

Project title: History of the Mercury Ladies

Where and when: Oslo. November 2015

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History of the Mercury Ladies

Method Report

ThsF/Parat

2015

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1.0 Introduction

This report gathers together the content of the Mercury Case and can be used as guidance by others facing similar cases. We are not aware of cases in which other countries have publicly accepted the damage as a result of mercury poisoning and paid compensation. This report has been written against a background of interest from our colleagues in other countries where similar processes have come to a halt. The aim is to transfer knowledge and information. We have also collected references to the most important documents in the case. A key source for the report is a review of the ThsF members' journal *Tannhelsesekretæren* from 2007 until the present. We hope the report will motivate you and assist you in taking the fight forward!

The central issues in this case have been firstly to demonstrate that dental health secretaries have been exposed to damaging doses of mercury in the course of their work. Secondly, that mercury can lead to damage to health that gives entitlement to compensation for occupational injury. Those who have been exposed to mercury and contracted health issues have not been taken seriously by doctors and the authorities. The authorities have eventually acknowledged their responsibility for so many having been exposed to mercury without protection and ventilation.

2.0 Key parties

There are several important parties involved in this case. Here is a brief description of the main ones:

NRK Brennpunkt

Brennpunkt is a socially critical documentary programme on the state-owned broadcaster NRK TV. The programme began transmission in 1996 and is one of the longest running investigative editorials in Norway. The programme has received national and international awards for journalism (NRK Brennpunkt, 2015).

Bente Elisabeth Moen – Professor of occupational medicine at the University of Bergen

Bente Elisabeth Moen performed the research for the pilot project for “The Mercury Girls” (*Kvikksølvjentene*) for NRK Brennpunkt. She is now head of the Centre for International Health at the Department of Global Public Health and Primary Care at the University of Bergen (UiB, 2015).

ThsF

Tannhelsesekretærenes Forbund (ThsF) - the dental health secretaries' association - was founded on 23 February 2007 and is a vocational union within in Parat that is affiliated with the Confederation of Vocational Unions (Yrkesorganisasjonenes Sentralforbund). The organisation had an interim board from 2005 (ThsF, 2015).

NAV

NAV is the name of the labour and welfare administration in Norway. The name NAV was originally an abbreviation of Ny Arbeids- og Velferdsforvaltning (new labour and welfare administration). It came about from a reform in which the former social security and labour administrations (Trygdetaten and Arbeidsetaten) and the municipal social services were amalgamated. This process began in 2006 and was completed in 2011. In 2015, NAV administers a third of the national budget through arrangements such as unemployment benefit, work assessment allowances, sickness benefit, pensions and family allowances. NAV is also responsible for the case processing and payment of occupational injury compensation, which is relevant in this case (NAV, 2015).

STAMI

STAMI, the government working environment institute, is the national research institute in the field of working environment and occupational health. STAMI is organised under the Ministry of Labour and Social Affairs and works to achieve a working environment that prevents illness and promotes good health. The institute has an interdisciplinary environment with expertise in medicine, physiology, chemistry, biology, psychology and other areas. The institute addresses all parts of Norwegian working life and reviews environmental and health conditions, assesses risk areas and proposes preventive measures in workplaces. STAMI was previously called Yrkeshygienisk Institutt (occupational hygiene institute) (STAMI, 2015).

St. Olav's Hospital – Department of Occupational Medicine

St. Olav's Hospital is the University Hospital for Central Norway. The Department of Occupational Medicine has specialist expertise in occupational medicine and occupational hygiene in respect of connections between physical, chemical and biological working environment factors and all types of damage to health as a result of such effects. Its main task

is to contribute to the prevention of work-related illness and injury and to promote health at work (St. Olav's Hospital, 2015).

