Nordic programme for co-operation on legislative affairs 2015–2018

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p.15 Ane Cecilie Blichfeldt

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Nordic Council of Ministers

Ved Stranden 18

DK-1061 Copenhagen K

Phone (+45) 3396 0200

www.norden.org

Nordic co-operation

Nordic co-operation is one of the world's most extensive forms of regional collaboration, involving Denmark, Finland, Iceland, Norway, Sweden, and the Faroe Islands, Greenland, and Åland.

Nordic co-operation has firm traditions in politics, the economy, and culture. It plays an important role in European and international collaboration, and aims at creating a strong Nordic community in a strong Europe.

Nordic co-operation seeks to safeguard Nordic and regional interests and principles in the global community. Common Nordic values help the region solidify its position as one of the world's most innovative and competitive.

Nordic programme for co-operation on legislative affairs 2015–2018

1. Introduction	5
2. Legal basis	6
3. Overarching principles	9
4. Organisational and financial framework	10
5. Co-operation on legislative affairs in practice	13

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1. Introduction

Nordic co-operation, which involves Denmark, Finland, Iceland, Norway, Sweden, the Faroe Islands, Greenland and Åland, was formalised with the establishment of the Nordic Council in 1952.

The Helsinki Treaty, signed a decade later in 1962, is the formal legal document that regulates Nordic co-operation. In 1971, the Nordic Council of Ministers was established in order to facilitate co-operation between the governments of Sweden, Denmark, Norway, Iceland, the Faroe Islands, Greenland and Åland. The Helsinki Treaty was most recently amended in 1995.

Co-operation on legislative affairs is a tool used in the work to promote the common principles shared by the Nordic legal systems, which are based on shared Nordic values. The co-operation is also a tool used in the work on European law and for facilitating the implementation of EU/EEA acts and other international obligations.

In February 2014, the Ministers for Nordic Co-operation (MR-SAM) adopted the following overall principles as visions and goals for future Nordic co-operation: 1) freedom of movement; 2) innovation; 3) visibility; and 4) international engagement. Co-operation on legislative affairs is designed to help make this vision a reality.

Co-operation between the Nordic justice ministries is based on the principles laid down in the Helsinki Treaty, the overarching principles that underpin Nordic co-operation and this programme. The co-operation is supplemented by the programmes for the annual Presidency of the Nordic Council of Ministers and by specific initiatives.

2. Legal basis

Regarding co-operation on legislative affairs and co-operation in general, the Helsinki Treaty contains the following articles:

Article 2

In the drafting of laws and regulations in any of the Nordic countries, citizens of all the other Nordic countries shall be treated equally with the citizens of the aforementioned country. This shall apply within all those areas falling within the jurisdiction of the Treaty of Co-operation.

Exceptions to the first paragraph may, however, be made if a requirement of citizenship is constitutionally stipulated, or is necessary because of other international obligations, or is otherwise deemed necessary for particular reasons.

Article 3

The High Contracting Parties shall endeavour to facilitate the acquisition by citizens of one Nordic country of citizenship in another Nordic country.

Article 4

The High Contracting Parties shall continue their co-operation in the field of law with the aim of attaining the greatest possible uniformity in the field of private law.

Article 5

The High Contracting Parties should seek to establish uniform rules relating to criminal offences and the penalties for such offences.

With regard to criminal offences committed in one of the Nordic countries, it shall, as far as circumstances allow, be possible to investigate and prosecute the offence in another Nordic country.

Article 6

The High Contracting Parties shall seek to achieve a co-ordination of legislation in such areas, other than the aforementioned, as are considered appropriate.

Article 7

Each High Contracting Party should endeavour to ensure the implementation of regulations to allow decisions by a court of law or other public authority in another Nordic country to be executed also in the territory of the said Party.

...

Article 33

Participation by the High Contracting Parties in European and other international forms of co-operation provides excellent opportunities for collaboration for the benefit of Nordic citizens and companies. The Governments bear a particular responsibility in this regard to safeguard common interests and values.

3. Overarching principles

The rule of law

Nordic co-operation on legislative affairs helps to strengthen democratic decision-making processes in the Nordic countries and to promote the legal rights of citizens and companies.

