwegian judges, including all 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 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 all 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 adopt decisions on 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 routinely forwarded to the National Courts Administration and the Ministry of Justice.

The Supervisory Committee's authority is limited, as it may not review a case when more than one year has passed since the circumstance arose; 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 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, two judges from the ordinary courts, the lawyer member and the two representatives 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 2015, the Committee was composed as follows:

Name	Title	Position	Appointed
Unni Sandbukt	Chief Judge, Nord-Troms District Court	President	01.05.10 - 30.04.18
Ragnhild Olsnes	District Court Judge, Stavanger District Court	Personal deputy	01.06.13 - 31.05.17
Randi Grøndalen	Court of Appeal Judge, Frostating Court of Appeal	Member	01.01.10 - 31.12.17
Bjørn Eirik Hansen	Court of Appeal Judge, Eidsivating Court of Appeal	Personal deputy	15.08.14 - 14.08.18
Jeppe Normann	Advocate, Advokatfirmaet Selmer	Member	01.11.10 - 31.10.16
Bjørn Hübert Senum	Advocate, Advokatfelleskapet	Personal deputy	01.11.11 - 31.10.19
Turid Ellingsen	Director, the National Mapping Authority	Member	01.11.14 - 31.10.18
Anne-Birgitte Sveri	Chief Administrative Officer, Nittedal Municipality	Personal deputy	01.06.13 - 31.05.17
Svein J. Magnussen	Professor of psychology, University of Oslo	Member	01.06.11 - 31.05.19
Gerd Ingunn Opdal	Regional Director, Statped [<i>national service for special-needs education</i>]	Personal deputy	01.11.10 - 31.10.18
Trond Berge	Chief Judge, Sør-Rogaland Land Consolidation Court	Member	02.09.11 - 01.09.19
Liv Oddveig Nergaard	Chief Judge, Troms Land Consolidation Court	Personal deputy	27.11.15 - 26.11.19

Vidar Bergtun (personal deputy), Chief Judge of the Nord- og Midhordaland Land Consolidation Court, held office until 31 October 2015.

ACTIVITIES OF THE SUPERVISORY COMMITTEE

Meetings

The Supervisory Committee held six meetings in 2015, five ordinary meeting and one extraordinary meeting. Four meetings were held in Oslo and two in Trondheim.

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 Act, the Committee has delegated the right to dismiss 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, to take initiatives for and to participate in educational programs and to issue 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 field 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 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 2015

- The introductory seminar for newly-appointed judges: Lectures and group work on judicial ethics
- National seminars for judges (4 seminars in Oslo, Trondheim, Bergen, Tromsø): Lectures and group work on judicial ethics
- Meeting with the board of the National Court Administration on work in the Supervisory Committee (18 August)
- Meeting with the Norwegian Association of Judges on work in the Supervisory Committee (19 October)

The ethics project

The Committee's President participates in a project under the auspices of the Norwegian Courts Administration, which offers competence-building measures for new and experienced 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

Translation from Norwegian

time at a regional seminar on judicial ethics for judges in the counties of Troms and Finnmark on 17 and 18 September 2014. The program was introduced for the second time as one of several topics at the national seminars for judges in the spring of 2015.

Accordingly, the Committee is involved in many different areas where issues relevant to the Committee's work may be raised and discussed. This outreach activity gives the Committee good 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, Wenche Venås, or its President, Unni Sandbukt, can be contacted in case of any such assignment.

Statistics

	2014	2014	2014	2015	2015	2015
	Total	Ordinary Courts	Land Consolidation Courts	Total	Ordinary Courts	Land Consolidation Courts
Complaints received						
Incoming complaints during the period	122	115	7	109	104	5
Requests for statements on good judicial conduct	0	0	0	0	0	0
Cases heard <i>ex officio</i>	0	0	0	0	0	0
Other cases	0	0	0	0	0	0
Lawsuits	4			0	0	0
Total	126	115	7	109	104	5
Who are the complainants?						
The parties	105	99	6	98	93	5
The counsel:	4	3	1			
- Lawyers/defence counsel	7	7	0	5	5	0
- Prosecutors	0	0	0	1	1	0
- Others	0	0	0	0	0	0
The aggrieved party	0	0	0	0	0	0
Witnesses/experts	9	9	0	5	5	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	3	3	0
Total	128	121	7	112	107	5
Dismissal						
Decided by the Committee	6	6	0	9	9	0
Decided by a member by delegation	40	38	2	46	42	4
Total	46	44	2	55	52	3
Grounds for dismissal						
No right of complaint	1	1	0	6	6	0
Complaint received too late	13	12	1	17	16	1
Concerns matters for which legal remedies are available	26	25	1	28	25	3
Combination of grounds for dismissal	7	7	0	5	5	0
Total	47	45	2	50	46	4
Cases heard on their merits						
Decided by the Committee	33	31	2	39	36	3
Decided by the president or the vice-president by delegation	8	8	0	26	25	1
Total	41	39	2	65	61	4
Subject matter of complaint						
Conduct while on official duty	38	36	2	31	28	3
Judicial conduct	37	35	2	56	52	4
Delayed proceedings	11	10	1	20	20	0
Administrative matters	1	1	0	6	6	0
Off-duty conduct	2	2	0	0	0	0
Total	89	84	5	113	106	7