3.0 The Mercury Girls and the Mercury Children

On 10 May 2005, NRK's programme Brennpunkt showed the documentary "*Kvikksølvjentene*" (The Mercury Girls). The programme showed the extensive health risks that dental health secretaries had been exposed to in their work with mercury and what damage to health they had suffered. It was claimed that 10,000 dental health secretaries who worked in dentistry during the period 1960 to 1990 may have received occupational injury. The dental health secretaries had been exposed to extremely high doses of mercury vapour in their daily work. Many of those who worked with copper amalgam had been exposed to doses ($1,000 \text{ mg/m}^3$) that were up to 20 times higher than the quantity permitted at that time in Norway (50 mg/m^3). There was no ventilation or protective equipment for this work. Neither was there any information from the authorities that there was a health risk, in spite of the fact that urine samples existed that showed extremely high mercury levels. The journalists investigated in collaboration with occupational medicine researcher Bente Moen at the University of Bergen. They compared reported damage to health among dental health secretaries who had worked during the period in question with a control group of health secretaries of the same age. The dental health secretaries reported strikingly higher levels of specific damage to health than the control group. The problems reported included loss of memory, concentration problems, reduced feeling and pricking sensations in the arms and legs, extreme tiredness and exhaustion, disturbed vision and extreme migraine/headaches (The Mercury Girls, 2005). NRK Brennpunkt had a storm of phone calls from dental health secretaries after the programme.

The chair of the interim board of ThsF, Gerd Bang-Johansen, quickly realised that they had to act. She contacted the editorial team at Brennpunkt to inform them that ThsF existed as a vocational union that could express an opinion on behalf of the vocational group. A press release was also issued so that other media interested in the case could make contact with ThsF.

A review was commenced of how many of ThsF's members could report delayed injury from mercury poisoning. This was the start of substantial registration and information work in which many cases of injury were recorded.

NRK Brennpunkt followed up with a new programme "*Kvikksølvbarna*" (The Mercury Children) on 1 November 2005. This programme came about as a consequence of registration of those who had phoned in after the first programme. Strikingly many reported

bleeding, miscarriages and registered foetal damage (The Mercury Children, 2005).

Bang-Johansen makes it very clear that the critical journalism of the editorial team at Brennpunkt in the mercury case has been decisive to the outcome of the case. The reporting methods in both *The Mercury Girls* and *The Mercury Children* won national awards from the Foundation for a Critical and Investigative Press (Knudssøn, Kjersti and Bakke, Synnøve, 2005).

4.0 Research report and more investigative journalism

As a result of pressure from ThsF, the Minister of Labour and Social Affairs of the time Dagfinn Høybråten (Christian People's Party) allocated a million kroner in 2005 to finance an expert group led by professor Bjørn Hilt of the Department of Occupational Medicine at St. Olav's Hospital in Trondheim (Tannhelsesekretæren 5/10, p. 15). The first interim report came on 15 February 2007 and the final report on 30 October 2007 (Hilt et al., 2007). One of the conclusions of this report was to support the assumption that exposure to mercury could have triggered cognitive functional disturbances, i.e. loss of memory, exhaustion, concentration difficulties and sleep problems. The research estimated that 170 to 320 persons in the dental health sector in Norway have delayed injury as a result of mercury poisoning. This represents 1.7 to 3.2 per cent of the 10,000 who worked in dentistry during the period (Hilt et al., 2007). A total ban on amalgam fillings was introduced in Norway with effect from 1 January 2008 (Tannhelsesekretæren, 1/08, p.14).

Journalist Per Kristian Aale (Aftenposten) wrote several pieces after the report that stated that the authorities knew about working conditions in the dental health service. He wanted to find out why the authorities had not sounded the alarm years before. STAMI, as the main premise provider for research into working environment in Norway, maintained that it had done nothing wrong in this case, even after the expert report came out in 2007. After a wide-ranging review of all the reports that STAMI (formerly Yrkeshygienisk Institutt) had produced in this area right back to 1960, Aale found that the authorities had known of unacceptable conditions in dental clinics as long ago as 1961. Aftenposten revealed that as long ago as 1973 STAMI had performed the same experiment as was carried out by NRK in *The Mercury Girls*, in which heating copper amalgam caused the measuring equipment for mercury exposure to go off the scale. Even so, nobody took the initiative for a national clean-up in the use of copper amalgam (Aale, 2007).

