

The Report from the Board for the Norwegian Bar Association

1. Highlights from the Past Year

The Bar Association as a Professional/Interest Organization

The Board of Directors has stipulated that the Association shall be the professional/interest organization for attorneys. The goal is an attorney profession characterized by high professional standards and an excellent code of ethics. The Association shall work to promote the general conditions for attorneys. The Association shall also be the attorneys' foremost arena for the discussion of *lex ferenda*.

The Board of Directors especially wants to work for the increase of legal aid fees. In addition, the Board of Directors will further follow up on the Report to the Norwegian Parliament on Legal Aid [*St. meld. nr.26*]. The Ministry of Justice is working on the formulation of a legal aid scheme for providing front-line service, and the Bar Association is actively involved in this matter.

Furthermore, the Board of Directors acknowledges the importance of following up matters of professional interest, such as the attorney's duty of confidentiality. This matter is still under strong pressure, demanding active involvement on the part of the Bar Association, both in relation to the authorities and in support offered by the Association to attorneys who have received demands for access.

As a professional association and interest organization, it is extremely important to provide members with good benefits. So, the Bar Association is working actively to further develop and improve its membership benefits.

The Attorneys' Duty of Confidentiality

During the past years, the attorneys' duty of confidentiality has been put under pressure. This is the result of the proposed undermining of this duty in a report from the parliamentary appointed Tax Evasion Committee, as well as the auditing of legal firms by the tax authorities. Therefore, the Board of Directors will be working to achieve a better understanding of the social ramifications of the attorneys' duty of confidentiality.

The duty of confidentiality was a subject of broad debate in a seminar that the Bar Association arranged in September. It was also the topic of the President's annual speech in November. Part of the problem is that the duty of confidentiality does not have any substantive legal regulation; it has been referred to as a matter of 'pure principle' which should give way to other matters of consideration. So, the President called for a distinct and separate Attorneys' Law, where the duty of confidentiality could be firmly anchored.

Upon receiving demands from *Skatt øst* [the tax authorities in Eastern Norway] for access to documents relating to transactions executed on the behalf of clients, three legal firms disputed the right to such access. The demand for access was made after the tax authorities had examined transactions tied to tax havens in the foreign exchange register. The Bar Association supports the firms' reference to the duty of confidentiality. The case has led to a debate in the media.

The Bar Association's focus on the attorneys' duty of confidentiality has resulted in the topic being placed on the agenda on many occasions. The Bar Association will continue to work on this matter.

The Report on Legal Aid

In spring 2009, the Government put forward its Report on Legal Aid [*St. meld. Nr 26 (2008–2009) Om offentlig rettshjelp*]. Prior to this, the Bar Association had contributed to the contents of the report through meetings held with the Minister of Justice and his staff, in addition to parliamentary hearings and other meetings with politicians.

In addition to increasing the income limit and introducing graduated deductibles, a suggestion has been made of setting up a front-line legal aid service with one hour free legal advice for everyone. The front-line service shall be available to everyone, regardless of the individual's income or capital. The Bar Association is positive to this front-line service, emphasizing that legal aid must be provided by competent, unrestricted and independent attorneys.

However, the Bar Association is critical to the increase of deductibles which, for up to 90% of the clients, can result in the legal costs being billed according public fee rates. According to the Bar Association, when the public fee rate is used for such a large number of cases, there must be a rise in that fee rate to ensure high quality of service and to ensure a reasonable operation of legal practices.

The follow-up work continues. Among other things, in January 2010, the Bar Association participated in the Ministry of Justice's expert seminar concerning free legal aid. The seminar was primarily concerned with the new front-line legal aid service, and how that service was to be set up in order to reach as many as a possible of those who require legal aid.

Working Hours of Assistant Attorneys

In autumn 2008, the Board of Directors began work on the clarification of the status of assistant attorneys according to the employment law. In January 2009, after thorough evaluation, the Board expressed the fundamental attitude that assistant attorneys often want a "particularly independent job position". It was specified that it was not the job title that mattered; it was the real job description for the position. At the same time, it was emphasized that there must be more serious consideration taken concerning the matter of assistant attorneys working too much. This view of the Board created considerable debate in the field. The viewpoint of the Board was clarified by the President in an article in the Association's magazine, *Advokatbladet*.

The Bar Association was in dialogue with the Directorate of Labour Inspection, who were in agreement that it is the real job description for the position that is decisive. In spring 2009, the Directorate of Labour Inspection conducted inspections of six legal firms regarding the working conditions of assistant attorneys.

The work concerning working hours for assistant attorneys uncovered the fact that the Working Environment Act [*Arbeidsmiljøloven*] does not provide the flexibility needed for assistant attorney positions or other similar knowledge-based positions. So, the Bar Association has been in dialogue with other organizations to see if it is possible to cooperate in the effort to find a system that provides enough flexibility, while at the same time protecting the employee's interests. This work continues.

2. Withdrawal from the Norwegian Association of Lawyers [*Norges Juristforbund*]

Background for the Withdrawal

The agreement concerning the Bar Association's collective membership in the Norwegian Association of Lawyers was made in 1991. For an historical perspective, this agreement was a

radical move. The cooperation between the two parties has been positive both for the Bar Association and its members, and for the Norwegian Association of Lawyers.

However, the Norwegian Association of Lawyers is an interest/employee organization connected to the Federation of Norwegian Professional Associations [*Akademikerne*]. This connection has gradually led to the Norwegian Association of Lawyers and the Norwegian Bar Association working to promote different ends. In the light of their role as an employee organization, the Norwegian Association of Lawyers took an active role concerning the issue of working hours for assistant attorneys, among other things by working for the establishment of collective wage agreements for assistant attorneys. In spring 2009, the Norwegian Association of Lawyers also resolved to set up a forum for owners and administrators of legal firms, despite the fact that the Bar Association views this to be in conflict with the agreement made between the Bar Association and the Norwegian Association of Lawyers.

In light of this situation, the Board of Directors realized the necessity of verifying the collective membership. The attorney business has changed; very many of the Bar Association's members are owners or employees of large legal firms. The Board came to the decision that it was detrimental, in principle, for the Bar Association (a professional organization of both employers and employees) to have collective membership in a labour union. Therefore, the decision was taken to terminate the collective membership. This means that each individual member of the Bar Association is released from his/her membership in the Norwegian Association of Lawyers, and must choose whether or not he/she wants to be a member of that association.