Results						
No disciplinary reaction	13	13	0	16	14	2
No disciplinary reaction. Ruled obviously unfounded	5	5	0	21	21	0
Partly dismissed. No disciplinary reaction	15	13	2	16	15	1
Partly dismissed, partly ruled obviously unfounded	5	5	0	6	5	1
Disciplinary measures:						
Critical assessment	4	4	0	6	6	0
Warning	2	2	0	0	0	0
Total	44	42	2	65	61	4
Statements on good judicial conduct	0	0	0	1	1	0
Concluded in other ways						
Complaints withdrawn	0	0	0	2	2	0
Complaints lapsed	4	4	0	0	0	0
Transferred to the National Courts Administration	0	0	0	0	0	0
Other reasons	5	5	0	0	0	0
Complaints pending at 31.12	43	41	2	26	25	1

Complaints in 2015

In 2015, the Supervisory Committee received 109 complaints. Of these, 5 complaints were against land consolidation court judges. 120 decisions were adopted in 2015, of which 72 decisions by the Committee's president or another member by delegation. 48 decisions were made by the full Committee.

65 complaints were treated on their merits in 2015. All of them concerned matters arising in the judge's performance of his duties: 56 complaints concerned judicial conduct and 20 concerned the length of court proceedings. The same complaint may include various matters. A disciplinary sanction was imposed in 6 cases, all in the form of a critical assessment. Two cases were concluded in other ways.

The Committee held 5 ordinary and 2 extraordinary meetings in 2015.

The Supervisory Committee 2002-2015

From 2002 to 2015, the Committee received 1460 complaints. It adopted 1437 decisions, of which 711 were dismissals. 630 cases were heard on their merits by the full Committee. The remaining cases were concluded in other ways, normally because the complaint was withdrawn or lapsed for other reasons. The Committee adopted disciplinary sanctions in 70 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).

A 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 conscious of the possibility for filing complaints. Another trend is that the Committee issues statements on the proper conduct of judges 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".

Translation from Norwegian

March
2015

Unni Sandbukt

Randi Grøndalen

Turid Ellingsen

Jeppe Normann

Svein J. Magnussen

Trond Berge

Decisions of the Supervisory Committee 2015

Case 14-069: Judicial conduct. No grounds for disciplinary measures. Complaint made by one of the parties to a land consolidation case. The chief judge of the land consolidation court was carried in the opponent's boat from the court premises to the site of an inspection. The complainant pointed out that he could see from land that during the crossing, his opponent gesticulated, talked and pointed to two areas involved in the case. The complainant maintained that the boat also made an extra turn around the bay, where the same occurred by the third area involved. The complainant found it unacceptable of the judge to allow the opponent to present his arguments in the case, while his side could not hear or refute what was said.

The Supervisory Committee could not see that the judge had acted reprehensibly. Prior to the boat trip, the land consolidation judge chief judge had admonished the parties not to discuss the case on the way to the site viewing. It was not established on a balance of probabilities that the case was discussed in the boat. When the judge realised that the skipper took an extra round in the bay, he told him to bring the boat ashore at once. In the light of this, the Committee found that the judge had handled the situation well. Consequently, there were no grounds for a disciplinary reaction.

Case 14-078: Judicial conduct. Proceedings. Dismissal. No grounds for disciplinary measures. The judge in question was the judge in a case under the Children Act concerning permanent residence and contact. The justification for the complaint was that the case ought to have been deferred, as neither the party nor her counsel could attend. It was claimed that the order contained incorrect information and that information had been omitted. These circumstances are matters the Supervisory Committee cannot review, see section 236 4th subsection of the Courts of Justice Act, according to which the Committee cannot review circumstances that may form the basis for an appeal or a reopening. In addition, the complainant raised the issue of the judge's statements and conduct during his discussion with the complainant about the deferment of a hearing. The Committee found that the judge in question had only given an account of the obligation to appear, etc. For the Committee to react with a critical statement, the judge's inappropriate conduct must exceed a certain threshold. In this case, the judge concerned was nowhere near this threshold.