5.0 Case processing and professional clash

Even with research results that supported the argument and demonstrated injury from mercury poisoning, it proved difficult to obtain clear and tidy case processing at NAV. The system was not prepared for this type of case. Dental health secretaries who applied for occupational injury compensation found they were being sent in an endless round from office to office. There was a lack of training in handling such cases and there were no clear guidelines for what medical expertise should be brought in as a basis for NAV's assessment of each individual case. This led to extremely ineffective case processing (Tannhelsesekretæren, 1/09, p. 12).

The lawyer Øyvind Vidhammer from the law firm Vogt & Wiig was engaged to assist Parat and ThsF in the compensation cases. He was extremely critical of NAV's procedures. Those who applied for compensation first had to be referred from their GP or company doctor to medical specialists and hospital clinics, to have the injury confirmed. After this, NAV started its investigation in which occupational health staff looked into exposure and assessed causal relationships. In many cases, they also investigated both diagnosis and occupational cause. Further investigations and examinations were performed by doctors in several specialist areas, including psychological specialists in clinical neuropsychology, which is particularly relevant with exposure to neurotoxic substances such as mercury. After this wide-ranging investigation, the case was sent to NAV's central occupational injury office for processing. And there the cases came to a halt and NAV demanded further investigation and quality assurance. Nobody received compensation.

It was later found that in its final processing of these compensation cases, NAV's occupational illness office used a consultant neurologist with no experience of occupational medicine and with a completely different professional approach than had been used in the wide-ranging investigation. Vidhammer pointed out that neurologists look for objective findings and, if these are not clear enough, they conclude that there is no causal relationship in the case.. Vidhammer described this as a neurological side-track. Conflict arose between the different medical methods and on whether they were suited to assessing the question of causal relationship in the mercury cases (Tannhelsesekretæren, 1/09, p. 13).

In 2009, the government working environment institute (STAMI) delivered a report to the Ministry of Labour and Social Inclusion about activities and results connected with the investigation of dental health personnel who had been exposed to mercury. This showed that 353 had been assessed at occupational medicine clinics and that a further 100 were waiting for assessment. Of those who had been assessed, a probable connection had been found in 2% (6 patients) and a possible connection in 5% (16 patients), (Tannhelsesekretæren 2/07, p. 16). This was considerably fewer than the forecast of the research report from the expert group in 2007 (Hilt et al., 2007).

6.0 ThsF gives NAV guidance

Tannhelsesekretærenes Forbund (ThsF) has helped to put the focus on the case, using its influence on and collaborating with the responsible authorities. Much work has gone into following up with the parties involved and consciously using the media to convey information about the status of the case and the weaknesses in the system. There has been direct contact with top politicians and close collaboration with the research environments (Tannhelsesekretæren 1/09, p. 6). Great international interest has also led to a need to translate news items on the website into English. The articles and editorials of the members' periodical Tannhelsesekretæren have also been a very important channel for informing about the case.

During the most hectic period, the association was receiving more than 30 enquiries a day from worried dental health secretaries and their spouses, seeking information and advice about what to do. ThsF/Parat has also assisted members who wished to apply for compensation in preparing the cases and following up on problems during case processing..

At the end of 2009, there were still no dental health secretaries whose cases for occupational injury compensation had been approved by NAV. ThsF has had many meetings and much correspondence with NAV about the slowness of case processing in its occupational illness office. In particular, it has been important to get answers as to why case processing in the mercury cases is different to that in other solvent cases. Why does NAV make the burden of proof so unreasonably high in the mercury cases and why can occupational health specialists not be used as consultant doctors at NAV's occupational illness office? ThsF was clear that all relevant parts of the illness history must be assessed in each individual case (Tannhelsesekretæren 4/09, p. 12). The association believed that NAV was contributing to maintaining professional conflict and gave concrete proposals for which research environments and specialists NAV should use. ThsF believed that STAMI should not be considered as an alternative (Tannhelsesekretæren 3/10, p. 16).

