

Second Study Commission

Civil Law and Procedure

66th Annual Meeting of the IAJ – Cape Town (South Africa) 2024

Answer to the questionnaire from Norway

Written submissions – when do they turn from a help to a hindrance?

1. *Are there limits for written submissions in civil litigations in your jurisdiction in terms of the maximum length?*

No, there is not.

However, to our knowledge many judges are of the opinion that that written submissions in civil litigations often are too extensive and should be more concise. Our impression is also that in recent years, there has been an increase in the volume of written submissions to the courts.

2. *Are there time limits for filing written submissions?*

When the court receives a writ of summons or a notice of appeal, a time limit, which is usually three weeks, applies for the defendant or the respondent to submit a written reply. According to the Dispute Act, a party may as a main rule not, after the end of the preparation stage, which is normally set to a date three weeks before the oral hearing, make amendments to the claim, the factual and legal grounds upon which the claims are based, or the evidence. As a general rule, the court shall order the parties to submit a closing statement before the preparatory stage is completed.

Furthermore, the court may set time limits for written submissions. However, if a party files a written submission after a such time limit, there court has no motion that enables it to dismiss or disregard the written submission, as long as the court has not yet rendered its decision.

3. *Are there limits in terms of a maximum number of additional submissions in a case?*

No, there is not.

4. *Are there rules, including penalties or cost implications, for breaches of these requirements?*

No.

However, when ruling on the award of costs, the court shall according to the Dispute Act only award compensation for costs that are considered necessary in relation to the action. If writtens submissions are too extensive, the claim for lawyer's fees for the work with such written submissions, may be reduced or discarded.

5. *Are these limits or requirements effective in terms of reducing the number and length of written submission and the time spent preparing for and determining a case?*

Not applicable, see the answer to question 4.

6. *What is the effect of written submissions on any hearing which subsequently takes place?*

Exceptionally, the court may decide that the ruling in a civil action shall be made on the basis a written hearing (only written submissions), or on a combination of written submissions and a court hearing.

The main rule is that the court's ruling is fully based on oral proceedings. If that is the case, the purpose of the written submissions is to prepare for the court hearing. The claims, the factual and legal grounds upon which the claims are based and the evidence must be presented in written submissions in the preparatory stage of the case. However, only the claims, the factual and legal grounds and the evidence that have been presented in the oral proceedings, will be taken into consideration in the court's ruling. For this reason, the written submissions are, even in cases with many and/or extensive written submissions, usually not at all referred to in the judgment.

7. *Comments or suggestions as to what could otherwise prove to be effective*

It could make the handling of civil cases more efficient, and reduce the costs for the parties, to introduce limits to the amount and length of written submissions, or means to handle and prevent an increase in the number or length of written submissions.