



Legal cost claims from parties represented by in-house counsel



Tage Brigt A. Skoghøy
Partner, Location Head, Litigation,
Arbitration and Investigations

This week the Norwegian Supreme Court (HR-2023-767: [hr-2023-767-u.pdf\(domstol.no\)](#)) set aside a legal cost award by Gulating Court of Appeal granting legal costs to a party having been represented by its in-house counsel.

The Supreme Court agreed to successful parties being entitled to compensation for legal costs even if represented by their in-house counsel. This is now “common practice”, cf. the Norwegian Dispute Act Section 20-5, the Supreme Court stated. So far, so good!

However, the award should compensate legal costs incurred in the matter, only. Accordingly, costs that would have been incurred had the party chosen to engage an external counsel instead, are irrelevant in the assessment. The same applies to costs incurred in other matters due to the in-house counsel being occupied in the matter at hand.

The natural starting point, the Supreme Court states, would be the successful party’s actual (yearly) costs for its relevant in-house counsel (wage, tax, pension fund payments etc.). The next step would be to break down costs per day/hour and allocate the relevant costs incurred in the matter.

These costs would then be subject to the necessity test in the Dispute Act Section 20-5.

Please contact DLA Piper's Dispute-team for more information.

Services

Tvisteløsning og prosedyre
