

Annual Report 2016 – the Danish Bar and Law Society

Project on Rule of Law in Greenland

Greenland is a part of the Danish realm and the Danish government is responsible for the justice system in Greenland. In November 2016, a working group established by the Danish Bar and Law Society published a report which identifies challenges to the rule of law within the Greenlandic justice system and provides recommendations to overcome the identified challenges.

One of the characteristics of the Greenlandic court system is that the judge, the defense and the prosecutor in the lower courts (kredsretterne) do not have a law degree. This can constitute a challenge to rule of law and the working group has recommended that the Danish government takes steps to ensure that sufficient education, tools and resources are allocated to the court system.

The report has raised a great amount of public interest and awareness on the issues mentioned above, and in December 2016 the working group presented the report to the Danish Parliament and the Ministry of Justice.

Working group on legal aid

In December 2016 a working group established by the Danish Bar and Law Society and the Association of Danish Law Firms published a joint report with recommendations to modernize and improve the current legal aid scheme. The resources allocated to legal aid have decreased significantly since the rules were last changed in 2007. One of the conclusions in the report is that the current system for legal aid is too complicated and bureaucratic and that the system needs to be simplified if the actual need for legal aid is to be met.

The report has been sent to the Ministry of Justice and it is expected that the ministry will initiate discussions with the Danish Bar and Law Society on how to improve the current scheme for legal aid.

Visit from FATF

Denmark is a member of the Financial Action Task Force (FATF), which is an international organisation that supervises its members efforts to combat money laundering and terrorist financing. Since the beginning of 2016 the Danish Bar and Law Society has prepared written contributions to FATF. In November 2016 the FATF conducted onsite supervision of the Danish supervisory institutions which included the Danish Bar and Law Society.

The Danish Bar and Law Society supervises approximately 6200 Danish lawyers, and the supervision includes compliance with the Anti Money Laundering Act. Following their visit in Denmark, FATF is currently preparing the Mutual Evaluation Report. After the release of the report the Danish Bar will address the potentially identified issues.

The Danish Bar and Law Society continuously focus on how to improve supervision of lawyers and from the beginning of 2016 initiatives has been taken to introduce risk based supervisions. This was one of the main concerns of the FATF in relation to the Bar and Law Society.

Risk-based onsite visits

As mentioned above, the Council of the Danish Bar has in 2016 decided to supplement the random supervision of law firms by implementing risk-based onsite visits. The risk considered is mainly the risk of clients suffering economic or legal losses due to a lawyer's economic or substantial personal problems. The decision of whether or not to conduct an onsite visit is taken by the Committee responsible of regulatory and supervisory matters. They base their decision on the Statute on Trusted Funds or information given to the secretariat by public authorities, clients or other lawyers. In 2016 five visits were completed. Four of these were grounded on the fact that the lawyer had not filed the mandatory statement on trusted funds, and one on other information.

The Centre for Law and Justice

The Centre for Law and Justice was established in 2009 with the purpose of establishing an inspiring think tank comprising representatives of all relevant private and public institutions. In 2016 the Centre held a meeting with the Danish Parliament's Legal Affairs Committee. The main topic of discussion during the meeting was the digitization of the courts and the public sector. A report with recommendations to modernize and improve the current legal aid scheme published by a working group established by The Danish Bar and Law Society was presented and discussed in the meeting.

Project regarding threats and harassment directed on family law lawyers and defense lawyers

In 2016 the Danish Bar and Law Society conducted a survey amongst 660 family law lawyers and defense lawyers in order to clarify to which extent these lawyers have experienced being exposed to threats and harassment. According to the survey 40% of the family law lawyers and 27% of the defense lawyers have been exposed to threats etc. during the last five years. To most of the lawyers this has happened one to five times during the last five years.

More than half of the lawyers completing the survey have been mentally affected, including seeking trauma counselling. The survey also shows that a large percentage of the lawyers who have experienced threats or other harassment have dropped a case and some even considered giving up being a lawyer.

The Danish Bar is severely worried about the results of the survey and aims at providing Danish lawyers with support and guidance in order to prevent the frequency of threats and harassment and handle these situations when they occur. Tools are expected to be provided by the Danish Bar and Law Society during 2017.