Tordis Klausen is a good example of a long struggle. She worked as a dental health secretary from the age of 25. 10 to 15 times a day for many years she heated copper amalgam for dental fillings. In the mid 1970s she became ill, but she continued to work. In 1978 she was signed off sick for almost a year, but nobody understood what was wrong with her. She had severe headaches, shivering, developed asthma problems and often vomited large quantities of slime. She was assessed as 50% disabled, but continued to work with mercury until 1992, when she became 100% disabled. She eventually began to suspect that the illness was due to mercury poisoning and applied for occupational injury compensation. This was rejected and she has twice lost cases in the courts. The working environment authorities gave evidence against her in court. She has used a great deal of time and money in the case. So as to be believed. She now hoped to win through in her case after the research report of 2007 and now that many had applied to have their cases assessed by NAV.

In 2010, it was three years since case processing started in NAV after she was examined by the occupational medicine section and then Telemark Hospital. She had still received no decision from NAV's occupational injury office. ThsF followed up on this case and sent a letter to NAV in collaboration with lawyer Vidhammer of Vogt & Wiik (Tannhelsesekretæren 3/10, p. 22). This report will come back to the case of Tordis Klausen

in points 8.0 Media and lobbying work, 12.00 NAV turns around and 15.0 Compensation payments.

7.0 More research

The second part of professor Bjørn Hilt's study was to review deformity in the children of dental health secretaries. The same research team that had produced the first report also worked on this one. The researchers collaborated with Tannhelsesekretærenes Forbund, Fagforbundet (Norwegian Union of Municipal and General Employees), Den Norske Tannlegeforening (Norwegian Dental Association) and Norges Tannteknikerforbund (Norwegian Dental Technicians' Association). It was particularly important to gain access to membership lists so as to identify female dental health personnel from all over the country. This study did not find clear connections and concluded that exposure to mercury did not give an increased risk of deformity (Hilt et al., 2009). ThsF demanded that the Ministry of Labour and Social Inclusion allocate far more funding so that the Research Council of Norway could prioritise more and better research in this area (Tannhelsesekretæren, 1/09, p. 6).

The Norwegian Knowledge Centre for the Health Services reviewed all research relating to mercury injury among dental health personnel (Hammerstrøm et al., 2011). This report was a very important milestone in documenting that the great majority of the occupational medicine environment agreed on what symptoms could result from exposure to mercury (Tannhelsesekretæren, 1/11, p. 22).

A new research project was also initiated to look at hormonal damage that led to bleeding and the removal of the uterus. The belief was that there could be a high risk for dental health secretaries who had been in contact with mercury (Tannhelsesekretæren, 3/11, p. 8). This project has unfortunately been delayed in the Environmental and Occupational Medicine section at Oslo University Hospital, but all applications have been approved and a start-up in the late autumn of 2015 is being evaluated.

8.0 Media and lobbying work

ThsF has been lobbying politicians, bureaucrats and the media. A new Brennpunkt programme "Med NAV i sikte" (taking aim at NAV) was broadcast on 16 November 2010. This was about dental health secretaries who had applied to NAV for occupational injury compensation. Without exception, these had had their applications rejected. The Tordis Klausen case received a great deal of attention in the programme and there was close collaboration between Brennpunkt and ThsF. The programme received a great deal of attention in the media. The new director of NAV recognised that the case could damage confidence in NAV and promised a review of routines by 1 February 2011.

At this time there was good contact between ThsF and then member of parliament Laila Dāvøy of the Christian People's Party. He was very committed to the mercury case and took it up in the Norwegian parliament (Storting) on many occasions. She raised a question on the case in the Storting on the same day the Brennpunkt programme was on the air. Dāvøy said that NAV's claim that no neurological damage existed as a result of mercury appeared quite meaningless (Tannhelsesekretæren, 5/10, p. 14). The case was debated in the Storting on 10 February.

ThsF's clear assertion at that time was that case processing and decision making at NAV must be on the same basis and with the same understanding as the occupational health specialists when they investigate the dental health secretaries' cases.

