



The Danish Bar and Law Society

Who are we and what do we do

The Danish Bar and Law Society (“the Society”) conjoins lawyers holding the Danish title “Advokat” authorised to practice law whether conducted in Denmark, Greenland, The Faroe Islands or abroad. Registration with the Society is mandatory and today the Society comprises approximately 5,600 lawyers.

- The objects for which the Danish Bar and Law Society is established are:
- to safeguard the independence and integrity of lawyers;
- to ensure and enforce the discharge of the duties and obligations of lawyers;
- to ensure the professional competence of lawyers; and
- to work for the benefit of rule of law in Denmark.

The Society was established in 1919. By law it is vested in the Society to supervise lawyers’ adherence to the legal and ethical Board of the Society has in that capacity adopted a professional Code of Conduct with guidelines stating the rights and duties of lawyers. The Society also manages the education of future lawyers by a compulsory education programme including a bar exam that all trainee lawyers must follow and pass. Furthermore, the Society acts to promote justice and protect constitutional and human rights. The Society is active in the law-making process by participating in the governmental consultation procedures of law proposals as well as appointing members to governmental committees.

What the Bar and Law Society does not do

The above stated focuses on what is the Danish Bar and Law Society. It may however also add to the perspective to mention the areas and features falling outside the competence of the Society.

The Danish Bar and Law Society is not an association of lawyers, a trade union or a lobby organisation arguing the commercial or financial interests of its members. Thus, the Society does not engage in marketing activities promoting lawyers in competition with for instance accountants, real estate agents etc. The Society is not engaged in any labour market

issues concerning labour conditions, payment etc. for employees in law firms. The Danish Bar and Law Society does not run any kind of financially revenue-giving activities. The Society does not offer lawyers services such as educational training, pension schemes, insurance schemes, access to discount on the buying of business utilities etc. All these activities are considered to fall outside the activities necessary for maintaining an independent bar and law society and are therefore left to private initiatives for those lawyers who wish to contribute financially to such on a voluntary basis.

Status and organisation

Being established by law (see Administration of Justice Act § 143) The Danish Bar and Law Society is as such recognised as an official authority under the Danish legal system. However, the Society enjoys full independence from the state. Thus, the Society is not a governmental authority and is not part of the public sector or the executive. The Society is not subject to instructions from governmental authorities and the Society receives no public funding. The Society may be described as an independent, self-governing and self-funding public law institution comprising all lawyers.

The Society is governed by the Council consisting of 15 members. The secretariat of the Council and the Society is lead by a Secretary General.

The Disciplinary Board (Advokatnævnet) is a part of the Danish Law Society and handles complaints against lawyers. The Disciplinary Board is chaired by a Supreme Court Judge and the members are representatives of the public and the legal profession. The chairman and the vice-chairmen are appointed by the president of the Supreme Court. The composition of the Disciplinary Board is laid down in article 144 of the Administration of Justice Act (AJA).

The Society publishes a journal called “Advokaten” (The lawyer), a journal issued to all registered lawyers, media and public institutions etc.

The regulation

The regulation of both lawyers and the Danish Bar and Law Society is laid down in certain chapters of the AJA and a number of departmental orders issued by the Ministry of Justice. Additionally, the General Assembly of the Danish Bar and Law Society has approved on a By-Law stipulating the purpose and main activities of the society as well as the procedural rules regarding the

composition and competences of the official bodies of the Society etc. Besides the departmental orders and the By-Laws, the legal framework also includes the Code of Conduct for lawyers issued by the Council. All these documents can be found in English on the Danish Bar and Law Society’s webpage www.advokatsamfundet.dk.

Guarding the independence and integrity of lawyers

Independence and integrity are fundamental values surrounding the notion of *advokat*. The Danish Bar and Law Society is active in safeguarding these principles. The safeguarding has two aspects; one is to ensure the clients that their lawyer is not in a conflict of interests due to other client

relationships. This is safeguarded through the supervisory functions described below. The other aspect is to ensure full independence of lawyers from the state. The role of the Society, in this respect, is to assist lawyers to maintain the possibility of remaining independent.

Supervisory functions – ensuring and enforcing the discharge of the duties and obligations of lawyers

The Society's supervisory activities are focused on the adherence of lawyers to the requirements laid down in the legal framework. This means that the Society is proactively seeking to respond to information from clients, lawyers, the media or any other source suggesting that a lawyer is not observing the requirements properly. In fulfilling this task, the Society has a number of instruments. First, the Society may order a financial audit of a lawyer in order to seek evidence that the rules concerning the handling of client fees are adhered to. Second, the Society may at any time ask a lawyer to give a statement on the handling of a concrete case in order to ensure full compliance with the ethical standards, statutory regulation etc. Moreover, the Society may, in more grave circumstances, order an interview with a lawyer, and may also impose a temporary supervision conducted by an appointed practising lawyer to ensure that cases are

handled correctly. Lawyers who refuse to comply with measures initiated by the Society are considered in breach of the ethical standards and are brought before the Disciplinary Board.