Case 14-097: Judicial conduct. Partial dismissal. No grounds for disciplinary measures. Complaint by one of the parties in a criminal case. The Committee dismissed the complaint to the extent that it concerned matters that might form the basis for an appeal. The Committee stated that the complainant's descriptions could not adequately establish that the judge had acted or spoken in a way that could give rise to criticism. Nor did the prosecutor or lay judges confirm that the judge's conduct at the main hearing was criticisable. The Committee stated that the judge's right of management includes deciding the necessary expenditure of time, what issues are relevant to the case and what the court needs to hear. The judge is entitled to act firmly, if necessary, to stop what he thinks are unfounded claims and arguments in this connection.

Case 14-102: Judicial conduct. No grounds for disciplinary measures. The judge in question was the judge in a district court case concerning compensation for work performed. The complainant, who was a party to the case, claimed that the judge asked her to wipe herself in a certain place or the like with a written valuation she wanted to document. In addition, the judge allegedly said that he did not care about the valuation as it had been prepared by a person who had no clue. The judge allegedly asked her questions in a way that made her answer things she had no knowledge of. The complainant got the impression that the outcome of the case was predetermined. The Committee found that the allegations made were not adequately substantiated.

Case 14-103: Judicial conduct. No grounds for disciplinary measures. Complaint by a party who had requested the district court to summon an extraordinary general meeting in a housing co-operative. The complainant submitted that the judge spent too much time on case management and that she did not get sufficient information about the court's proceedings.

Nearly five months passed from the case was filed until it was decided. The Committee stated that this is a very long processing time in a case such as this, where the act requires cases to be reviewed promptly. The reason for the length of the proceedings was partly that the chairman of the board of the housing co-operative was sick, and this delayed the filing of the board's statement to the petition.

The Committee pointed out that the case management was not optimal, as regards both communication with the complainant and processing time. However, this matter was not of such a nature that it could form grounds for a disciplinary reaction against the judge.

Cases 14-077 and 14-085: Consolidation of complaints. Judicial conduct. No grounds for disciplinary measures. Two complaints from a lawyer and a court-appointed expert in a parental dispute were consolidated. The complaints concerned the judge's conduct at a preparatory meeting and statements made in the order. Both complainants reproved the judge's conduct and his handling of the proceedings in connection with the expert's statements during the hearing. Furthermore, both complainants thought that in the order, the judge made critical and offensive statements about the expert and expressed stigmatising and biased views of the parties. The Committee stated that in principle, judges are responsible for the clarification of the case and for defining the relevant issues – also what the court needs to hear from an expert and how statements should be organised. In this connection, a judge may lay down limits for the parties and officers of the court and he is entitled to put critical questions to the expert and to permit the counsel to ask such questions. However, a judge should not comment on the expert's view and/or express his personal views. The Committee did not find that the judge exceeded his case management rights during the hearing or that he acted in a way that could call for disciplinary measures. With respect to the decision of the court, the Committee concluded that the judge had not expressed himself in a reprehensible way about the expert, and that the personal descriptions of the parties did not exceed the threshold for what is acceptable. The Committee stated that the judge's description and his comparison between the parties' residences were not very judicious and could be perceived to be stigmatising. The judge's comments also seemed unnecessary to justify the result. Based on an overall assessment, the Committee concluded that the judge's wording of the decision was not of such a character that it warranted disciplinary measures.

Case 14-083: Judicial conduct. Length of proceedings. Partial dismissal. No disciplinary measure. Complaint made by the accused in a criminal case. The complaint concerned the administration of the appeal, the allegation that one of the lay judges fell asleep during the appeal hearing and the claim that court's handling of an expert witness's fee claim took a disproportionately long time. The complaint was filed nine months after the appeal hearing, but the complainant stated that he was not informed that one of the lay judges allegedly fell asleep until the day when the complaint was submitted. The Committee dismissed the part of the complaint that concerned the administration of the appeal hearing, while the other issues were reviewed. None of the other persons who were present substantiated the claim that one of the judges had fallen asleep and the Committee found that this point had not been proved. With respect to the time spent on processing the expert's fee claim, the Committee found that the judge could not be blamed for the fact that the expert's claim was only granted seven months after it had been made. The claim was first submitted by the expert witness himself. The court then returned the claim, pointing out that it had to be submitted together with the defence counsel's fee statement. The reason given was that the person concerned had not been appointed by the court, but had been engaged as expert witness by one of the parties. The fee statement later submitted by the defence counsel contained no claim relating to the expert witness. The defence counsel submitted the claim by e-mail to one of the court's officials on 23 May 2014. By negligence, the claim was not forwarded to the judge until September 2014. This is unfortunate, but not something for which the judge can be blamed. It took less than four weeks from the time he acquired knowledge of the claim letter until the decision was handed down. The Supervisory Committee cannot see that this expenditure of time is criticisable. Consequently, there were no grounds for disciplinary reactions.