In the meanwhile, the Board of Directors was concerned that the withdrawal of membership should take place according to a detailed agreement with the Norwegian Association of Lawyers, with clarification of the consequences for other matters of cooperation. The Board stipulated that it was important that the Bar Association's members, who had taken advantage of membership benefits from their membership in the Norwegian Association of Lawyers, should be able to continue utilizing these benefits, or should receive equally good offers from other channels.

The Board of Directors resolved that the termination of collective membership should be presented to the Supervisory Board meeting for approval, with approval being granted at the Supervisory Board meeting in May 2009.

New Agreements with the Norwegian Association of Lawyers

Following the termination of the collective membership, the Bar Association has conducted negotiations with the Norwegian Association of Lawyers. Agreements have been made concerning:

- The dissolution of the associative integration and termination of collective membership agreement (effective 1 January 2010),
- The continuation of the ICT membership system
- ICT operation
- Administrative cooperation
- The continued common ownership of the Legal Education Centre
- Cooperation in the area of socio-political matters and *lex ferenda*
- A Shareholders Agreement for Juristenes Hus AS [*the Lawyers' House*] is under way.

The Norwegian Bar Association as a Professional Organization

The Bar Association protects and promotes the code of values for the legal profession. The Association is responsible for developing and maintaining the Code of Conduct for Attorneys. The Association protects and defends the fundamental principles for the legal practice, such as independence and the duty of confidentiality, when these values are challenged.

Members of the Norwegian Bar Association can use the quality stamp 'MNA' together with their title of attorney.

In addition, the Bar Association is an interest organization that works to promote the financial and practical conditions for attorneys. It pleads the case of the attorneys to the authorities and politicians. The greater the number of members in the Bar Association, the better the Association can protect the interests of the attorneys.

Member Communication and Membership Benefits

It is important that communication with the members is perceived as beneficial. The Bar Association is constantly looking for new membership benefits that are suited to the various target groups. It attempts to direct any communication in such a way that it becomes as relevant as possible for each individual member.

3. Membership Benefits

The Work on Attorney Insurance

As a result of the withdrawal from the Norwegian Association of Lawyers and of the Bar Association's desire to offer members private insurance to replace the insurance that was offered through the collective membership in the Norwegian Association of Lawyers, the Attorney Insurance was launched at the end of November 2009.

The Attorney Insurance was developed in cooperation with Marsh, the insurance broker. The Attorney Insurance offers the members of the Bar Association insurance that was specifically developed to meet the needs of legal practices, in addition to the needs of the attorney as a private individual.

Various insurance providers are invited to deliver insurance under the Attorney Insurance. The types of insurance administered by the Bar Association that are part of the Attorney Insurance include:

- Provision of security by surety
- Professional liability insurance
- Liability insurance for boards, trustees in bankruptcy.

In autumn 2009, the professional liability insurance was re-negotiated with Chartis Europe SA. This resulted in a reduction in premiums for all types of coverage except estate agent insurance where there was an increase in premium due to an increase in the frequency of damages. In addition, negotiations resulted in a new business insurance scheme for legal firms with less than five attorneys, with the individual premiums set based on information provided by the legal firm. The premium for board liability remains unchanged.

There are currently 17 different types of insurance offered through the Attorney Insurance.

- Professional and board liability insurance
 - ♦ Provision of security by surety and professional liability insurance – the Norwegian Bar Association’s collective agreement
 - ♦ Board liability insurance – the Norwegian Bar Association’s collective agreement
 - ♦ Provision of security by surety and professional liability insurance – business scheme
- Private general insurance
 - ♦ General insurance - car, house, cabin, household contents, boat, valuables, child insurance, etc.
- Group life, company and personal insurance
 - ♦ The Bar Association’s group life insurance
 - ♦ Health care insurance
 - ♦ Sick leave insurance
 - ♦ Obligatory service pension (OTP)
 - ♦ Office and interruption insurance
 - ♦ ICT insurance
 - ♦ Building insurance
 - ♦ Occupational injury insurance
 - ♦ Travel insurance
 - ♦ Collective accident insurance
 - ♦ Family accident insurance
- Trustee and liquidator insurance
 - ♦ Insurance for trustees in bankruptcy cases
 - ♦ Insurance for trustees of estates (of deceased persons) under probate

These 17 types of insurance are administered by three different partners: The Norwegian Bar Association, the insurance broker Marsh and the insurance company Codan.

During the launch of the Attorney Insurance, an information brochure about the Attorney Insurance and an interest questionnaire were sent to each member. Since then, regular advertisements about the Attorney Insurance have been published on the website for the Bar Association (www.advokatforeningen.no), in the newsletter and in the Association’s magazine, *Advokatbladet*.

Further Development of the Website

In conjunction with the centennial celebration of the Norwegian Bar Association, the redesigned website *advokatforeningen.no* was launched in 2008. Since then, the website has had a steady increase in visitors, with an average of approximately 700 visitors on a normal weekday. The website is aimed at attorneys. Among other things, the website provides advice concerning the operation of legal practices, as well as information about various membership benefits. Most of the website is open to the public, but a password-secured area (*My Page/Min side*), provides each individual member with a personal webpage with a summary of courses and continuing education points. This is also where individual members can register changes in contact information. The membership benefits are increasingly becoming a more important part of the website. In 2009, the launch of the Attorney Insurance provided a huge lift in this area. In addition, statistics show that Operation of Legal Practices and Code of Ethics were the most popular items among the members of the Bar Association.

Advice to Individuals

There are daily enquiries to the Secretariat from the members. Most of these concern membership and/or professional insurance. In addition, many enquiries concern the establishment, operation or termination of a legal practice. Most enquiries are received via telephone contact or e-mail, but the links posted on the webpage are also often used.

The Bar Association aims to be the foremost general competence centre for the operation of legal practices. It is positive that the members come to the Secretariat with their questions in this matter. In addition to the help received by the individual member, the questions that are posed show which topics are of current interest for attorneys and should be placed on the website for information purposes. In certain special circumstances, the Association can provide direct assistance to an attorney regarding a concrete case in relation to the authorities or other parties, if the case involves the clarification of matters that are of general interest for the members.

