

THE RESOLUTION OF EMPLOYMENT DISPUTES IN NORWAY

- 1 In Norway there is a formal Labour Court. The Court is a special court in the strict sense and holds a unique position in the Norwegian judicial system.
- 2 The Labour Court is the forum for resolving disputes of collective agreements. The Labour Court is made up of a President and six members, three legally qualified judges and four lay judges chosen among persons nominated by the major organisations of the labour market parties. The President and one of the professional judges must have all the qualifications prescribed for a Supreme Court Judge. In practice, however, both the legally qualified judges alongside the President have been appointed among persons who meet those requirements. The Court is organised as a one-division court. Each case is heard by the full Court and decided by majority vote of the seven sitting judges.
- 3 The Labour Court deals only with collective rights. In collective agreements' disputes, only the superior party to the agreement, normally a central organisation, may act as plaintiff. Likewise, at the outset only the superior party on the other side may act as defendant. Individual workers and employers are liable in damages for breach of a collective agreement or of the peace obligation.
- 4 The Labour Court's jurisdiction is, essentially, confined to collective disputes of rights. The Labour Court has jurisdiction in disputes concerning the interpretation, application and validity of collective agreements, in cases of breach of agreements and of the – contractual or statutory – “peace obligation” and in cases of claims for damages resulting from such breaches. Accordingly, the Labour Court does not have jurisdiction in individual rights disputes, with two exceptions: Individual workers and employers are liable in damages for breach of collective agreement or of the peace obligation. Claims for indemnification in such cases lie within the Labour Court's jurisdiction. In addition, in a case concerning a collective agreement, the Labour Court may give a decision on individual claims being contingent on the decision given on the collective agreement issue at hand. Solely provided that this can be done without it being necessary to resolve further questions on evidence or legal problems in order to dispose of the individual claims.
- 5 As a general rule, an oral hearing must be conducted in all cases. Most hearings are completed in a day or two, but in some cases the hearing can take a week or even more.

- 6 There is no formal provision for pre-hearing directions by the President, but the President and the Vice President may summon the parties to one or more oral preparatory meetings, in which he may also act in an informal conciliation function with a view to seeking an amicable settlement.
- 7 The preparation of the case, including the applications and the defence must be in writing. The Labour Court is under the obligation to see that full information is at hand in all cases. The Labour Court may require the parties to present further information or evidence on points of fact. This may also be done by the President during the preparation for a hearing. There is no court fee. The costs of the winning party are generally not awarded in ordinary disputes concerning interpretation of collective agreements. However, in disputes on the lawfulness of an industrial action, the common practice is that the costs are awarded against a “guilty” party. In cases regarding breach of collective agreements, the Court sometimes awards case costs.
- 8 Lawyers may appear before the Labour Court. Representation by counsel is not compulsory, but the use of lawyers by the parties on both sides has been the prevailing practice ever since the early 1920s.
- 9 Labour Court judgements are final and immediately enforceable in the same way as are Supreme Court judgements. Hence, there is no appeal on Labour Court decisions – with the exception of “forum disputes”: A decision by the Labour Court to dismiss a case on grounds that it does not belong under the Court’s jurisdiction may be appealed to the Supreme Court. Appeal is also possible on the grounds that the Labour Court has decided a case that does not fall under its jurisdiction. The Supreme Court in such cases is vested only with deciding the forum issue; it may quash a decision but in no case is it empowered to review or decide on the substance matter of a dispute that falls under the jurisdiction of the Labour Court.
- 10 The Labour Courts decision is given in writing, within two or three weeks after the hearing.