Cases 14-113 and 14-114: Consolidation of complaints. Judicial conduct. Partial dismissal. Critical assessment. Complaints filed by a party to and a witness in a parental dispute were consolidated. The complaints concerned the judge's conduct in connection with the main hearing. The question of a settlement was raised several times, both before and during the main hearing. The party's counsel said in her statement to the Committee that the judge asked her before the second day of the main hearing if she had informed her client that "this would be very expensive for him", or something to that effect, at the time when she informed the court that the parties had failed to reach an agreement. The judge explained this by saying that this had been communicated to the counsel "at a chance meeting in a confidential moment" and was not intended for her client. The Committee stated that this is a fundamentally wrong understanding of a lawyer's role. A lawyer will always represent his client in any pending case. It must be assumed that information given by a judge or others to a lawyer will be communicated to his client. This follows directly from the lawyer's role as advisor. What is communicated to the lawyer must be considered to be communicated to the client. The Committee held that what had been communicated was that the party would lose the case unless he entered into a settlement, thereby becoming liable for costs. It is difficult to interpret such a statement in the proceedings not to mean that the judge created the impression that he had come to a decision on the merits of the case. The Committee found that the judge had acted in breach of points 3 and 6 of the ethical principles for judicial conduct and issued a critical assessment.

Case 14-115: Judicial conduct. No disciplinary measure. Complaint filed by a party to a parental dispute. The complaint related to the judge's conduct during a preparatory meeting under section 61 no. 1 of the Children Act. The complainant mentioned that the judge's tone of voice was irritated and snappish, that she interrupted his counsel in

an irascible way and that her conduct was disrespectful. The Supervisory Committee found that it had not been proved that the judge's conduct during the hearing was reprehensible. No specific indications were provided to establish that the complainant's descriptions were correct with respect to the judge's tone of voice, body language, time management or the hearing of witnesses. The non-committal support of the complaint given by the father's lawyer, with no specific examples, cannot establish that the judge acted in a criticisable way. Neither the mother's counsel nor the expert affirmed that they had the same experience as the complainant. The complainant also alleged that the judge had said he had abducted the child from the mother. The Committee found it had been established on a balance of probabilities that the judge had used the word "abducted" about the fact that the father had kept the child away from its mother and considered this a strong term that seemed unnecessary. Even if the use of this concept was unfortunate, the Committee concluded that the threshold for when disciplinary reactions may be imposed had not been exceeded. The Supervisory Committee therefore found no grounds for reacting with disciplinary measures.

15-004: Judicial conduct. Time limit for complaint. No grounds for disciplinary measures. Complaint made by a party to a dispute about deficiencies in connection with the purchase of a dwelling. The complaint was filed after expiry of the time limit for complaint, but the Committee allowed it on the grounds that the complainant had just cause for exceeding the time limit. The complaint concerned the judge's conduct during the main hearing. The complainant stated that the deputy judge appeared irritated and disinterested. The complainant's view was not supported by any of the professional court participants, and the Committee concluded that the complaint had not been proved on a balance of probabilities. Consequently, there were no grounds for imposing disciplinary measures.

Cases 14-116 and 15-008: Judicial conduct. Proceedings. No grounds for disciplinary measures. The person against whom the complaint was filed was the judge in a case pursuant to the small-claims procedure where the complainant was a self-represented litigant. Two complaints were consolidated. One justification for the complaint was that the complainant did not get enough time to present her case and was frequently interrupted when she was stating her case. She claimed that the judge in question criticised her for having pumped up the case unnecessarily and for submitting pleadings that were too numerous and extensive. The complainant maintained that the judge was unconcentrated, arrogant, irritated and angry during the hearing. When the complainant went to the district court after the main hearing, she felt the judge was unsympathetic and did not immediately comply with the complainant's request to be given access to a case document. The Supervisory Committee did not find that the complainant's allegations about the judge's conduct had been proved on a balance of probabilities and found no grounds for disciplinary measures.

Case 15-006 Judicial conduct. No grounds for disciplinary measures. The person against whom the complaint was made was the judge in a case that concerned the validity of a summary dismissal. The complainant maintains that the judge in question was not impartial and neutral and treated one of the parties in a friendly manner, while the complainant's side was overlooked. The complainant's side was allegedly sharply interrupted, ridiculed and subjected to sarcastic comments. Member of the public allegedly talked and laughed aloud without the judge intervening. The complainant alleges that it seemed as if the judge was hard of hearing. Before a site inspection was carried out, the judge allegedly stated "let's get out and get this matter dedramatized" or something to that effect. The judge proposed in this connection that one of the lay judges could get a lift with the claimant's side to the site inspection. The Supervisory Committee found that this statement before the inspection and the suggestion that the lay judge could get a lift to the site with one of the parties were unfortunate, but did not exceed the threshold for a disciplinary reaction. It is not unnatural for the judge to have his main attention focused on the claimant's side, as this party is the first to present his introduction, make his statement and examine witnesses. Equal treatment does not require an equal distribution of time and attention. The Supervisory Committee did not find that circumstances had been proved that could form grounds for disciplinary measures.