The Secretariat also receives enquiries from attorneys about ethics and the Code of Conduct for Attorneys. In these cases, the role of the Bar Association is to listen, and in doing so, help individuals to reach their own point of view about the matter in question. If the matter results in the filing of a complaint, the disciplinary organs will take the final decision in the case.

Corporate Attorneys

In the Bar Association, there are almost 1000 members who are corporate attorneys or assistant attorneys working for corporate attorneys. The Association's membership services have been less relevant for this group of attorneys than for those in private practice. The Association is aware that this is unsatisfactory. So in autumn 2009, the Association took the initiative to gather together a group of corporate attorneys in a meeting to gather their views on the Bar Association and what the Association can do for that group.

The meeting brought up constructive criticism and good suggestions for improvements to be made. As a result of that meeting, the Board of Directors decided in 2010 to create a committee for corporate attorneys. The job of the committee shall be to provide suggestions as to what the Association should do for corporate attorneys, e.g. publishing articles on the website, organizing meetings on topics of current interest for the entire group of corporate attorneys that are members of the Bar Association, etc.

The Bar Association's Safety Manual

In December, the Bar Association completed the work on its Health, Environment and Safety [*HMS (helse, miljø og sikkerhet)*] manual and presented it as a membership benefit. The safety manual consists of an on-line edition that is always kept up-to-date, together with a special safety-work ring binder for keeping documentation.

In developing the safety manual, the aim was to provide a high level of quality and to ensure that the manual was intuitive and educational to use, while at the same time inexpensive to purchase. The manual is tailored to the practice of law. The manual meets the demands placed by law for businesses of various sizes, whether the business premises is owned or rented by the firm.

By lowering the threshold for the individual legal practice to conduct systematic health, environment and safety work, the Bar Association has contributed to focusing more attention of the employees welfare, including well-being, fire safety, violence/threats, sick leave, job positions, etc.

Accountant Authorization

Many attorneys have the task of business manager for property as part of their line of work. As of 1 January 2010, the exemption of attorneys from the requirement of authorization as accountants was removed. In December 2008, a meeting was held with about 30 attorneys who were affected by that change. In a letter to the Norwegian Banking, Insurance and Securities Commission [*Kredittilsynet*], the Bar Association emphasized that under the new regulations housing associations were still exempt from the requirement of authorization, which has an unfortunate effect on competition in this area, a matter of concern for the Norwegian Competition Authority [*Konkurransetilsynet*]. Together with the lack of documentation for the need for authorization for attorneys functioning as accountants, this situation is a telling indicator for the need to reinstate the exemption for attorneys. The Commission did not agree with the Association, but they gave assurances that there would be a pragmatic execution of the regulations during a transition period, so that attorneys without authorization could complete the 2009 final statement, annual reports and accounts in 2010.

Several attorneys submitted individual applications for dispensation from the authorization requirement. One of these cases concerned an elderly attorney who had received a rejection concerning his application for dispensation. The Bar Association took up the case with the Norwegian Banking, Insurance and Securities Commission. As a result, the Commission reversed its decision, in the favour of the attorney.

Attorneys and Estate Agencies

After the enactment of the Estate Agency Act in 2007, there has been a gradual termination of transition measures. First in January 2009, the Banking, Insurance and Securities Commission required the submission of confirmation of increased security from surety bond agents. Estate agencies are required to apply for new permission before 2010 in order to run an estate agency. As of 1 January 2010, there are new competency requirements in effect for co-workers and assistants, which entail an obligatory exam for each person working in an estate agency. In connection with the transition measures, the Bar Association has conducted an information campaign via its website and newsletter. In addition, the Estate Agents Group has updated its "Checklist for Estate Agents", a recipe for the conduct of estate agent commissions.

Mandatory Continuing Education

The five-year period that was initially allowed for completion of 80-hours mandatory continuing education lapsed in 31 December 2008. At the end of that period, the Board of Directors chose to postpone the deadline, especial taking into consideration the five mandatory hours in ethics, so that the final deadline was set as 30 June 2009. There were many members who took advantage of this opportunity to fulfil the requirements.

The members were given the deadline of 31 December 2009 to provide documentation of continuing education. There are 580 attorneys who have not fulfilled the requirement of continuing education.

The Support Association

The Support Association is the Bar Association's relief effort for attorneys in severe difficulties. In 2009, there were seven applications for assistance, compared to 14 in 2008. The applications came from active members or member who had lost their licence to practise law. These applications were either wholly or partially granted to a total sum of 257 860 NOK. Two of the applications were denied. The requirement for equity established in the bylaws was fulfilled. The various welfare measures offered by the Support Association are

published in the Bar Association's website and in advertisements in its magazine, *Advokatbladet*.

4. The General Conditions for Attorneys

The Report on Legal Aid

The Report on Legal was previously discussed in section 1.

Procedure Requirement for Assistant Attorneys

In November 2009, based on contact and meetings with the Bar Association, the Ministry of Justice put forward a suggestion for changes in the Regulations for Attorneys, concerning procedure requirements for obtaining licence to practise law. The suggestions that were proposed did not, in any significant way, satisfy the wishes of the Association.

The most important point in the Bar Association's response to the Ministry's proposal was that the procedure requirement should be reduced from three to two cases, while at the same time building up the attorney course and expanding the existing exam. In fulfilling the procedure requirement, the cases that shall be counted must also reflect the current procedural system, including, among other things, mediation and small claims cases. The Association emphasizes that the suggestion shall not weaken the requirements for receiving a licence to practise law. Meanwhile, it is important that there is equal opportunity for assistant attorneys to receive a licence to practise law, regardless of their place of residence. The letter by the Bar Association commenting on the proposal refers to an investigation conducted by the Association, which showed that more than 30% of the assistants had worked more than two years before they had argued three cases.

There will be further follow up on this matter by the Bar Association.

