CO-REGULATORY SYSTEM OF THE BAR IN FINLAND

According to the Advocates Act (496/1958) only members of the Finnish Bar Association are allowed to designate themselves as advocates (in Finnish ‘asianajaja’). Other judicially trained attorneys or legal counsels are referred to as lawyers. The Finnish Bar Association was founded in 1959 shortly after the Advocates Act was enacted. It was preceded by a private organization under the same name. So, in 1959 the self-regulatory system turned into a co-regulatory one. At the moment the Finnish Bar Association has about 1,800 members who are obliged to supervise approximately 700 associates in their law firms. The association is completely funded by its members.

The regulation of the Bar in Finland can be taken as a good example of co-regulation with a mandate in public law. According to the Advocates Act the Finnish Bar Association has a duty to supervise its members. For that purpose it has published a set of ethical codes. The codes are based on the general clause in the Advocates Act: ‘An advocate shall honestly and conscientiously fulfill the tasks entrusted to him and he shall, at times, observe the rules of proper professional conduct for advocates (section 5).’ The rules of proper professional conduct for advocates came into force in 1972 and were updated in 2009.

The Disciplinary Board of the Finnish Bar Association deems approximately 340 complaints on supervision matters and 65 complaints on fee disputes every year. The number of complaints equals about 23 percent of the total number of advocates. Proceedings can be initiated by a client’s complaint, by a notice of the Chancellor of Justice or by other authority. Approximately 30 percent of all cases get a disciplinary sanction. Possible sanctions are a reprimand, a caution, a monetary penalty or a disbarment. Monetary penalties and disbarments are rare.

The Disciplinary Board consists of nine members who operate usually in three sections. There are no consumer representatives in the Disciplinary Board which may reduce its credibility in the eyes of the clients. However, three of the members must not be advocates but expert judges or academics.
in law. In the interviews conducted to twenty specialists and key actors in the field the supervision procedure was regarded as thorough and independent but administratively somewhat inefficient. This is partly due to the fact that even clearly unfounded complaints have to be handled promptly. The advocate in question may appeal a decision to the Helsinki Court of Appeal but the client who made the initial complaint may not. The number of appeals by advocates has been recently increasing. For example in 2007 it was 16.

There are several state authorities that supervise legal services. The supreme guardian of the law, the Chancellor of Justice, has a duty to supervise advocates and the Finnish Bar Association. The Chancellor of Justice may initiate proceedings in the Disciplinary Board or appeal against a decision of the Disciplinary Board to the Helsinki Court of Appeal but cannot impose any disciplinary sanctions. The Consumers Disputes Board can give recommendations on legal services on the base of consumer complaints. The courts may deny incompetent and dishonest advocates the right to serve in the court for at most three years. According to the research the use of these available enforcing instruments of state authorities is remarkably rare.

The interviewees pointed out the following benefits in the co-regulatory system of the Bar:

- Supervisors at the Finnish Bar Association have a profound expertise on the field.
- The Disciplinary Board decides a considerable amount of complaints and sanctions advocates relatively often.
- The Finnish Bar Association tries to enhance advocates’ professional skills by offering education, publishing law journals and giving counseling before problems arise.
- The system is cheap for the state.

The following were considered to be the major weaknesses of the system:

- Lack of credibility and knowledge among the public.
- Lack of flexibility in the ethical rules as well as in the supervisory activities by the Finnish Bar Association.
- Minor use of enforcement instruments by the state authorities.