One of the key objectives of co-operation on legislative affairs is that legislation and other regulations have a content and structure that is accessible to citizens and that citizens and companies have cross-border freedom of movement.

Nordic synergy

The co-operation on legislative affairs prioritises and focuses upon areas in which Nordic synergies can be achieved. This involves placing emphasis on the fact that:

- joint or similar Nordic activities and solutions can achieve better results than if the same activities were managed at national level
- Nordic competence and competitiveness are enhanced
- contacts and connections between the Nordic countries are improved.

Uniform legal system

The Helsinki Treaty strives for the mutual co-ordination of legislation. However, this does not necessarily mean that all of the Nordic countries must have identical laws. The uniform Nordic system also involves achieving a joint legal structure and joint principles for legislation.

A uniform approach is particularly desirable when implementing EU/EEA regulations and other international obligations.

The need for, scope and nature of co-operation on legislative affairs varies in different areas of the law. In accordance with the Helsinki Treaty, the greatest possible degree of convergence is striven for in civil law. If, in specific cases, this is not possible due to differences in moral values or institutional frameworks, the Nordic countries exchange information and experiences about the situation with each other.

Draft bills must, where relevant, include an account of similar legislation in the other Nordic countries.

4. Organisational and financial framework

The organisation

The Nordic Council of Ministers for Legislative Affairs (MR-LOV) has overall responsibility for the co-operation. At their annual meeting, the ministers discuss topical political matters of Nordic interest or that address a Nordic need and decide whether to initiate co-operation in new areas of the law or otherwise pursue Nordic solutions.

The Committee of Senior Officials for Legislative Affairs (EK-LOV) consists of senior officials responsible for legislative and justice issues from the Nordic ministries of justice. The Committee prepares and follows up on the annual meeting of the justice ministers. The Committee also initiates new projects.

The Council of Ministers or the Committee of Senior Officials may decide to establish permanent or ad hoc working groups. The Committee drafts mandates and draws up budgets for working groups.

As required, the Committee and the working groups collaborate with the Nordic Council of Ministers' other committees of senior officials and working groups.

Presidency of the Nordic Council of Ministers

By the Committee of Senior Officials' third meeting of the year, the next country to hold the annual Presidency of the Nordic Council of Ministers presents its plans for the coming year, and the Committee discusses them.

The incoming Presidency also presents planned projects, seminars, reports, etc. and the financial parameters for these.

Budget

At the first or second meeting of the year, the subsequent calendar year's budget is discussed and determined. Targets and prioritised activities are set.

The Committee of Senior Officials' budget discussions must be completed in sufficient time for them to be taken into account in the preparation of the overall budget for the Nordic Council of Ministers.

Project funding

The Nordic Council of Ministers for Legislative Affairs or the Committee of Senior Officials for Legislative Affairs can, within the framework of the

annual budget, fund conferences, seminars, research, studies etc., of particular relevance to legislative affairs.

The Committee has adopted special guidelines for allocating funds from the Nordic Council of Ministers' project budget. These guidelines supplement the general guidelines adopted by the Ministers for Nordic Co-operation.

According to these guidelines, approximately 75% of funds should be earmarked for the implementation of:

- the Nordic programme for co-operation on legislative affairs
- initiatives taken by the annual Presidency of the Nordic Council of Ministers
- the Council of Ministers for Legislative Affairs' initiatives and priorities
- the Committee of Senior Officials for Legislative Affairs' initiatives and priorities
- initiatives proposed by the Nordic Council.

According to the guidelines, a further approximately DKK 100,000 is earmarked for activities within the framework of co-operation with Estonia, Latvia, Lithuania and North-West Russia.

Funds may also be granted for external projects that, following an evaluation of the application, are deemed to meet the criteria for “Nordic synergy”.

The Nordic Council of Ministers’ standard terms and conditions for project contracts apply to the allocation of project funds by the justice ministers.

When allocating project funding, the priorities are, therefore, activities under the co-operation programme and under the programmes and priorities for the current and previous annual presidencies of the Nordic Council of Ministers.