The New Money Laundering Act

The new Money Laundering Act came into effect on 15 April 2009. The law is useful for attorneys. Prior to the enactment of the law, the Bar Association had delivered a written response to the proposal to the Ministry of Finance, as well as oral comments at an open hearing in Parliament's Finance Committee. In this connection, the Bar Association has made it clear that there are special considerations to take when attorneys have the duty to report according to the law. One of the primary considerations is the attorney's role in the administration of justice, particularly in the attorney's duty of confidentiality. The Bar Association holds the view that the law must represent a balance between the effective combating of money laundering and the financing of terrorism on one side, and, on the other side, the consideration to be shown for privacy and the due process of law.

The law requires that those who have the duty to report these matters shall have reasonable internal routines to ensure compliance to the regulations. The Bar Association has developed suggestions for such routines to be used by legal practices. These routines can be downloaded from the Association's website.

Legal Firms' Compliance with the Personal Data Act

In spring 2008, the Data Inspectorate conducted several control inspections of legal firms to investigate compliance with the Personal Data Act. The Bar Association has been in dialogue with the Data Inspectorate and has published a report of the most important findings made by the Data Inspectorate, along with their recommendations. The Association has perceived the need for more information concerning the regulations and has arranged a course about the

subject via the Legal Education Centre. In addition, articles about internal control and information security have been published on the Bar Association's website.

Seminar for Shadow Attorneys

In cooperation with the Oslo District Court, the Bar Association held a seminar in autumn 2009 with the title: *Skjult kontroll Er rettsikkerheten ivaretatt?* [Hidden Control: Has Due Process of Law been Safe-guarded?]. The aim of the seminar was to raise the level of competence for attorneys and judges in cases where the accused has been subjected to hidden control on the part of the police.

Auditing of Attorneys

In autumn 2009, *Skatt Øst* [the tax authorities in Eastern Norway] conducted a control of the legal field. The aim of the control was to get an overview of the legal profession's compliance with the accounting regulations. The Bar Association will be looking into these results in 2010.

Petition for Disbursement – Processing Time

In the middle of 2009, the Bar Association contacted the Oslo Enforcement Office [*Namsfogden*] after being made aware that the extremely long processing time for petitions for **disbursement**. Later, the Association followed up by sending a letter to the Enforcement Office. The Enforcement Office replied that they had been given more resources, but it would take time before the backlog was eliminated. The Association has stated that the long processing time is detrimental to the due process of law.

External Mediation According to the Disputes Act

Upon the enactment of the new Disputes Act, the Bar Association cooperated with the National Courts Administration to make arrangements so that an external committee of mediators could be established, among other things by providing lists of mediators who were willing to mediate for the Court. The Association's Mediator Committee was concerned that the courts had not appeared to have made arrangements for the utilization of external legal mediators in legal mediations where the dispute was suited to this type of mediation.

In a meeting with the Bar Association, the National Courts Administration presented information of how many courts that had established the legally-imposed committee and how many that had not done so. As a result of the meeting, the National Courts Administration wrote to all presiding judges to encourage them to publicize the existence of the committees on their websites so that judges, attorneys, and members of the public needing legal assistance can get information about the system and find out who is attached to that particular court as an external mediator.

Meeting with the Consumer Council

Meetings have been held with the leader of the Consumer Council. The goals were to provide reciprocal orientation concerning matters of common interest and to consider possible areas of cooperation

Working Group – Criminal Case Documents on CD-ROM

A working group has been set up to examine if it is possible or advisable to replace the current method of sending criminal case documents from the police to the defence attorney with the use of CD-ROM or other electronic media. Attorney Erling O. Lyngtveit is the Bar Association's representative on the working group, which otherwise consists of a public

prosecutor and a senior advisor from the Police Directorate. The group has been given a mandate for its work, with 1 September 2010 as its deadline for completion.

5. Corporate Citizen / Due Process of Law

The President's Annual Speech

The President's annual speech was held on 19 November, with the title "*Advokaters taushetsplikt – truet av gode hensikter*". [The Attorneys' Duty of Confidentiality – Under Threat by Good Intentions] With this speech, the Bar Association wished to direct attention to the pressure exerted on the attorneys' duty of confidentiality by the legislators and civil service. The current nature of the topic was especially made evident by the publication of the report by the Tax Evasion Commission on measures against tax evasion [*NOU 2009: 4 Tiltak mot skatteunndragelser*] where extensive exceptions to the duty of confidentiality were suggested, along with the debate concerning the tax authorities' demand for access to documents in connection with transactions with tax havens. Berit Reiss-Andersen pointed out that the relationship of trust between client and attorney is crucial for the work of the attorney, and that the client's trust can easily be undermined when there are so many exceptions to the duty of confidentiality. The President concluded the speech by stating that the protection of the attorneys' duty of confidentiality is now necessary in order to maintain a reassuring and effective administration of justice.

Seminar on the Duty of Confidentiality

On 16 September, as part of the Bar Association's work on the attorneys' duty of confidentiality, a seminar was held on the topic. The goal of the seminar was to shed light on the problems connected with the attorneys' duty of confidentiality in a practical context, as well as to raise awareness about the duty of confidentiality, e.g. through discussion of the duty of confidentiality as it relates to the European Convention of Human Rights. Furthermore, questions concerning the duty of confidentiality were examined in a concrete manner, based on the regulations concerning the banning of seizures in criminal procedures, the authorities' right to access in tax legislation, and the regulations concerning the trustee's access to information in bankruptcy cases. The lectures will be published in book form during 2010.

Electronic Interaction with the Courts

This year the Bar Association has continued its participation in the National Courts Administration's development of an electronic form of interaction: ELSAM. The Association has been concerned that there are other users besides attorneys who will be able to use the portal and that the project includes the submission of fee forms. The Association has received support for its position on this matter.

Even though ELSAM is designed for the field of civil law, the Bar Association emphasizes that there are many benefits to be gathered from this project for use when electronic communication is to be developed for the field of criminal law. The Association has strongly emphasized that there must be developed a solution for communication between the attorneys and the courts that is as unified as possible.

Action and Litigation Group

The Action and Litigation Group has the objective of calling attention to the issues concerning due process of law for the immigration authorities' treatment of asylum seekers and immigrants. First and foremost, the work includes the assessment of legal challenges to final negative decisions. In 2009, the Bar Association received and processed approximately

280 applications for assistance. Ten cases were referred to attorneys for legal process. Decisions were handed down in 12 cases during the year. At the end of the year, the status for the project's cases showed that nine of the cases had been upheld by the court or reversed by UNE, while the courts ruled in favour of UNE in six cases.

