

Annual report 2021 – the Danish Bar and Law Society

1. The impact of Covid-19

The COVID-19 pandemic has obviously had an ongoing serious impact on the work carried out by the Danish Bar and Law Society in 2021.

The year was characterised by national lockdown and restrictions from time to time.

In order to safeguard the rule of law, the Danish Bar and Law Society has closely followed the measures imposed by the Danish authorities to control the COVID-19 pandemic in Denmark and has subsequently scrutinised the legislative proposals proposed by the Danish government throughout 2021.

On 1 February 2022, almost all measures and restrictions due to the pandemic were removed and Covid-19 is no longer deemed a critical threat to society. However, the Danish Bar and Law Society will continue to follow possible changes closely and work to safeguard the rule of law in a time of crisis.

With the national lockdown and a large part of the Danish workforce working from home for an extended period of time in the winter and spring of 2021, the COVID-19 pandemic has had an ongoing impact on the supervision of attorneys carried out by the Danish Bar and Law Society as well. The Danish Bar and Law Society has, however, continued to successfully carry out supervision with due consideration to the health and safety measures. This has included the conversion of a number of supervision visits into virtual meetings. The Danish Bar and Law Society has to the greatest extent possible continued to conduct the mandatory training for attorneys-to-be as well as the written bar exams and the exams in litigation. It has, however, been necessary to postpone a number of training courses and one exam in litigation (in a fictitious court case) in 2021.

2. Anti-money laundering

As part of a general strengthening of Anti-Money Laundering (AML) supervision conducted by relevant authorities in Denmark, the Danish Bar and Law Society

decided in 2020 to introduce AML-specific supervision of attorneys. This supervision is a supplement to the regular supervision of attorneys. The AML-specific supervision consists of a preparation phase before an on-site visit. During the preparation phase, the supervisory team receives information and documents concerning cases and procedures from the law firm. After reviewing the information and documents, three supervisors from the Danish Bar and Law Society conduct a full day on-site supervision visit at the law firm. Based on a risk assessment from the Bar, it has been decided to initially target medium and large-sized law firms.

It is the intention that the AML-specific supervision shall provide further focus on attorneys who are associated with a higher risk, handle a large number of cases subject to AML obligations, handle a number of complex cases subject to AML obligations or cases involving high value-transactions. This risk-based approach will focus resources on attorneys and law firms with increased risk.

Due to the covid-19 pandemic and the lockdown in the first 3-4 months of the year, the AML-specific supervision of attorneys has been suspended. These supervision visits should not be conducted as virtual meetings due to the number of supervisors and attorneys participating as well as the large number of cases reviewed during the supervision.

The on-site evaluation by the Council of Europe was postponed from autumn 2020 to June 2021, and due to the ongoing pandemic, it was decided to conduct the meetings virtually. Preparations for the virtual evaluation including provision of requested material and legal opinions to the Council of Europe did also consume a significant amount of resources.

The response from the Council of Europe was in many aspects positive, but the resources allocated to AML was considered insufficient.

As a consequence of the evaluation by the Council of Europe and of the increased AML-related tasks, the Council of the Danish Bar and Law Society decided to increase the contribution fee paid by each attorney to the Danish Bar and Law Society to fund an increase in staff assigned to AML supervision, guidance, awareness and cooperation with AML authorities.

3. The Danish Competition Council's (DCC) release of a report on competition in the legal profession

In the report, the DCC has made a number of proposals which it finds necessary in order to improve competition in the legal profession in Denmark. The proposals concern i. a. ownership and the management of companies, introduction of the possibility for multidisciplinary partnerships, allowance for attorneys in other companies than law firms to use their professional titles in connection with counselling, relaxation of the rules on conflict of interest of attorneys practising in the

same firm, possibility for pactum de quota litis and expansion of attorneys' duty of disclosure.

The Danish Bar and Law Society and the Association of Danish Law Firms (Danske Advokater) have objected against the majority of the proposals, especially the proposals regarding expansion of ownership and management as they do not take the independence of attorneys and the rule of law of society into account. The Danish Minister of Justice has approved these objections.

It is expected that the report will result in some changes of the regulation in regard to consumers.

Link to report (in English): https://www.en.kfst.dk/media/oqwddzud/competition-in-the-legal-profession_advokatanalysen-final-a.pdf

4. Analysis: The rule of law of the business community during the next pandemic

The Danish judicial think tank Justitia and the Danish Bar and Law Society have together carried out an analysis of the public compensation schemes which were introduced in Denmark in order to reduce the consequences of the Covid-19 restrictions imposed on the business community.

The analysis uncovers some of the most important rule of law challenges which the Covid-19 pandemic and the handling of it have had for large parts of the Danish business community. Large parts of the Danish business community have been afflicted by restrictions and have, as a result, made use of the public compensation schemes. The analysis is forward-looking and aims to contribute constructive recommendations for the development of future compensation schemes which, as far as possible, take the rule of law of companies into account during future pandemics.

Link to report (in Danish):

https://www.advokatsamfundet.dk/media/5aijmtyx/analyse_erhvervslivets-retssikkerhed-under-naeste-pandemi.pdf

5. Best practice on counsel investigations conducted by attorneys (CI's)

The council of the Danish Bar and Law Society has established a working group for the purpose of drafting a guide for attorneys on best practice in conducting CI's.

Over a period of time, the use of CI's has given rise to criticism and debate. Especially the use of CI's in cases regarding alleged sexual harassment (#metoo) has been criticised as the media and people in general often refer to the conclusions of these CI's as if they were court rulings.