In parallel with the case regarding mercury and occupational injury compensation for dental health secretaries, there were examples of the media introducing cases where patients with amalgam fillings claimed to have health problems. This created confusion and ThsF had to make it clear that there were clear differences between these cases (Tannhelsesekretæren, 2/3/12, p. 13).

9.0 Victory in the appeal tribunal

On 10 December 2010, two dental health secretaries had their appeals against NAV upheld in Trygderetten, the appeals tribunal in social security cases (Trygderetten 10 December 2010). This received a great deal of attention in the media. There was a clear decision that the connection between characteristic illness patterns and damaging occupational effects in accordance with the Social Security Act should be decided legally and not medically. It is important here to clarify which harmful substances a person has been exposed to in his or her work and what damaging effects these might have. According to Trygderetten, the medical profession has not had a legally satisfactory account from NAV as to which social security rules apply for approval of occupational illnesses equivalent to occupational injury (Tannhelsesekretæren, 01/11, p. 8). In its judgement, Trygderetten emphasised the mercury documentation published by Kåre Lensvik, senior engineer at STAMI, and the guidelines on mercury produced by the International Labour Organisation (ILO) (Trygderetten 10 December 2010).

After this ruling, ThsF wished to strengthen contact with NAV. ThsF wanted to demand that all cases should be reassessed. The association wished to give constructive support so as to obtain rapid and qualitative case processing and fair individual decisions in each case. ThsF pointed out that the basic rules had been written for another time, when workers in the chemical industry were to be protected. In more recent times, other occupational groups have arisen that have been, and still are, exposed to chemicals and solvents. It is important here to contribute to updating the rules, so as to give a good basis for preventive work and for processing cases that may arise in the future (Tannhelsesekretæren 01/11, p. 5).

10.0 NAV accepts criticism

On 1 February 2011, NAV's investigating committee, chaired by assistant labour and welfare director Yngvar Åsholt, issued its report.. The decision of Trygderetten of 10 December had come in the meantime and the investigation refers to this as a break with Trygderetten's previous practice, the framework determined by the legislators and the practice that NAV had used as a basis for processing this type of case (Tannhelsesekretæren 1/11, p. 20). The committee believed that a change was needed in the requirements for characteristic illness pattern and degree of exposure. The case was sent to the Ministry of Labour for political assessment (Tannhelsesekretæren 1/11, p. 20).

But NAV also accepted criticism that the processing of mercury and occupational illness cases took too long and proposed that responsibility for case processing for occupational illness cases should be grouped in the occupational illness office as one unit. NAV wished to work more closely with the Directorate of Health on entering into agreements with the health authorities that would oblige them to give specialist clarifications in occupational illness cases. This would mean that occupational medicine centres could be used and put their expertise at disposal. Otherwise, the investigation committee proposed collaboration with the occupational medicine environment in devising goals for how to resolve an occupational injury case in the best way. They also wanted to ensure that applicants had access to their own case officer by telephone or personal meeting (Tannhelsesekretæren 1/11, p. 20).

11.0 Debate in the Storting and political intervention in Trygderetten

Laila Dāvøy's question came up for debate in the Storting on 10 February 2011:

“Dental health personnel have been exposed to harmful mercury vapour while working with amalgam. Many have developed damage to health because of this. Among other things, dental health secretaries have been examined by occupational medicine experts at Haukeland University Hospital and St. Olav's Hospital who confirm this. Even so, many have found that NAV comes to the opposite conclusion have therefore had their applications to have this approved as an occupational illness rejected. There are also extremely long case processing times in these cases. What will the minister do to ensure legal protection in such cases?”
(Stortinget, 10.02.2011)

The debate that followed demonstrated great political commitment for the dental health secretaries and agreement that case processing had not been good. The minister concluded with the following words:

“I wish to say that in my progressive youth there was no difference between law and politics. We believed in fact that the law was very political and I will continue to believe this”
(Stortinget, 10.02.2011)

It is possible here to interpret her as meaning that it should be possible to change the understanding and practice of regulation according to the political will. But what was the political will?