The Action and Litigation Group has distinguished itself in the media with the publication of columns, newspaper articles, and a radio debate that included Dag Terje Andersen. Three students have worked on studying the applications and operation of the project's knowledge database, which offers assistance with searches for facts and legal citations for attorneys and cases.

Hearing Statements and Hearing Meetings

In 2009, the Bar Association has written 70 hearing statements.

The General Secretary has also had meetings with Ola T. Lånke, a Member of Parliament for the Christian Democrats, about the problems connected with the Ministry's repeated use of deadlines for comments on hearings being set shorter than is permissible by law. The matter was taken up in the Scrutiny and Constitutional Affairs Committee, whereupon the Ministry of Government Administration and Reform promised improvement in their routines. Statistics concerning hearing deadlines shall now be recorded. The case was also pending with the Civil Ombudsman, so that case was closed after the Ministry's statement on the matter.

In February 2009, the President of the Bar Association participated in a hearing meeting concerning the enactment of the new Penal Code (The Act Concerning Changes in the Penal Code, 20 May 2005, No. 28)

The Bar Association has also participated in parliamentary hearings concerning the open publication of the tax list.

The Web Portal *advokatenhjelperdeg.no* [the attorney helps you]

The website *advokatenhjelperdeg.no* is the Bar Association's consumer portal, which is open to the public, unlike the Bar Association's website for attorneys, *advokatforeningen.no*. Last year, the consumer website had 259 034 visits, which is 10 000 less than in the year 2008. Still, it can be said that the webpage has an established, good, regular number of visits. A total of 57% of the users arrived at the website through the use of search engines such as Google. Primarily the key words used in the search were 'advokat', 'advokater', and 'advokathjelp' ['attorney', 'attorneys' and 'legal aid']. "Finn advokat" [Find an Attorney] is the most popular service offered on the website. A total of 75 219 users clicked into this service in 2009. At the same time, statistics show that many people also used "Risikotesten" [the Risk Test] and the front-line service "Spør advokat" [Ask an Attorney]. In the Legal Guide, most of the searches concerned cohabitation and the termination of cohabitation. Otherwise, the questions concerned child-parent matters, inheritance, housing, cabins, and finally purchasing, selling and renting.

Attorney on Call

In 2009, there were attorneys on call in a total of 34 locations in 16 counties in Norway.

Programme Offered to the Schools

The Bar Association's school programme "Rett eller galt – hvor går grensen?" [Right or Wrong – Where is the boundary?] was developed in conjunction with the centennial celebration of the Bar Association. It is still being presented in the schools. In 2009, there were held 137 role-playing games with an attorney present. Since the launch of the

programme, there have been 203 role-playing games held in the classrooms, with 285 attorneys who have volunteered to be contacted to travel to a nearby school. Feedback from attorneys, pupils, and teachers has been very positive.

On 28 January 2009, the Norwegian Broadcasting Company (NRK) filmed a role-playing game at Ingieråsen School where the President of the Bar Association Berit Reiss-Andersen and the Director of Public Prosecution Tor-Aksel Busch advised the pupils. In a live broadcast, Busch and Reiss-Andersen met with Anne Grosvold in the TV studio to speak about the school programme.

Experience with the Norwegian Mapping Authority as the Central Property Registration Authority

In 2009, the Bar Association has continued its contact with the Norwegian Mapping Authority through regular user forums held by the Central Property Registration Authority. The other participants in the meetings have included Finance Norway FNO and the Norwegian Association of Estate Agents. During the meetings, the Central Property Registration Authority accounts for its work on operation and development. The user organizations are given the opportunity to provide suggestions based on practical experience.

Visit to Stockholm's District Court and the Svea Court of European Justice in Sweden, 19 September 2009

The National Courts Administration has completed preliminary work on the use of audio and video recordings of testimonies of parties and witnesses in court cases.

The Bar Association was invited, together with the Ministry of Justice, the Director of Public Prosecution Office and the Norwegian Criminal Cases Review Commission to participate in a study trip to Sweden where audio and video recording equipment have been installed in approximately 450 courtrooms. There are 3200 court employees who have received training. The estimated cost was approximately 275 million Swedish Crowns. The changes made in Sweden shall make the legal proceedings to be quicker, more effective and functional, leading to more extensive use of audio and video recordings in virtually all of the district courts. The goal of the study trip was to obtain information on the experience of the courts, the defence attorneys and the prosecuting authorities with the reform, especially concerning the use of audio and video recording in the courtroom.

The Use of Audio and Video Recordings in Norwegian Courts

The Bar Association has participated in hearing meetings and has submitted hearing comments in writing about the use of audio and video recordings. The National Courts Administration does not want to have a procedural system like the Swedish system. The Association supports that viewpoint. The Association is concerned that such a large investment would lead to a demand for increased efficiency which in turn, would have a negative effect on the due process of law.

Preferential Right for Cases to be Argued for the Supreme Court Exam

Disputes concerning preferential right to argue a specific case to complete the Supreme Court exam for attorneys can be brought before the Bar Association's Board of Directors for settlement. In 2009, the Bar Association settled one such dispute. The decision was taken solely by the President, which is permissible when both parties agree to this.