Case 15-018 Judicial conduct. Proceedings. Dismissal. No grounds for disciplinary measures. The complaint concerned the closure of the distribution of a spousal estate where the complainant was a party and the person against whom he levelled the complaint was the judge. The complainant alleged that the judge was biased and should not decide on the case, that he was not given an opportunity to produce evidence and that the assessment of evidence was wrong. The Supervisory Committee found that these are circumstances the Committee cannot assess as they can form grounds for appeal and dismissed this part of the complaint. The complainant submitted further that the judge was prejudiced and, to be revenged on the complainant, he used means such as coercion and threats to force through a settlement in court. The Supervisory Committee found that this had not been concretised nor established on a balance of probabilities and held that there were no grounds for disciplinary measures against the judge.

Case 15-028: Judicial conduct, no disciplinary reaction. The complaint concerned the judge's conduct during the administration of a criminal case where the complainant was the accused. The complainant submitted that the judge treated the defence counsel and the prosecutor differently and that by his conduct, he virtually coerced the defence counsel into silence. On one occasion that judge reportedly said that the defence counsel was "on a fishing expedition". The judge confirmed that the words "fishing expedition" had been used. The Supervisory Committee stated that main responsibility for creating a good atmosphere during hearings and to engage in objective and correct conduct rests with the judge. However, inappropriate judicial conduct exceeding a certain threshold must be established for the Committee to react with disciplinary measures. The Supervisory Committee concluded that the judge's conduct did not exceed this threshold. The Committee pointed out that the main hearing in the criminal case lasted for four weeks and that the defence counsel, prosecution and lay judges pointed out that the tone of the proceedings was generally good. The defence counsel told the Committee that they and the accused were given opportunities to present and comment on the relevant information. The Committee found that there was no basis for concluding that the judge managed the case one-sidedly and in the complainant's disfavour. For this reason, the Committee found no grounds for reacting to the specific use of language in the case. The Supervisory Committee found no basis for adopting disciplinary measures against the judge.

Case 15-037 Judicial conduct. Dismissal. No grounds for disciplinary measures. The complaint concerned the proceedings in a criminal case in the district court. The complainant submits that several witnesses were interrupted and felt outmanoeuvred by the judge and that his conduct during the main hearing was aggravating, rude and biased. The accused was interrupted and was unable to defend himself. One of the victims loudly accused a witness of lying several times before the judge reacted. The complainant maintains further that the judge functioned as a very aggressive second prosecutor. The Supervisory Committee found that a judge may need to interrupt witnesses, ask critical questions and tell witnesses to concentrate on what the court considers correct, etc. Even if a judge may be felt to be strict in such situations, this does not necessarily constitute a breach of the proper conduct of judges. The Supervisory Committee found that nothing had been proved that could form the basis for disciplinary reactions. In addition, the complainant claimed that some of the witnesses for the defence were not given an opportunity to testify as they wished and that the court attached too great weight to the prosecution's witnesses. This part of the complaint was dismissed as these are circumstances that may form grounds for appeal.

Case 15-039: Judicial conduct. Proceedings. Partial dismissal. No grounds for disciplinary reaction. The complaint concerned the judge's conduct and case management in a case under labour law in which the parties entered into a settlement. The Committee dismissed the part of the complaint that concerned disclosure and reading of documentary evidence and the validity of the settlement in court with reference to section 236 4th subsection of the Courts of Justice Act. The Committee found that the complainant's allegation that the judge had exerted pressure on the parties to enter into a settlement had not been sufficiently proved. The Committee considered among other things that neither counsel in the case confirmed the complainant's description. The Committee found no grounds for reacting with disciplinary measures against the judge.

Case 15-019 Judicial conduct. Wording of the grounds for judgment. Criticism. The court of appeal, represented by the judges against whom the complaint was made, dismissed a petition for a court-appointed defence counsel. The defence counsel in the case claimed that the judges had acted in breach of point 7 of the ethical principles for judicial conduct in the wording of their decision. The complainant reacted in particular to the last paragraph of the decision. The Committee agreed with the complainant that the final comment of the decision seemed derisive. Furthermore, the comment was not necessary to provide an adequate justification for the decision. The Supervisory Committee concluded that this way of expressing oneself in a court decision is in breach of good judicial conduct. The judges in question were issued with a critical statement for having acted in breach of the proper conduct of judges.