Bjurstrøm now had the decision from Trygderetten and NAV's report on the table and chose to do something remarkable. Instead of taking the case to the court of appeal for an independent judgement, she contacted Trygderetten to get it to hear a new case as soon as possible. This was interpreted as a strong signal that Trygderetten should not come to the same decision again and that the tribunal should be made up of different judges from those who had made the decision in December. Professor and expert in public administration law Jan Fridthjof Bernt at the Faculty of Law at the University of Bergen described this as a breach of good public administration practice and in contravention of elementary constitutional law (Tannhelsesekretæren, 3/11, p. 17).

He further stated that the minister was overruling Trygderetten's decision and asking it to come back with a new decision in agreement with what she believed to be the right understanding of the legal issues. He believed that the boundaries between law and politics were being broken down in a disturbing way and that Trygderetten's position as an independent body for the protection of citizens' rights under the law was being undermined. Bernt also said that if the minister was dissatisfied with Trygderetten's interpretation of the law, she could correct this by means of regulations or proposed changes to legislation to clarify the legal question as she wished (Tannhelsesekretæren, 3/11, p. 17).

The new case in Trygderetten was decided by an extended bench of five members. The affected parties in the case, ThsF and Fagforbundet, were given no opportunity to influence the choice of case. The decision was in favour of Bjurstrøm and NAV. However the tribunal emphasised that this case was different from the previous mercury cases. Both the lawyer of the women who had taken NAV to court, Carl Gunnar Sandvold and ThsF's external lawyer Øyvind Vidhammer commented that this case was not representative or a matter of principle and could not draw general guidelines for other mercury cases (Tannhelsesekretæren 5/11, p. 10). In other words it was another side-track in the processing of the mercury cases.

12.0 NAV turns around

In April 2012 came the news that Tordis Klausen's claim for occupational injury compensation had been approved by NAV with effect back to 1992 (Tannhelsesekretæren 2/3/12, p. 12).

13.0 Gulating court of appeal

On 17 January 2013, Gulating court of appeal ruled that Bertha Regina Serigstad had been subject to mercury exposure and had an occupational illness. She had appealed a decision by Trygderetten of 24.9.2010 (TRR-2010-1033) and was represented by Fagforbundet's lawyer Anne-Gry Rønning and the Norwegian Confederation of Trade Unions' lawyer Lars Olav Skårberg.

The court of appeal decided that Trygderetten had too rigid an approach to what criteria should be fulfilled in order to approve a mercury injury as an occupational injury. Trygderetten required specific symptoms and documentation that the illness began during the same period that the exposure occurred.. The court of appeal decided that it was not possible to require specific symptoms that confirm or exclude mercury poisoning. The question must be based on a total assessment of symptoms. The effect of poisoning will depend on exposure level and duration of exposure, which can vary from person to person. Statements of expert witnesses also showed that a large part of the occupational medicine environment did not support the practice of NAV and Trygderetten (LG-2011-53800). Another interesting aspect of this judgement is how NAV's external consultant in neurological occupational illness and expert witness states *"...the pattern of illness that seems to have progressed after exposure could equally well be due to other factors such as the pattern of pain becoming chronic and a greater consumption of medicines"*. The judgement summarises his statement: *"He believed it is difficult to be certain and concrete with such diffuse symptoms and the long time that has passed."* (LG-2011-53800). This gives a good general description of how, in many of the mercury cases, NAV has not only sought to sow doubt about the connection between exposure to mercury and the symptoms of illness. NAV has clearly also actively sought to indicate the probability of other explanations of the symptoms.

Parat's lawyer Øyvind Vidhammer of Simonsen Vogt Wiig afterwards expressed a strong desire for the government to appeal to the Supreme Court, since a final judgement there would be significant for other, similar cases and lead to the fresh processing of cases where dental health secretaries have previously lost in Trygderetten (Tannhelsesekretæren, 1/2013, p. 18). The government appealed the case to the Supreme Court (Tannhelsesekretæren, 4/13, p. 14).