In the light of the fact that CI's may have considerable and far-reaching consequences for the persons whose activities etc. are being investigated – and as a consequence of

the fact that the involved persons are often uncertain about their rights - the council of the Danish Bar and Law Society has decided to establish a working group with the purpose of drafting a guide on CI's conducted by attorneys. The guide will, i.a., include the following:

- A definition of CI's and a description of the characteristics of CI's.
- A description of the existing ethical framework for the conduct of CI's, including the framework for the persons who, in one way or another, are involved in CI's.
- Recommendations which – without necessarily being included in the professional code of conduct for attorneys – constitute a best practice in conducting CI's, and which can clarify the expectations of the involved persons. The recommendations may include recommendations which contribute to greater transparency in the process and in the rights and duties of the involved persons.

The working group has, as part of its work, organised a public consultation on CI's and will include relevant view points from this consultation in its future work.

The working group is expected to conclude its work in the spring of 2022.

6. Committee on fundamental rights established by the council of the Danish Bar and Law Society (the Council)

In January 2022, the Council established a committee on fundamental rights. The focus of the committee will be issues regarding human rights, administrative law and constitutional law.

The development throughout the recent years has revealed that democracy and the fundamental rights of citizens are under pressure both in Europe and in Denmark. Hence, the Council has decided to establish this committee which can challenge and give input to the state on this field – a field which is crucial to the rule of law.

For example, democracy and the rule of law during the Covid-19 crisis have been put to the test. Several bills and measures taken by authorities have restricted a number of civil rights. Rights which we usually take for granted. When such decisions are made, the Council has to be able to submit consultation responses quickly, assist authorities in commissions and in other ways support democracy and the rule of law.

The committee can, on its own, initiate projects within the areas of law mentioned above. Concrete projects are not decided on yet, but issues like e.g. surveillance of citizens or access to justice could form the basis of future projects.

Attorney and member of the Council, Ole Spierman, is chairman of the committee.

7. Project on threats against attorneys

The project on threats against attorneys carried out in 2020 has continued in 2021. The Danish Bar and Law Society has discussed the matter with the National Association of Defence Attorneys and the Association of Danish Family Attorneys which both provide support for the project and share the opinion of a need to secure a better legislative protection of attorneys who are victims of serious threats and stalking. In December 2021, the Danish Bar and Law Society addressed the legislative matter to the Danish Ministry of Justice and offered to be at disposal for further discussions.

8. Reputation project and initiatives

In collaboration with the Association of Danish Law Firms, The Danish Bar and Law Society initiated a large-scale project on the reputation of attorneys in 2020. The project is still ongoing, and the objective is to analyse the view on attorneys and the role of attorneys in Danish society. The project includes a thorough analysis of the views on attorneys among citizens, opinion makers, politicians and other stakeholders. The project aims at delivering an in-depth understanding of the drivers of the reputation of attorneys, and how the role of attorneys is perceived.

A wide variety of surveys and interviews were carried out in 2020 and 2021. The data and results have been discussed with a range of different opinion makers, artists, business entrepreneurs and other stakeholders with different professional backgrounds. Additionally, they have given their input and ideas on different initiatives that can be taken to improve the view on attorneys. In 2022, the plan is to decide which initiatives to go forward with during a 5-10 year period.

9. Advokatsamfundet launched new website

In May 2021, the Danish Bar and Law Society launched its new corporate website. The website, www.advokatsamfundet.dk, will be the most important digital point of entry to the Danish Bar and Law Society's activities for attorneys, stakeholders and citizens in general.

The main focus of the site is to address the rule of law agenda and to distribute news, opinions and practical information to attorneys.

10. New President

The Danish Bar and Law Society is governed by a council of 15 members of which the current president is Mr. Martin Lavesen.

Mr. Lavesen was elected as new president at the general meeting of the Danish Bar and Law Society in June 2021. He was elected for a four-year term by the members' direct vote with the possibility of being re-elected for a further two-year term in 2025.

Mr. Lavesen is the Country Managing Partner of the global law firm DLA Piper. He replaced Mr. Peter Fogh who was president since 2015.

11. Assistance to Ukrainian refugees

After the Russian invasion of Ukraine at the beginning of 2022, the Danish Bar and Law Society and the Association of Danish Law Firms (ADL) decided to offer assistance to Ukrainian refugees arriving in Denmark.

The Danish Bar and Law Society and the ADL have initiated a cooperation with the Danish Refugee Council on counselling to Ukrainian refugees arriving in Denmark. A large number of Danish law firms have expressed their support for this initiative, and several Danish attorneys have assisted Ukrainian refugees with filling out forms etc. when arriving in Denmark.

Furthermore, the Danish Bar and Law Society, in cooperation with the ADL, aims to be able to organise relevant activities that can improve Ukrainian lawyers' knowledge about the Danish labour market for attorneys, introduce them to a relevant network, hopefully also introduce them to some possibilities on how to use their competencies in Denmark, and introduce them to relevant aspects of Danish law and the Danish legal system. The Danish Bar and Law Society has received a few requests from Ukrainian attorneys who are interested in these initiatives. However, this is all at an early stage.


12. Facts about the Danish Bar and Law Society and its members

By the end of 2021, the Danish Bar and Law Society had 7,063 attorneys as its members in total, out of which 1,931 were employed as in-house attorneys. 1,525 assistant attorneys were employed by the 7,063 attorneys, and 2,694 of the attorneys were women.

The age distribution among the attorneys was as follows: 26-39 years: 2,166, 40-49 years: 2,113; 50-59 years: 1,522 and 60+ years: 1,262.

(The age distribution is sorted by calendar year. This means that the age distribution 60+ also includes those who turn 60 later this year, 40-49 also includes those who turn 40 later this year etc.)

Yours sincerely,



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Secretary General