

The Icelandic Bar Association

1 Historical Background

The first historical sources of advocacy in Iceland date back to 1202 Njalssaga tells the story of Eyjólfur Bölverksson, a well known legal mind, who was “retained” to defend an indicted arsonist. It was, however, not until the late 19th century that the profession of advocates was formally established in Iceland.

From 1262 and well into the 20th century, Iceland fell under the realm of the Norwegian and Danish Crowns.¹ Any enactment of laws or royal decrees for Norway and Denmark therefore applied to Iceland as a region the sovereignty. By Christian IV’s Royal Decree of September 9th 1638, the existence of procurators as a profession, was recognised. The profession never managed to establish itself in Iceland. However, the existence of this legal aid scheme exposed the need for skilled legal assistance and later laid the ground for establishment and development of the legal profession.

By the Danish law on legal procedure set by King Christian the V. in 1683 and later by Norwegian law in 1687, further rules on the legal profession were put in place. The Norwegian legislation was implemented in Iceland during the period from 1718 to 1732. As early as 1736 a law degree became a requirement for practicing procurators.

By a Royal Decree dated March 19th 1858, lawyers were granted monopoly in litigation and a number of lawyers hired to the High Court.

Iceland gained home ruling autonomy in 1904. By Act no. 32/1905 the Icelandic Minister was given the authority to grant those who had a law degree, licence to argue cases before the High Court. Such a license was attained by 39 lawyers, many of which became the founding fathers of the Icelandic Litigations Association December 11th 1911. That association was the predecessor of the Icelandic Bar Association which considers this date its date of establishment.

¹ Iceland lost its independence around 1262 and did not regain its its freedom from continental colonialism until 1944.

2 Access to the Profession

The rules governing advocates are laid down in Law on Advocates no. 77/1998. The title “Lögmaður” (advocate) is protected by law. Advocates are also given exclusive right to represent clients in courts.

A clear distinction is made between advocates with the right to appear before the district courts and those who have the right to appear before the Supreme Court.

District Courts

To obtain a licence to appear before the district courts, the applicant has to meet the following requirements: 1) Be legally competent and maintain necessary mental capacity to carry out the work of an advocate. 2) Never have been declared bankrupt. . 3) Have an unblemished record such as is required for those seeking election to the Althing (legislature). 4) Have obtained a Cand. Jur. from the University of Iceland faculty of law or a University with an education deemed equivalent thereto. 5) Completion of the Bar Exam, consisting of six written and oral exams, succeeding 85-105 hours of courses, taught in two sections. Further the applicant has to assist a practising advocate in preparing one case before a district court.

Once the fifth requirement is met, the applicant files an application with the Ministry of Justice, also providing information verifying that the other four requirements are fulfilled. If the information provided is satisfactory, the Ministry of Justice issues the licence.

Supreme Court

To obtain a licence to appear before the Supreme Court, the applicant must meet the following requirements: 1) Have held a licence to practice before the district courts for five years. 2) Have argued not less than thirty cases orally before the districts courts or before special courts. 3) Have proven his suitability for Supreme Court litigation in the evaluation by the Supreme Court itself, consisting of arguing two cases before the Court.

In-house lawyers are also entitled to become members of the Bar despite the fact that they are in the employment of another party. The professional activities must however be within the scope of the employer’s interests and the in-house lawyer may not play a role as an advocate for third parties.

The Minister of Justice issues the licence to practice, both before the district courts and the Supreme Court. When the Ministry of Justice has approved that the relevant requirements are met, a licence is issued and information on the new advocate sent to the Icelandic Bar Association. As all lawyers holding the title advocate are members of the Icelandic Bar Association, they are automatically registered within the Bar Association.

Further, advocates from other EEA-countries can become members of the Bar based on the establishment directive. So far no foreign advocate has applied for membership to the Icelandic Bar Association.

It is compulsory for practising advocates in Iceland to keep an office that is open to the public, to maintain a valid professional indemnity insurance against malpractice and separate clients funds from own funds and keep on a special account. There is a compulsory annual audit of these accounts with an obligation to return a report to the Bar Association, signed by an authorized public accountant, confirming compliance with the rules.

The purpose of the professional indemnity insurance is to cover loss or damage a client may suffer due to his advocates negligence or act or omission of anyone for whom the advocate is responsible. The insurance does not cover loss attributed to gross negligence or wilful misconduct. The minimum coverage amounted to ISK 15.850.000 as per 15.03. 1999. In-house lawyers, who are members of the Bar, are exempted from the above duties.

3 The Icelandic Bar Association

As defined in the Advocate Act, no. 77/19998, all those licensed to practice law are advocates. The Act prescribes that advocates must form an association, “Lögmannafélag Íslands” to which they all must belong. Membership is, in other words, mandatory.

The main objectives of the of the Icelandic Bar Association, as stipulated in article 2 of the association’s by-laws are: 1) to minister statutory observation and disciplinary authority, 2) to protect the interest of the legal profession, 3) to promote unity and good collaboration amongst its membership 4) to safeguard the independence of the legal profession, and 5) to promote the evolution of the law and justice in general.

The Bar’s Board of Directors is comprised of 5 members, of which two are required to hold a licence to practice before the Supreme Court. The board is elected at the annual General Assembly. The President is elected to a one-year term and can be re-elected twice. The other four board members are elected to two year terms, two each year.

The secretariat consists of 3 persons, with the Secretary General as the Chief Executive Officer of the Bar.