14.0 The mercury judgement

On 12 December 2013, the Supreme Court found unanimously in favour of Bertha Regina Serigstad and awarded the former dental assistant NOK 448,674 in costs, as well as ordering that the government must pay Fagforbundet NOK 150,000 in costs (Rt-2013-1642).

The Supreme Court declared Trygderetten's previous judgement invalid and stated that practice in respect of these mercury cases was not in line with generally accepted medical knowledge. NAV and Trygderetten had been too rigid and strict in the assessment of which health issues the dental health secretaries incurred as a result of mercury exposure (Tannhelsesekretæren, 1/14, p. 12).

The new Minister of Labour and Social Affairs, Robert Eriksson, quickly stated that the compensation cases for mercury-injured dental assistants had the highest priority at NAV and that compensation would be paid in a matter of months. In 2010 he had already declared support for the dental health secretaries who had applied for occupational injury compensation (Tannhelsesekretæren, 1/14, p.12).

Parat's external lawyer Øystein Vidhammer commented that before the ruling of the Supreme Court, only a strictly limited pattern of illness would be approved as an occupational injury by Trygderetten. There were also requirements that all these symptoms must have been present at approximately the same time. This led to most being rejected (Tannhelsesekretæren, 1/14, p. 12). Minister of Labour Eriksson also encouraged those not covered by the ruling, and who had previously been refused compensation, to reapply.

The Supreme Court obtained statements from seven expert witnesses in all. Professor Jan Olav Aaseth MD and senior doctor Helge Kjuus MD were both appointed by the court as expert witnesses and gave both written statements and explanations to the court. The Supreme Court writes that a much wider spectrum of health issues could be caused by exposure to mercury. The ruling mentions tiredness, reduced concentration, dizziness, rheumatic problems and problems with vision, as well as anxiety and depression. The Supreme Court also points out that no requirement can be set that the symptoms must appear simultaneously (Rt-2013-1642). Thus the ruling confirms that a number of health issues and the pattern of illness that many dental health secretaries have suffered from could be a consequence of exposure to mercury (Tannhelsesekretæren, 1/14, p. 12).

After the ruling, ThsF/Parat wrote to members whom we had previously supported and whose applications had been refused.. These members were asked if they wished to put their cases forward again and if they wished to have further assistance. A number of other dental health secretaries had also previously registered health issues but had decided not to apply to NAV because they knew that the assessment was so strict that in practice it was impossible to win. ThsF also encouraged these to put forward claims in the light of the ruling of the Supreme Court (Tannhelsesekretæren, 1/14, p. 14).

ThsF pointed out that there were still a number of conditions that had to be fulfilled in order to have an occupational injury approved (Tannhelsesekretæren, 1/14, p. 14).

In reviewing this report, Vidhammer comments that even though the Supreme Court in its Mercury Judgement extended the pattern of symptoms that can be approved as a characteristic pattern of illness, there are a further two conditions that must be fulfilled in order to gain approval as an occupational illness. Firstly, it must be shown to be probable that the extent of exposure was sufficient and secondly the symptoms must have arisen within a reasonable time after exposure ceased. For these conditions, NAV and Trygderetten are still relatively strict and rigid. Many dental health secretaries are still rejected on the grounds that one or both of these conditions have not been fulfilled. More cases are now on their way into the legal system. These cases involve members of both ThsF/Parat and Fagforbundet. There is

still a need for a further clarification of the law for these conditions. Probably by the Supreme Court.

15.0 Compensation payments

The mercury case and the cases against the government have been cases of principle. The occupational injury compensation paid by NAV has consisted of relatively small amounts. However they allow for clarification with insurance companies which in some cases have made insurance payments of up to NOK 2 million (Tannhelsesekretæren, 1/5, p. 5).

Tordis Klausen has so far been through the courts twice with her insurance company before winning through in Borgarting court of appeal in April 2015 (Nrk.No, 11.4.2015). The insurance case has now been appealed to the Supreme Court, where it will be heard on 26 and 27 January 2016. The question to be considered here is the date of ascertainment and the period of limitation in relation to when the law of occupational injury compensation entered into force. The injuries occurred long before this act entered into force. What is needed to still be covered by the occupational injury insurance and when was the injury established as a *material fact*? This case will have great significance for many dental health secretaries because many of these injuries occurred many years ago.