Gender mainstreaming

As per the Ministers for Nordic Co-operation’s guidelines, the way in which co-operation on legislative affairs is organised strives to ensure that working groups have at least 40% representation from both genders, and that gender equality is taken into account when assessing applications for project funding.

5. Co-operation on legislative affairs in practice

General

The justice ministers lay down the guidelines for co-operation on legislative affairs.

The ongoing co-operation takes place as an informal collaboration at senior-official level between departments of the justice ministries and in special working groups. If a subject falls under the jurisdiction of several different ministries, all of the appropriate ones are involved in the co-operation.

The Committee of Senior Officials for Legislative Affairs reviews the Nordic justice ministries' legislative programmes and evaluates whether they contain initiatives of particular importance to Nordic co-operation. The Committee of Senior Officials is responsible for ensuring that co-operation on legislative affairs complies with the ministers' decisions.

When a country is considering the introduction of new legislation that will affect Nordic co-operation on legislative affairs, the other countries are informed of this with a view to more in-depth discussion and co-ordination by the Committee of Senior Officials or by direct contact between senior officials. Contact should be established at an early stage of the process, so that the outcome of Nordic discussions can be incorporated into the actual bill.

The Committee of Senior Officials is responsible for ensuring that the countries exchange white papers and bills on a regular basis and, when necessary, takes the initiative on co-operation between the relevant regulatory authorities.

Nordic co-operation on legislative affairs in relation to the EU and EEA

Nordic co-operation on legislative affairs evaluates the consequences of EU/EEA legislation as early as possible in the EU decision-making process. The Committee of Senior Officials reviews the most important proposals as required and determines whether there are grounds for Nordic discussions during the drafting stage of the EU legislation or during its implementation into national legislation.

The Nordic countries should also be aware that they have the option of taking joint initiatives in certain areas based on Nordic experience and evaluations when new or amended EU/EEA legislation is being drafted.

When implementing EU/EEA legislation, the Nordic countries must take advantage of the opportunities to exchange experiences and not duplicate work, e.g. by conducting joint studies. Informal co-operation between officials and authorities should be maintained and developed.

It is not necessary for all of the Nordic countries to choose the same legislative solutions. However, it is important that agreement is reached on the understanding and interpretation of the relevant EU legislation.

Co-operation on legislative affairs with the Baltic states

The Nordic justice ministers meet with their colleagues from Estonia, Latvia and Lithuania at least every two years. The Nordic Baltic Contact Group meets as and when necessary, and has its own work programme. The chair rotates between the countries. The Nordic Council of Ministers' Secretariat provides the secretariat function.

The work is based on the perception that close regional co-operation is important in the EU and in relation to other countries.

Outside the framework of the Nordic Council of Ministers, Nordic-Baltic meetings are held at an official level in Brussels, in order to discuss the necessity and/or possibility of adopting a co-ordinated approach to relevant EU legislation.

Nordic co-operation on legislative affairs in relation to other international forums

Nordic co-operation on legislative affairs promotes contacts in the Region, discussions and, when necessary, co-ordination at senior-official and political level in relation to other international forums, e.g. the United Nations and the Council of Europe.

Nordic co-operation on legislative affairs also includes appointing representatives to international bodies when it is not possible for all of the Nordic countries to be represented at the same time.

Other forms of legal co-operation

In addition to Nordic co-operation on legislative affairs, the countries work together in practice across the whole of the justice sector. On an administrative level, meetings are held between representatives of the Nordic countries' courts, prosecution services, heads of police forces and prison and probation services.

Dialogue with the Nordic Council

The justice ministers seek dialogue with the Nordic Council on matters of common interest, including drafting and revising the programme for co-operation on legislative affairs.

Reporting and evaluation

Working groups under the Committee of Senior Officials for Legislative Affairs submit annual reports on the results of their activities.

The report uses the council of ministers' standard form for status reports and is included in the justice ministers' annual report on new and completed initiatives. When required, information from the annual report is presented at the annual meeting of the justice ministers.

This programme for co-operation will remain valid until further notice, but will be evaluated and, if deemed necessary, revised no later than 2019.

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