The Bar Association in the Media 2009

In 2009, the number of times the Bar Association was mentioned in the media was on the same level as the previous year. Media coverage primarily concerned topics and specific matters in which the Bar Association had taken the offensive. The following list includes some of the items that were covered in the media during 2009:

- The report “*Opp eller ut*” [Up or Out], which was commissioned by the Bar Association’s Women’s Committee, provided the basis for several items in the media about women in the legal profession.
- On 18 February, the Bar Association’s Action and Litigation Group made the front page of the newspaper *Klassekampen* with an article titled “*Vinn 70 prosent av asylsakene*” [Win 70% of Asylum Cases].
- The President of the Bar Association appeared in the media several times criticizing both the illegal wiretapping by the police and the delegation of police investigations.
- The debate concerning working hours for assistant attorneys has also appeared in the media, with several items published in the newspaper *Dagens Næringsliv*. These items led to a flurry of comments made by readers on the Internet.
- In 2009, the Human Rights Committee’s efforts to call attention to the plight of children in Norwegian prisons once again led to coverage in the media.
- A negative wording of a statement by the National Courts Administration Director Tor Langbach concerning the attitudes of defence attorneys led to a sharp reaction from the President of the Bar Association. In an article in the newspaper *Aftenposten* on 24 October, Berit Reiss-Andersen stated that she was shocked by Langbach’s statement.
- During autumn 2009, the newspaper *Aftenposten* published several items about the tax authorities in Eastern Norway [*Skatt Øst*] hunting for information in legal firms. The President of the Bar Association openly defended the attorneys’ duty of confidentiality. The media coverage of the attorneys’ duty of confidentiality continued in connection with the President’s annual speech. On the day the speech was delivered, Berit Reiss-Andersen met with the Minister of Justice Knut Storberget on television on the evening news broadcasted by NRK. The following day there was coverage of the annual speech in the newspapers *Aftenposten* and *Dagens Næringsliv*, in addition to several other local media.
- At the end of December, a decision by the Supreme Court led to renewed interest in the jury system. The Chair of the Bar Association’s Committee for Criminal Law and Criminal Procedure, Harald Stabell, was quoted in several media for his statement that the Supreme Court had acted as legislator in this case.

6. Ethics and Disciplinary Conditions

Statistics for 2009 – the Disciplinary Committee and the Disciplinary Board

In 2009, there were a total of 441 complaints filed. This is an increase of 59 cases in comparison with 2008, but a decrease of 41 cases in comparison with 2007. There were 23 fewer cases handled in 2009, in comparison with 2008. In 2009, 97 cases were refused, out of which 62 were refused by the Chair of the Committee alone, and 35 were refused by the collective committee. Thirty-eight per cent of the complaints were upheld in 2009, which is the same as in 2008.

Exclusions and Reports to the Supervisory Board

In 2009, one member was excluded from the Bar Association by the Board of Directors. The Board of Directors did not report any of the Bar Association’s members to the Supervisory Board. However, the Disciplinary Committee reported two members to the Supervisory Board.

Changes in Processing Rules for the Bar Association's Disciplinary Committee

In 2009, the Board of directors decided to change the processing rules for the Bar Association's Disciplinary Committee §10 concerning sanctions and the duty to report. The changes mean that the costs cannot be collected until a final decision has been delivered by the Disciplinary Committee or Supervisory Board. In addition, the costs for the Disciplinary Committee are dropped in the event the attorney is fully acquitted in the matter by the Supervisory Board. These changes became effective 1 January 2010.

Conflicts of Interest in Criminal Cases – Changes in Guidelines for Defence Attorneys

In spring 2007, on the initiative of the Bar Association, a working group on defence attorney ethics was set up in cooperation with the organization Defence Group of 1977 [*Forsvarergruppen av 1977*]. The background for the establishment of this working group was a long-standing debate on the problems connected with conflicts of interest in criminal cases. In autumn 2008, the working group released its report “*Interessekonflikt i straffesaker som forsvareretisk problemstilling*” [Conflicts of Interest in Criminal Cases and Defence Attorneys Ethics]. The report was sent out for comments to the regional divisions.

Based on the majority viewpoint in the report, the Supervisory Board for the Bar Association passed a resolution on 29 May 2009 to change the Guidelines for Defence Attorneys, section 1.7. The changes mean that defence attorneys in the same legal practice or office community are no longer permitted to represent several accused parties with conflicting interest in the same criminal case, regardless of the client's consent.

Revision of Online Commentary to the Attorneys' Code of Practice

In 2008, the Bar Association's Ethics Committee began work on revising and updating the online commentary on the Attorney Code of Practice. The work was completed in 2009. The commentary has been revised, updated with current practice and has been given a notational system similar to that used in commentaries on Norwegian law. The online commentary is continually updated. It is located on the Bar Association's website.

Changes in the Regulations for Advocates

For a long time, the Bar Association has sent enquiries to the Ministry of Justice requesting specific changes in the Regulations for Advocates, without success. In 2008, the Bar Association sent an enquiry to the Ministry of Justice, among other things, requesting a change in the Regulations for Advocates §5-3, such that an attorney cannot stop a suit filed with the Supervisory Board by filing a case against the client in the courts. In the majority of these situations, the Supervisory Board has also requested the Ministry of Justice to make the same changes. In 2009, the Ministry of Justice asked the Bar Association to provide suggestions in relation to possible changes in attorney legislation. The Bar Association will be continuing its work on this matter in 2010.

7. International Relations

The Goals for the Bar Association's International Involvement

The Goals for the Bar Association's International Involvement are three-fold:

- The Bar Association takes responsibility for its part of international *lex ferenda* concerning due process of law and human rights.

- The anchoring of Norwegian attorneys views on general conditions in an international context
- The creation of opportunities providing members with offers in the international arena.

Cooperation between the Nordic Bar Associations

The President, Vice-President and General Secretary participated in the meeting of the Nordic Presiding Committee for the leaders of the Nordic Bar Associations on 23 – 25 April 2009 in Helsinki. The topic of the meeting especially concerned the duty of confidentiality under assault by the investigation commission on Iceland. This contributed also to the attorneys' duty of confidentiality being the topic for the annual speech.

Participation in International Bar Associations in 2009

The Bar Association participated in the CCBE (*Conseil Consultatif des Barreaux Européens* – the Association for European Bar Associations). The CCBE has the zealous ambition of coordinating the interests and viewpoints of attorneys within the majority of important, practical areas of law. So, the CCBE has set up several specialty groups and working groups in various fields of law. Several Norwegian attorneys and employees of the Bar Association's Secretariat have participated in these groups. As in previous years, the Bar Association has participated in the Standing Committee and Plenary meetings of the CCBE during 2009.

The Norwegian Bar Association is a member of the IBA (the International Bar Association). This organization works for the independence of attorneys throughout the world, with a strong involvement in human rights questions. The President and the General Secretary of the Norwegian Bar Association participated in the IBA meeting in Madrid on 4–9 October 2009, a meeting which had a record-breaking number of 35 attorneys from Norway.