It is also important to point out that many of those who reported health problems have unfortunately given up their cases because of poor health and the fight against the system becoming too much of a struggle (Tannhelsesekretæren, 1/5, p. 5).

16.0 Summary: Activities and results

ThsF/Parat has worked very hard and used many resources in this case (Tannhelsesekretæren, 1/5, p. 5).

- We allied ourselves with TV, radio and newspapers in order to get the story of the mercury girls put forward
- We took the initiative and gained approval for research work in this area
- We performed active information work based on research results in order to get occupational health specialists a sustainable basis for their work
- We lobbied professional and technical environments, bureaucrats and politicians at a high level, so as to gain attention for the case
- We have continuously followed-up with all the dental health secretaries who were ill

Results:

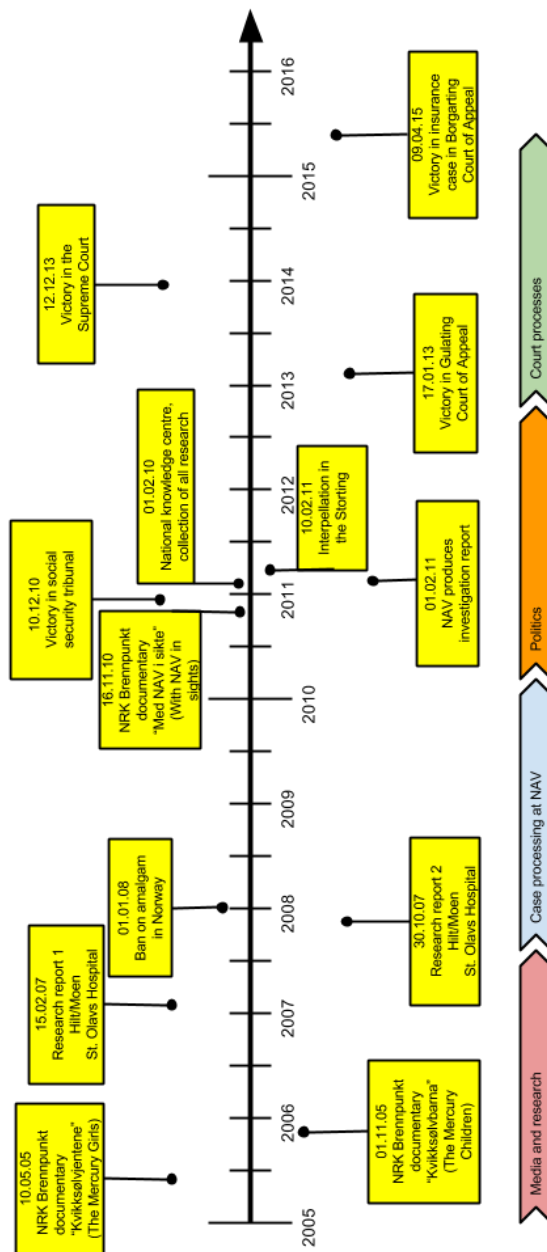
- We managed to change the attitudes of the professional and technical environments to the facts in the case
- We have influenced politicians to take responsibility and make decisions
- We have been the main contributor to ensuring that the case has been well enough documented to win its way through the legal system

What has given us this victory:

- NRK Brennpunkt with its programmes “Kvikksølvjentene”, “Kvikksølvbarna” and “Med NAV i sikte”
- Our ability to prioritise and maintain focus on what is important
- Our patience and ability to resist adversity
- Our good networks and a good information strategy, as well as the ability to influence over the course of time
- Our main organisation Parat

ThsF wishes to extend its thanks to our chair Gerd Bang-Johansen and to Trygve Bergsland, the editor of our members' periodical. You have put in some great efforts and helped us to win through in the mercury case.

17.0 Timeline



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