Case 15-025 Length of proceedings. Criticism of one judge. No disciplinary measures against the other judges. Complaint against three court of appeal judges for the time spent on case management in connection with a petition for a reopening. The complaint concerned dilatory proceedings as well as unduly speedy proceedings after the judge preparing the change was replaced. The proceedings lasted for around 19 months from registration of the case until it was concluded. The preparatory work was allocated from one of the judges to one of the others a couple of weeks before the decision was handed down. The Committee considered that the length of the proceedings was criticisable and in breach of the proper conduct of judges. The judge preparing the case is responsible for progress, and the other two judges could not be blamed for the length of the proceedings. When asked by one of the parties when the decision would be made, the judge preparing the case gave too optimistic answers, something that made matters worse. The first judge preparing the case was issued with a critical statement for having acted in breach of good judicial conduct. No grounds were found for any disciplinary measures against the other judges. The Committee also referred to the independent obligation of the president of the court to ensure that the rules of active case

management are observed and found that the court of appeal's practice for ensuring observance of each judge's obligation to manage cases actively did not function satisfactorily in this case. The complaint was directed at the court of appeal judges and not at the senior presiding court of appeal judge. Therefore, the Committee did not go any further into the president's follow-up obligation. With respect to progress after a new judge had been allocated to the case, the Committee observed that as the case stood, there was nothing to suggest that the speedy proceedings after a new preparatory judge was appointed and until the case was concluded was in breach of good judicial practice.

Case 15-040 Administrative matters. No grounds for disciplinary measures. Complaint from a law firm against a chief judge. When one of the partners retired from the law firm, the firm transferred funds from client accounts for estates administered by this partner. This was done as settlement for services the law firm had performed for the estates. The administrator informed the court of this because he thought the transfers were improper. After some correspondence between the chief judge and the law firm, the chief judge requested the law firm to retransfer the money to the respective client accounts. The Supervisory Committee pointed out that the judge did not give any instructions or orders that might have been unlawful. The Supervisory Committee did not agree that the chief judge's request constituted an irregular exercise of authority. The Supervisory Committee found no reason to delimit a judge's control functions in connection with the administration of estates, but pointed out that the Committee agreed with the understanding of current law expressed by the judge.

Case 15-058 Judicial conduct. Dismissal. No grounds for disciplinary measures. The judges against whom the complaint was made reviewed a case concerning the notice of termination of a berth and a boathouse on the complainant's property. The complainant argued that the judges appeared prejudiced and he felt that they had reached their conclusion already after the first break. The Supervisory Committee found that these were circumstances the Committee could not assess as they can be used as grounds for appeal and dismissed this part of the complaint. The complainant argued further that one of the judges seemed tired and yawned uncontrollably. He was sprawling in a chair and was very busy picking his nose. The other lay judge was facing the window and seemed absorbed by the view from the courtroom. The third judge did not seem well. One of the judges did not deny that he may have picked his nose in the course of the proceedings and he elaborated on the background for this. However, undue judicial conduct must exceed a certain threshold for disciplinary reactions to be imposed. The Supervisory Committee did not find that it had been established on a balance of probabilities that the judge had acted reprehensibly during the hearing. The Supervisory Committee found that the allegation against the two other judges had not been adequately established. The Supervisory Committee found no grounds for taking disciplinary measures against the judges concerned.

Cases 15-060 and 15-067 Judicial conduct. Dismissal. The complaint was made against the presiding judge in an appeal hearing of a criminal case. Two of the complainants were among the public at the appeal hearing. According to section 237 (1) of the Courts of Justice Act, "other persons who believe that a judge has breached the provision in section 235 and who have themselves been directly affected by such a breach" may file a complaint. They were not considered to be "directly affected", as the judge did not address the complainants directly. The Supervisory Committee stated that being indignant on other people's behalf is not sufficient to have a right of complaint. The complaint from the two members of the public was dismissed. The second complaint, by a witness in the case, was made three months and one day after the conclusion of the appeal hearing. The Supervisory Committee found that the complainant did not have just cause for exceeding the time limit of three months. The Supervisory Committee then assessed whether they could allow the complaint at its own initiative for special reasons, as the time limit had only been exceeded by one day, but could not see there were any special circumstances to do so. The complaint was dismissed.