In 2009, the General Secretary participated in the General Secretary meetings on the Nordic and international level. The Nordic meeting took place in Oslo on 24 August 2009. The focus of the meeting was especially on the attorneys' duty of confidentiality in relation to the investigation into the causes of the financial crisis on Iceland.

Furthermore, the President participated in the Opening of the Legal Year in London on 30 September – 1 October 2009 as well as in the meeting of the American Bar Association in Chicago on 30 July – 4 August 2009.

Cooperation with the Lithuanian Bar Association

In 2009, the Bar Association completed a cooperative exchange programme with the Lithuanian Bar Association. The Lithuanian Bar Association had been granted EEA (*EØS*) funds to conduct meetings between the Bar Associations of Norway and Lithuania in order to gather suggestions for the development of their national organization and to strengthen international cooperation.

Three members of the Lithuanian Bar Association came to Oslo, where a presentation was given of the Bar Association's and the Secretariat's structure and function. There was also held a meeting with the Supervisory Board for legal practice, as well as a visit to the courts. Later, there was a reciprocal visit by the General Secretary and two employees of the Norwegian Secretariat to the headquarters of the Lithuanian Bar Association in Vilnius. Both parties considered these visits to be interesting and fruitful.

International Human Rights Work

The Human Rights Commission represents the Norwegian Bar Association in their human rights dialogue with China. The dialogues are arranged by the Ministers of Foreign Affairs in

Norway and China, with each country, every other year, hosting the annual dialogue meetings. In December 2009, two of the members of the Human Rights Commission participated in the dialogue meeting in Oslo. Otherwise, on the Norwegian side, there have been meetings with various authorities and other NGOs.

Together with the Human Rights Commission, the Bar Association has cooperated over time with the Beijing Municipal Lawyers Association. This cooperation continued throughout 2009. However, the planned activities for the year have been postponed until 2010, due to the election of new Chinese representatives.

The Norwegian Human Rights Fund

Since 2008, the Bar Association has been an observer at the Board of the Norwegian Human Rights Fund. In 2009, after recommendation by the Commission for Human Rights, the Norwegian Bar Association's Board of Directors decided to step in as one of the owners in the fund. The decision was taken to grant the fund an annual sum of 75 000 NOK, which is the minimum amount set by the by-laws of the fund. The Norwegian Human Rights Fund has the aim of promoting and protecting human rights internationally. The fund provides financial support for a broad spectrum of undertakings. It is a cooperative project between important organizations from various sectors of society: universities, the church, idealistic organizations and labour unions, etc.

International Legal Aid Committee

The Bar Association's International Legal Aid Committee operates two legal aid projects in Nepal and Uganda, in cooperation with the Nepalese Bar Association and the Ugandan Bar Association, respectively. The legal aid project in Nepal will be phased out during the coming 3 – 5 year period.

There are annual inspections of the projects. In addition, there was a preliminary project trip to Guatemala, in connection with a suggestion for a new legal aid project in that country.

8. The Operation of the Bar Association

The Board of Directors in 2009

The election was held at the meeting of the Supervisory Board on 29 May 2008. The members of the Board of Directors for 2009 are as follows:

Berit Reiss-Andersen - President (until 2010)

Per Sekse – Vice President (until 2012)

Per Magne Ristvedt – on the Working Committee (until 2012)

Kari Messelt Ekker (until 2010)

Rikke Lassen (until 2010)

Gunhild Lærum (until 2010)

Anne Cathrine Vogt (until 2010)

John Christian Elden (until 2010)

Nina Monssen (until 2012)

Cecilie Lysjø Jacobsen (until 2012)

Kim Dobrowen (until 2012)

There were seven meetings of the Board of Directors in 2009.

In November 2009, the Board of Directors decided to invite the leader of the Oslo group *Yngre Advokater* [Young Attorneys] to participate in Board meetings as observers. So, Cecilie

Wille Søvik was invited and participated in the Board of Director's meeting in December 2009.

Annual Regional Meeting and Regional Board Meeting

The annual regional meeting was held 29 May 2009 in Oslo. The meeting dealt with the Annual Report and accounts for the Bar Association for 2008. In addition, suggestions for changes in the Guidelines for Defence Attorneys concerning conflict of interest were discussed, and a resolution was passed. The President of the Board of Directors gave an informative briefing to the members of the Supervisory Board on the Bar Association's work on the matter concerning the working hours of assistant attorneys.

Immediately following the annual regional meeting, there was held an extraordinary regional meeting in order to process the Board of Director's decision made on 8 May 2009 concerning the termination of collective membership agreement with the Norwegian Association of Lawyers. The decision was approved by the Supervisory Board.

The ordinary regional leaders' meeting was held on 20 November 2009. The topics for the meeting included the position of the Bar Association on the jury issue, past developments and future areas of concentration for the Association in relation to the withdrawal from the Norwegian Association of Lawyers, as well as the work being done to increase the fee rates for free legal aid.

Specialist Days 2009

In May 2009, the Bar Association held its first Specialist Days as a follow-up event to the successful professional and social events that were held for the Association's centennial celebrations in 2008. Just as in 2008, the event was very successful, with many people attending. The courses covered six main subjects. There were a total of 870 participants, with 520 people attending the banquet, in addition to specially invited guests.

Law Committees

There are 29 people serving on the Law Committees, which is the same as in the previous year. The Law Committees assist in the Bar Association's *lex ferenda* work by issuing comments to hearings and by being present at parliamentary hearings. During the year 2009, the Law Committees issued 70 comments to hearings, as well as participated in the parliamentary hearing concerning the publication of tax lists.

Disciplinary Committees

The general meeting for the members of the Disciplinary Committees was held on 29 May 2009. Representatives from the Disciplinary Council were also present at the meeting.

Topics for the meeting included case statistics for the Disciplinary Committees and Disciplinary Council, changes in the processing rules concerning legal costs, questions concerning the centralization of processing of cases for non-local complaints and specific concrete problems tied to the processing of complaints.