The supervisory regime is run as a random check and the ambition is to cover at least 10 per cent of all lawyers annually. During these visits, the Society will ask for verification of the information registered with the Society as well as documentation in order to establish whether the lawyers in question adhere to a number of specific requirements including handling of conflicts of interests, anti-money laundering requirements, mandatory consumer information, verification of participation in mandatory continuing education etc. Failure to comply with the requirement may lead to filing of a complaint to the Disciplinary Board.

Maintaining lawyers' professional skills

The Bar Exam

Under Danish law, all who applies for appointment as *advokat* must fulfil a number of requirements. Among the requirements is the completion of an educational programme managed by the Society. It is a condition for admission to practise law that the person concerned has completed theoretical basic education for lawyers, has passed an examination in matters of special importance to the profession of lawyers (the theoretical examination) and passed a practical test in litigation (the litigation test); cf. section 119(2)(v) of the AJA.

The theoretical basic education programme consists of 20 course days spread over one year and is concluded with a written examination where participants receive the assessment "passed" or "not passed". Participants can only enter for the examination three times.

The *Practical test in litigation* consists of the conduct of a case before a district court, the High Court or the Maritime and Commercial Court. Persons who

satisfy the conditions for registering for the basic education programme may apply for the litigation test. Candidates can only apply for the litigation test three times, unless special reasons exist. Candidates receive the assessment "passed" or "not passed".

Mandatory Continuing Education

All lawyers – including lawyers from an EU or EEA Member State or from Switzerland (EU lawyer), who permanently practise law in Denmark under their home-country professional title – as well as all assistant attorneys, are obliged to participate in ongoing continuing education relevant to the profession of lawyers.

To satisfy the requirement of ongoing continuing education, the lawyer or assistant attorney concerned must within a period of three years have participated in at least 54 lessons of continuing education. Each lesson shall have lasted at least 45 minutes.

The education may consist of attendance of courses, teaching or academic writing.

Working for the benefit of the Danish legal community

The Society participates in the drafting of national legislation etc. on a neutral basis in terms of political party affiliation and distribution. Furthermore, the Society may take initiatives for the purpose of guaranteeing respect for fundamental rights, the rule of law and security in the application of law. Moreover, the Society works to ensure that all persons have access to qualified, independent and confidential legal assistance and works to enhance the rule of law, both in the administration of justice and in public administration. The Council also works to give the population access to free legal aid in the form of basic oral counselling

by lawyers at legal aid clinics, mainly by providing information about these legal aid clinics on the Internet.

In a globalised world more and more legislation is based on international agreement, be it EU legislation or otherwise. In light of this, the Society is also active in the CCBE (The Council of Bars and Law Societies of Europe) and the IBA (International Bar Association) contributing to the safeguarding of both lawyers' independence and to the development of sound legal systems in less developed countries.

Admission to the bar

Admission to practise law is granted by the Minister for Justice following a hearing of the Danish Bar and Law Society.

However, any person, who

- (i) is legally competent and not under guardianship;
- (ii) has not filed for suspension of payments and is not in bankruptcy;
- (iii) holds a Danish Bachelor's and Master's degree in Law;

- (iv) has carried out practical legal work for at least three years; and
- (v) has completed theoretical basic education and passed an examination in matters of special importance to the profession of lawyers as well as passed a practical test in litigation, is entitled to hold a practising certificate.

In other words, everybody fulfilling the above stated objective criteria has a right to be appointed *advokat*.

Business models

An *advokat* may practise law acting as sole practitioners or in a grouping of lawyers. The only permitted object of a professional corporation of lawyers is to practise law. It is therefore not possible under Danish law to establish multidisciplinary partnerships. If practising in a partnership with others such a law firm may only be in the form of public limited, private limited or limited partnership companies.

Moreover, shares in a professional corporation of lawyers

may only be owned by

- (i) lawyers who actively practise law in the corporation, its parent company or its subsidiary;
- (ii) other employees in the corporation; or
- (iii) another professional corporation of lawyers.

As it appears, apart from lawyers, only present employees may hold shares in a law firm. Jointly, the employees must not own more than one tenth of the shares in the professional corporation and may not have more than one tenth of the votes in the corporation. Moreover, employees who wish to hold shares in a professional corporation of lawyers must pass a test in the rules that are of special importance to the profession of lawyers. The Bar and Law Society is responsible for holding the test.

Notwithstanding, the above mentioned about the sole purpose of a corporation of lawyers it has recently been made possible to establish holding structures. A professional corporation owned solely by lawyers whose sole object and activity is to own shares in another professional corporation of lawyers may thus own shares in a professional corporation of lawyers.



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