Case 15-061. Judicial conduct. Partly dismissed. No grounds for criticism. Statement on good judicial conduct. The complaint concerned the administration of a child welfare case. The complainant was a court-appointed expert in the case. The complaint concerned the judge's comments and attitudes to the private parties during the main hearing and an allegation that there had been too little time for the presentation of evidence. The complainant also raised the matter of case progress prior to the main hearing. The Supervisory Committee concluded that the complainant did not have a right of complaint with regard to the latter issue, and this part of the complaint was dismissed. Alleged deficiencies in the presentation of evidence can be invoked as grounds for appeal and this part of the complaint was dismissed pursuant to section 236 4th subsection of the Courts of Justice Act. The Committee considered it clear that a part of the hearings was marked in a negative way by of the judge's conduct of proceedings. A majority of the courtroom participants pointed out that the judge was at times both brusque and impatient, in particular towards the private parties, and that his conduct of proceedings created a tense atmosphere in court. For the Committee to issue a critical statement, the judge's untoward conduct must exceed a certain threshold. Based on an overall assessment, the Committee found that this threshold had not been exceeded. Consequently, there were no grounds for criticism.

However, the Supervisory Committee found grounds for a statement on what constitutes good judicial conduct in childcare proceedings; cf. section 236 3rd subsection of the Courts of Justice Act. The Supervisory Committee states that judges in childcare cases must be aware that the parties are in a particularly vulnerable and difficult situation and that this reinforces the need for good procedural conduct. The judge is also responsible for ensuring that time pressure does not become a primary issue in the case.

Cases 15-062 and 15-070 Proceedings. Raised at the Committee's initiative. Critical statement. Two complaints concerning the listing of the main hearing in a civil case about the review of an emergency order under the Child Welfare Act. After the complainant had received the statements of the judge in question, the complaints were withdrawn. The Supervisory Committee considered the information received about the listing practice to be so serious that it decided to examine this part of the complaints at its own initiative; cf. section 237 3rd subsection of the Courts of Justice Act. The other matters raised in the complaint were not examined on their merits as the complaints were withdrawn. The Supervisory Committee pointed out that instead of listing the case "as soon as" it was received in the district court, the court awaited the defence from the other parties to the case. It took one and two months respectively from the district court received the writ until work was started on listing the main hearing. The main hearing in one of the cases was listed for hearing just under three months after the appeal had been received by the district court and was later adjourned and suspended. In the other case, the main hearing was not listed until the county social welfare board had reviewed the case, just under four months after the district court received the appeal. Such a long time is unacceptable. As chief judge, the judge against whom the complaint was made had an overarching responsibility for the procedures for listing cases. As the district court's listing procedures conflicted with the law and this had led, furthermore, to unacceptably lengthy proceedings in two specific cases, this constituted grounds for a disciplinary measure in the form of a critical statement.

Case 15-071. Judicial conduct. No grounds for criticism. The judge against whom the complaint was filed reviewed a petition for a preliminary injunction. The complainant argued that the judge acted in breach of good judicial conduct in his wording of the grounds for judgment relating to the question of legal costs. The wording could be felt offensive or defamatory to the complainant who had been retained professionally as the defendant's counsel. The Supervisory Committee stated that as a general starting point that judges must formulate the grounds for judgment in a way that takes the affected parties into consideration. They should avoid formulations that might inflict unnecessary strain on them. A judge has an obligation to provide an apt description of the facts of the case and to explain the assessments on which each decision is based. The threshold for undue judicial conduct must exceed a certain level for the Committee to react with a critical statement. The Supervisory Committee concluded that the judge's conduct did not exceed this threshold. The judge's statements could have been toned down, but in form and content they were not of such a nature that they could be interpreted as "clearly offensive or defamatory". The Supervisory Committee found no basis for imposing a disciplinary measure against the judge.

Case 15-064: Judicial conduct. Content of judgment. Partly dismissed. No grounds for disciplinary measures. The judge against whom the complaint had been made led the hearing of an appeal about the validity of a summary dismissal or dismissal and the employee's claim for compensation. The complainant argued that the judgment had deficiencies and errors. These are circumstance that can be invoked as grounds for appeal and that the Committee cannot assess. This part of the complaint was therefore dismissed. Furthermore, the complaint concerned the judge's conduct of the proceedings and his statements during the main hearing. The complainant submitted that the judge was prejudiced and biased. The Supervisory Committee could not see that this was the case. That judges must perform their judicial duties impartially and in such a way that their objectivity cannot reasonably be questioned, see item 2 of the Ethical Principles for Judges, does not mean that the judge must let the parties manage the proceedings. Under the Dispute Act, the court has a duty to help clarify the case, an obligation to manage cases actively and to ensure that the main hearing is focused and without unnecessary delays. It may therefore be necessary to ask questions to the courtroom participants that may be felt to be unpleasant and probing. The Committee found no basis for assuming that the judge in question was biased or prejudiced. Arguments concerning the content of a conversation between the judge and one counsel formed no grounds for a critical statement. The Supervisory Committee had no reason to assume that the complainant's second-hand presentation of the matter was the correct one.