Other Committees

In 2009, the permanent committees for the Bar Association were as follows:

- Due Process Committee
- Ethics Committee
- Committee for Approval of Continuing Education

- Mediation Committee
- International Legal Assistance Committee
- Human Rights Committee
- The Editorial Board for the magazine *Advokatbladet*
- The Committee for the Promotion of Women in the Legal Profession
- The Committee for Legal Practice
- Defence Attorney Committee
- The Estate Agent Group has its own specialist group.

Annual accounts were delivered by each of the committees to be included in this annual report.

The Legal Education Centre [*Juristenes Utdanningscenter* (JUS)]

In 2009, there were 8976 registrations for courses at the Legal Education Centre, with 5203 from members of the Bar Association.

During the year, 66% of the female members of the Bar Association have attended courses at the centre. The percentage of male attendance was 48%.

Each year the Legal Education Centre directs funds back to the Association. In 2009, the Bar Association's regional districts received 503 000 NOK for courses to be held in which approximately 900 members of the Association participated.

9. Operation

Finances and Accounts

After two years of deficits, the 2009 income statement shows an income of 7.096 million NOK after net investment income is taken into account. It is recognized that a prior period adjustment of 4.859 million NOK is needed to account for fees for non-compliance with the mandatory continuing education hours for the period 2004–2008. Without this adjustment, the income statement would show an income of 2.237 million NOK, which is 0.756 million NOK higher than budgeted.

As of 31 December 2009, membership support was stable and somewhat higher than during the same period in 2008, despite the membership withdrawals that resulted from the end of the mandatory continuing education period and the termination of the Bar Association's collective membership with the Norwegian Association of Lawyers.

Since 1 January 2009, the Bar Association has offered type-approved insurance for trustees and liquidators. During the past year, there were registered 6475 bankruptcies and forced liquidations, the highest number ever, which has resulted in a higher income from fees than budgeted.

As a result of the Disciplinary Council's need for legal support in cases where attorneys take decisions from the Disciplinary Council to the Courts, there has been a significant increase in both income and costs for the Disciplinary Council in comparison with 2008.

In 2009, there were 26.2 man-years in the Secretariat, which was somewhat higher than in 2008. The total personnel costs, including honoraria to the Disciplinary Committee and the Disciplinary Council, the Oslo Regional District, the Editor for the Bar Association, the Board of Directors, etc., comprise half of the total costs for the Secretariat.

While waiting for an evaluation of cooperative efforts with external contributors on the electronic publication of the periodicals *Norsk Retstidende* [the Norwegian Court Gazette] and

Retten Gang [The Court Times], the decision was made to continue publishing the Bar Association's periodical *Retten Gang* in the coming year. This has resulted in somewhat higher publication costs and income from these periodicals than budgeted.

In 2009, the Bar Association's Specialist Days were held for the first time. There were many people attending both the courses and the social events. The costs were budgeted as a net amount, but the accounts show both income (diverse income) and costs (travel and meeting costs) as gross amounts.

The Bar Association chose, in autumn 2008, to change the investment asset allocation so that funds would be transferred to government bonds and fixed interest deposits. As the financial crisis does not seem to be as serious as first thought, the allocation in April 2009 was again amended and funds placed in bonds. The investment return in 2009 was satisfactory and the Association achieved a net financial income close to that budgeted.

According to the Board of Directors, the Norwegian Bar Association has a solid and sound financial status, indication that the requirements for continued operation are present. According to the Board's understanding, the annual results and balance with attached notes present a just picture of the Association's development and operation.

The Association's Fund [*Foreningens Fond*] (Undistributable Equity)

The Association's Fund includes the Compensation Fund and the Fund for the Support of International Human Rights and Legal Aid Work [*IMR-fondet*].

The task of the Compensation Fund is to cover any financial consequences that might affect the members as a result of decisions taken by the Association, by providing financial compensation to members directly affected by such decisions. The Compensation Fund can only be used in connection with decisions taken by the Supervisory Board. The Fund was not utilized during 2009.

The goal of the Fund for the Support of International Human Rights and Legal Aid Work is to provide support to International work that promotes human rights and due process of law. Support can be granted to both individuals and organizations. The Fund was established in 1997. The Board for the Fund consists of the President of the Bar Association, the Chair of the International Legal Aid Committee and the Chair of the Human Rights Committee. There were no grants made from the Fund during 2009.

The Environment and Equal Rights

The activities of the Bar Association are not presumed to pollute the external environment. As of 31 December 2009, there were 30 people working in the Secretariat (26.2 man-years) of which 1 person was in a long-term replacement position and two people were on long-term sick leave. The percentage of female workers was 73%. The Association strives for a more balanced proportion between the sexes when hiring new personnel.

There are seven women (64%) and 4 men (36%) on the Board of Directors for the Norwegian Bar Association.

The Lawyers' House [*Juristenes Hus AS*]

The Bar Association owns 50% of the shares in the estate partnership *Juristenes Hus AS*, which also rents office premises to the Association. The remaining shares are owned by the Norwegian Association of Lawyers.

After several years of extensive modernizing of the premises, the operation for the year 2009 was concentrated on ordinary operations and maintenance. The working conditions for the employees are good.

The Secretariat

The Secretariat conducts its business in the Lawyers' House, on Kristian Augusts Gate 9, in Oslo. At the end of the year, there were 30 people working in the Secretariat, which is one more than at the same time in 2008. In total, there are nine attorneys in the Secretariat, two of which are licensed to practice law.

Absence due to illness in 2009 was at 9.3%, of which 6.7% was long-term (>8 weeks). Short-term sick leave was at 2.6%, a little lower than in 2008. In relation to the proportion of men and women on short-term sick leave, the percentage for men was 1.7%, while the percentage of women was 3.0%. Long-term sick leave for men was 5.7% and for women 7.1%.

The percentage of self-reported sick leave in the Secretariat 1.2% and the percentage of sick leave on doctors' orders was 8.1%, somewhat higher than in comparable business and fields. During 2010, we will be focusing on measures to reduce this high level of absence due to illness. There were no reports of injuries to personnel in 2009. The Bar Association is affiliated with a corporate health service.

During 2009, an investigation was conducted of the working environment (cultural investigation).

The Board of Directors would like to thank the Secretariat's employees for their efforts during 2009.

Oslo, 12 March 2010

Berit Reiss-Andersen

Per Sekse

Per Magne Ristvedt

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Merete Smith
General Secretary