The Bar is called upon by the legislature to provide comments and advise regarding on bills introduced to the legislature. That role is served by a special sub-committee of the Bar, the legislative committee. On average 40 to 60 opinions are issued each year by the committee and members are from time to time called in for different legislative hearing procedures. The Bar association also appoints members to various governmental committees on different topics.

The Icelandic Bar Association organizes free legal consultation one day a week ten months a year. This service is provided by number of members and is strictly pro bono. Further, the Bar acts to promote justice and protect the lawful rights of individuals for access to justice.

Organizing continuing legal education for members is an increasing task for the Icelandic Bar Association, mainly carried out by the association’s service department. Between 20 and 30 courses open to members of the bar as well as other lawyers, are arranged by the association annually.

The Icelandic Bar Association enjoys a very good relationship and co-operation with the other Nordic bar associations. It is also a member of the Council of the Bar and Law Societies of the European Union (CCBE) and International Bar Association (IBA).

4 Ethical Rules

By law, the association is given a supervisory role regarding attorney's compliance with law and applicable ethical rules. The association has adopted a professional Code of Conduct (Codex Ethicus) with guidelines on ethical conduct as against clients and their counterparts, the courts and colleagues. The content of these rules is in line with the principles set out in the CCBE code of conduct, including a duty to promote justice and prevent injustice, safeguard professional independence and to maintain trust and confidentiality.

5 The Disciplinary Committee

Separated from the Bar is a Disciplinary Committee, which handles complaints, lodged against attorneys. By law, the Disciplinary Committee is comprised of five members, of whom the Icelandic Bar Association appoints two members; one is appointed by the Icelandic Judges Association, one by the Minister of Justice and one by the Supreme Court. The member appointed by the Supreme Court must be a practising advocate, securing a majority of member of the bar on the committee.

The Disciplinary Committee handles complaints against advocates for alleged violation of law or breaches of the rules of the professional conduct, as well as deciding on disputes over legal fee charged by advocates.

Various disciplinary sanctions can be imposed by the Disciplinary Committee, ranging from a warning or admonition to a recommendation of disbarment. Recommendation of disbarment would only be resorted to in the gravest cases, such as repeated offences or deliberate wrongdoing.

The Disciplinary Committee receives approximately 40 complaints every year. The Icelandic Bar Association is responsible for all costs of running the Disciplinary Committee.

6 Membership Statistics

Iceland has, without a doubt, the highest number of advocates per capita of the Nordic countries, approximately one advocate for every 432 residents. The Icelandic Bar Association is also the fastest growing Bar Association in this region, with the current number of advocates 667², up from 398 in 1994. This fast growing membership is to a large extent a result of the new Advocate Act

² Statistic figures as of February 25th 2004.

from 1998, by which rules for admission to the bar were somewhat relaxed. The increase is largely in the number of in-house lawyers employed by private companies, the government and municipal authorities.

Of the 667 members of the Icelandic Bar Association, 347 are private practising advocates, 85 are associates and 198 work as in-house lawyers. The in-house break up into, 76 employed by the government or municipal authorities and 122 by private companies or organisations. Passive members are 37.

As of February 25th 2004, 147 members, or approximately 22%, were women. Of that number 48 were in private practise, 37 associates at law firms and 62 as in-house lawyers. The in-house broke up to 27 for the government or municipal authorities and 35 for private companies or organisations.

Even if the numbers of female members of the bar are low, they have been on the uprise over the recent years. That reflects the reality that female law students outnumber male students and have for some time. This trend can also be detected in the approximately even split by gender of lawyers attending the Bar Exam every year. Studying the age distribution of members within the association, it is interesting to see that just about 50% of the female members are between 20-39 years old, compared with only 31% of the male members.

March 4th 2004 roughly 70 female advocates established a new organisation – Association of Female Advocates – to promote the interests of female advocates.

Despite a number of mergers of law firms the last few years, the size of an average firm is still relatively small in Iceland. Only two law firms have employ more than 10 advocates. The “one-man business” is still the most common, still applying to the majority of practising advocates.

According to the Law on Advocates no. 77/1998, ownership of law-firms is restricted to advocates.

7 Publications

The Bar publishes a quarterly journal, "Lögmannablaðið". It is distributed the members, as well as to ministries, courts, parliament, the media and to several subscribers. The magazine is also accessible on the association's website.

Supreme Courts judgements sent to subscribers on a monthly basis and news regarding the profession are sent to members by e-mail and placed on the association's website

Various information for the public and the Bar members are accessible through the association's website. Further, advocates as well as potential clients can search for advocates by field of expertise or by geographical area. This information is available in English and Danish as well as Icelandic. Soon the information will be available in an additional seven languages. This serves the twofold purpose of meeting the need of prospective clients abroad and serving the increasing number of immigrants from different countries.

8 The Future

The old saying that “Prediction is very difficult, especially about the future”, applies in Iceland just as elsewhere. It is, however, clear that changes are imminent as the Advocate Act is under revision when this is written. The proposed amendments may affect the profession in different ways.

Further the board has constituted a committee of nine members to look into the innermost ordinance of the profession, including the legal environment, by-laws as well as the ethical principles.

Further Information

Lögmannafélag Íslands
Álftamýri 9
108 Reykjavík
Iceland

Telephone: +354 568-5620
Telfax: +354 568-7057

Website: “www.lmfi.is”
E-mail: lmf@lmfi.is