The People's Meeting "Folkemødet" on Bornholm 2016

The Danish Bar and Law Society participated for the fifth time in the official "People's meeting" in June 2016. The People's Meeting "Folkemødet" situated on the Danish Island of Bornholm is a unique platform with open debates where politicians informally meet citizens, business people and organizations and the meeting takes place every year in June and lasts for four days. Folkemødet is the Danish counterpart to the famous Swedish "Almedalsveckan".

In 2016 the Danish Bar and Law Society hosted a stand with numerous activities including a "legal emergency room" where lawyers for the duration of the event offered free legal advice to people visiting Folkemødet. Following the success from the previous years, a moot court ("Peoples Court") was once again organized, this time displaying the functioning of a criminal law case (rape). The local city court judge participated and members of the Committee for Legal Affairs in the Danish Parliament acted as a jury. The Danish Bar and Law Society is planning to attend the People's Meeting again in 2017.

Wish list with focus areas to the Parliament

The Danish Bar and Law Society has upheld its focus on the list of proposed focus items that was presented to the Danish Parliament following the elections in 2015.

One item on the list was improved quality of legislation in Denmark. This includes introducing greater transparency in and fixed standards for the preparatory legislative work. The Danish Bar has in this regard conducted a large scale study on the stakeholder consultation as part of the legislative process, and the very short amount

of time the stakeholders have available to prepare comments to the proposed bills . The study showed that more than a third of the bills submitted for consultation in the parliamentary year 2015-2016, do not comply with the recommended consultation period of at least four weeks. Consultations with stakeholders are considered an essential part of the democratic process, which among other things should help ensuring legal certainty for citizens as well as corporate businesses. The Danish Bar and Law Society does not consider the short consultation periods to be in compliance with the standards high-quality legislation usually requires.

Accordingly, the Danish Bar has proposed that the Parliament initiates a committee consisting of parliamentary representatives as well as representatives from the government, organizations, researchers and other stakeholders. The proposal from the Danish Bar includes that the committee must establish certain basic principles for the treatment of bills, primarily to ensure a higher quality of legislation - but also transparency in legislative preparation.

Another item on the list concerned the lack of coherency in the tax legislation as well as the fact that proposed amendments to the tax-legislation often are based on individual cases. Consequently, the Danish Bar and Law Society has proposed to establish a national “Taxation-board” consisting of experts that independently can advice on proposed tax legislation. The Minister for Taxation decided in 2016 to appoint such a Taxation-Board with the purpose of increasing rule of law within the tax-area and update the legislation from a more general point of view. The Danish Bar is very pleased with this initiative. The chairman of the Committee of Taxation in the Danish Bar and Law Society is appointed as member of this new governmental Taxation-Board.

Participation in International Work

The Danish Bar and Law Society has throughout the year upheld a strong focus on its international work and cooperation with bars from other countries. The International Committee has prepared a new strategy for its future work and focus areas. This has included active participation within IBA and CCBE. An area of particular focus in 2016 has been the (upcoming) EU action on tax advisers and tax intermediaries (including lawyers) and potentially aggressive tax planning schemes. The Danish Bar will continue to follow this area closely in 2017.

The Danish Bar and Law Society has actively supported “European Lawyers in Lesvos” which is a project organized jointly by the Council of Bars and Law Societies of Europe (CCBE) and the German Bar Association (DAV). Its main aim is to send European lawyers to the island of Lesvos to support Greek lawyers in the provision of legal aid to migrants. The Danish Bar has, with great thanks to the Dreyers Foundation, been able to donate a substantial amount to the project. Two Danish lawyers have been at Lesvos and done voluntary legal work.

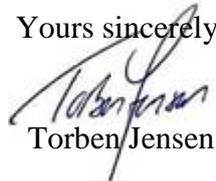
Facts about the Danish Bar and Law Society

The Danish Bar and Law Society has 6194 lawyers who pay a yearly subscription fee of app. 874 euro excl. VAT. Of the 6194 lawyers 1477 are employed as in-house lawyers and the remaining 4717 are employed in law firms. 1023 of these law firms are owner-managed companies. The 6194 lawyers employ 1118 junior associates and 2093 of the lawyers are women.

Among the lawyers the age distribution is as follows:

27-39 years: 1779; 40-49 years: 1956; 50-59 years: 1245; 60+ years: 1215.

Yours sincerely,



Torben Jensen