Case 15-073: Length of proceedings. Criticism The dispute concerned a second-hand car sold for NOK 25,000. The writ was filed on 29 January 2015. After two postponements, the court hearing was listed for 18 May 2015. Shortly before the hearing, a decision was made on written proceedings, and the time limit for comments was fixed for 28 May 2015. A judgment in the case was handed down on 29 September 2015. The case was reviewed pursuant to chapter 10, small-claims procedure. The legislator's intention is that the length of proceedings in small claims should be considerably shorter than in cases pursuant to general civil procedure. A case pursuant to the small-claims procedure

must normally be concluded by a judgment within three months of the date of the writ. A judgment must be handed down at the end of the hearing if the judge finds grounds for this, otherwise the judgment should be passed within one week after the parties have been informed that the case has been closed for judgment. The complainant argued first that the deputy judge had delayed the case because the complainant's counsel had stated that he knew the deputy judge well and that one telephone conversation was enough to get the judge to delay the case. The Supervisory Committee found that it had not been proved that there were any personal relations here or that the complainant's lawyer had made the deputy judge delay the case. Therefore, the Supervisory Committee found no grounds for concluding that the deputy judge had acted in breach of good judicial conduct on this point. The total time spent on the case was eight months, and it took four months from the case was closed for judgment until a judgment was handed down. The Committee could not see that there were any special circumstances here that could justify this length of proceedings. Furthermore, the deputy judge had not informed the parties of progress in the case. The Supervisory Committee found that this expenditure of time was incompatible with the legislature's intentions and that the failure to meet the time limit was so considerable that it must be considered in breach of the proper conduct of judges. The deputy judge was issued with a critical statement for having acted in breach of the proper conduct of judges.

Case 15-077: Judicial conduct and dilatory proceedings. Partial dismissal. No grounds for criticism. The case concerned a dispute about compensation for vandalism in a rental property. The part of the complaint that concerned the cancelled main hearing because of the failure to serve the summons and the judge's implementation of the main hearing was dismissed as the time limit for complaint had expired. The complainant submitted further that he was given incorrect information in court on what it would cost to appeal the judgment and that he was unable to contact the chief judge when he wanted to talk to him about the appeals fee. The chief judge is not responsible, objectively speaking, for the fact that an employee in the district court may have misinformed the complainant about the appeals fee, unless this was due to a lack of procedures or other organisational matters for which the president of the court is responsible. That was not the situation in this case. That the complainant was asked to send an e-mail about the appeals fee to the chief judge seems to the Committee to have been a sensible response and did not trigger any responsibility on the chief judge's part. The Supervisory Committee found no grounds for criticism.

Case 15-082: Judicial conduct. No grounds for criticism. The case concerned the use of and joint measures for purchases for a road owned in common. There were 26 parties to the case. The complainant argued that the land consolidation court judge gave vent to a burst of anger against him during the hearing, as the judge greatly raised his voice, gave him an angry look, his facial expression changed and he told him to hold his tongue. The Supervisory Committee found, having examined the statements of the complainant, the judge and other parties, that the judge raised his voice and asked the complainant to hold his tongue. The reason was that the complainant had repeatedly started to talk while another party was making his statement. The judge asked the complainant on two occasions not to comment until it was his turn, but the complainant continued interrupting. At the beginning of the hearing, the judge said that everyone would be called upon to speak in turn. This was not respected, and it was the judge's duty to reprove the parties that spoke out of turn. The judge's task was to lead a hearing with 26 parties. Several of the statements indicated that the conflict level was high, which made presiding over the meeting challenging. Against this background and in the context of the prior provocation, the Supervisory Committee concluded that there were no grounds for issuing a critical statement.

Case 15-093: Dilatory proceedings. Proceedings. No grounds for disciplinary measures. An heir at law complained about the lack of follow up and information and about dilatory proceedings in the public administration of a decedent's estate. The complaint was directed at the judge in charge of the estate. The administration of the estate took nearly ten years. The Committee held that it is up to the administrator to choose how to carry out the estate's administration. However, the heirs may turn to the court, which is authorised to instruct the administrator, and the court must decide on objections against and criticism of the administration of the estate. The court also has an independent responsibility for ensuring that the administrator performs his duties properly and within a reasonable time. Even though the administration of this estate gave rise to many challenges, which may partly explain the time expenditure, ten years is a very long time. However, the Committee could not see that the judge could be blamed for this. The Supervisory Committee considered it of decisive weight that, throughout the estate's administration, the judge had followed up the administrator's statutory obligations under the Administration of Estates Act. Furthermore, the judge regularly sent him reminders, asking for reports and pointing to the length of the processing time. There was nothing to suggest that the judge had not replied to inquiries from the heirs.

Principles of Judicial Ethics

The ethical principles for the conduct of 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 all professional judges in the ordinary courts and 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 inspire 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 impartially and in such a way that their objectivity cannot reasonably be questioned. Judges shall not express any advance opinions 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