

Nordic-Baltic Presidential Meeting

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DATO: 16. maj 2012
SAGSNR.: 2012 - 772
ID NR.: 177796

Annual report 2011 from The Danish Bar and Law Society

1. New Code of Conduct

In April 2011 the Council of the Danish Bar and Law Society adopted a new Code of Conduct. The code came into force from October 2011.

The code is based on a proposal from a working group with members from the Council and from different law firms. Further, representatives from the Association of Danish Law Firms have attended some of the meetings and have made valuable contributions.

The working group has had the previous Code of Conduct as a starting point. The most important changes are as follows:

- The provisions of the code are made more reader-friendly.
- References to existing legislation have been limited.
- The rules on conflict of interests have been adjusted in a slightly less rigorous direction.
- Rules on storing of case material and of addressing witnesses prior to court sessions have been introduced.

2. Rule of law in the taxation field

In November 2011 the Danish Bar and Law Society, together with the Association of Danish Law Firms and FSR - the Association of Danish Auditors held a conference on rule of law in the taxation field in Landstingssalen, the former Upper Chamber of the Danish Parliament. Various specific topics were discussed during the conference, which give cause to rule of law considerations.

Ahead of the conference the Council issued a Rule of Law Program on taxation. The program contains 16 specific proposals for improvements in the tax area, which the Council Tax Committee has considered and analyzed over a period of 2 years.

3. End of first three-year-period of the continuing education requirements

All lawyers – including lawyers from an EU or EEA Member State or from Switzerland (EU lawyer), who permanently practice 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 requirements 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 lesson may consist of attendance of courses or teaching. Also academic writing can qualify as continuing education.

The rules concerning ongoing continuing education came into force on 1st of January 2008, which means that the first three-years-period ended on 31st of December 2010. About 4,800 lawyers had been covered by the rules 2008-2010, and were in the first months of 2011 obliged to report to the Danish Bar and Law Society via a website, how many lessons were accomplished.

It turned out that most lawyers had fulfilled the requirements. Those who had failed to comply with the requirements were given another deadline until 15th of December 2011, if the lack of lessons was limited. If the lack of lessons was larger, most cases were handed over to the Disciplinary Board, since not complying with the requirement is considered to be a violation of the rules of professional conduct. However, all cases were considered individually taking into consideration the explanation the lawyer had given for not fulfilling the requirements, as well as facts concerning depositing of the practicing certificate and the age of the lawyer. The Disciplinary Board has not yet reached a decision in the cases where formal complaints were filed.

4. New Award for reporters

The Danish Bar and Law Society initiated in 2011 an award for best reporting on judicial issues and the rule of law. The prize was awarded in June to the reporter Mrs. Astrid Fischer from the public institution DR Radio, Danish Broadcasting Corporation.

The award reflects the aim of the Danish Bar and Law Society to work in collaboration with the media to ensure the highest possible quality of reporting when it comes to judicial issues and rule of law issues covered by the mass media. Entertaining that notion, the Danish Bar and Law Society have been inspired by the Swedish Bar and Law Society, which for a number of years has given a prize in a similar manner. The prize competition was announced in the spring 2011 and received a very positive response from reporters, attracting a fair number of qualified candidates from both national and local media as well as different media platforms such as television, radio, print and internet media.

The prize will be awarded again in 2013 and is scheduled to be awarded at the general assembly of the Danish Bar and Law Society.

5. “Want list” for the new parliament

After general elections the new government of Denmark took office in September 2011 and the Danish Bar and Law Society took the opportunity to present the new Minister of Justice, Mr. Morten Bødskov, with a prioritized list of issues that should be handled by the government and parliament. As the list was presented to the minister shortly before Christmas, the list was dubbed a “want list” though the subjects presented on the list were far too complex to be handled by any government in a short time. The three subjects on the Danish Bar and Law Society’s list were

- 1) the desire of an evaluation of the 2007-reform of the judicial system in Denmark
- 2) the demand for a modernized legal aid system, where citizens not able to afford litigation at the courts are granted access to justice by state funding, and
- 3) an amendment of the rules in penal cases, where defense attorneys are denied access to part of the public prosecutors’ documents.

The Danish Bar and Law Society elaborated on the subjects in a meeting with the Minister of Justice and will now meet with MPs from the parties represented in the Parliament to seek support for the necessary changes.

The Danish Bar and Law Society appreciates that the political platform agreed by the new government contains several points of interest from a rule of law perspective including inter alia that:

"The Government will strengthen Denmark’s participation in European cooperation and therefore hold a referendum in the present electoral period on Denmark’s opt-outs on Justice and Home Affairs as well as defence",

"Diplomacy and dialogue are to be the focal point of Danish foreign policy. Denmark must provide support for promoting human rights, enhance efforts to promote good governance and societies based on the rule of law, as well as support development of democratic institutions. The efforts to promote human rights, however, must start by ensuring that we ourselves always respect human rights"

In particular the political platform contains a section on good governance in which the government provides a pledge to work for enhanced quality of laws and regulation inter alia by providing reasonable time for consultation with civil society organizations and the use of consultative and preparatory commissions when relevant. This is most welcomed as the Danish Bar and Law Society in its Rule of Law Program of 2009 stated that problems with the quality of proposed legislation are often encountered. Further, information on the political platform of the Danish government can be found at http://www.stm.dk/a_2821.html.

6. Warm up to the Danish Presidency of the Council of the European Union 2012

Due to the recently initiated Danish Presidency of the Council of the European Union a number of delegations from the various EU organs and institutions have visited

Denmark in the fall of 2011. With very little notice the Danish Bar and Law Society received a request to meet and dine with members from the Legal Affairs Committee (JURI) of the European Parliament in November. A dinner meeting was set up on the 24th of November 2011 with the participation of inter alia MEP Raffaele Baldassarre. The Danish Bar and Law Society took the opportunity of this meeting to voice our concern regarding how the independence of lawyers is being challenged repeatedly and most recently in the wake of the financial crisis, cf. the reports on national developments received from e.g. Ireland, Portugal and Greece through the CCBE. Our sincere and extensive concerns regarding a future EU Patent Court was also raised at the meeting. For information on the priorities of the Danish Presidency please refer to the homepage of the presidency - <http://eu2012.dk/en>

Sincerely yours,



Torben Jensen