DET JURIDISKE FAKULTET
UNIVERSITETET I BERGEN

NOTAT

til

Fakultetsstyret

Jnr. Arkiv	Sak nr. 87/13 Styremøte 2013 12 10

FORSALG OM NYTT SPESIALEMNE JUS286-2-A CONSTITUTION AND POLITICS

Professor Karl Harald Søvig har fremmet forslag om opprettelse av et nytt spesialemne. Emnet utvikles og avvikles i samarbeid med institutt for sammenlignende politikk. I stedet for å etablere et emne i "sameie" mellom JUS og SAMPOL, har vi valgt en modell der de to enhetene oppretter hver sitt emne, og samarbeider om de felles elementene. Denne modellen anses å innebære betydelige administrative besparelser, samtidig som det ivaretar enhetenes uavhengighet. Det gir bare ubetydelige ulemper og ingen hindringer med hensyn til samarbeid og samhandling.

Forsalget ble behandlet av Studieutvalget i møte den 5. november. Utvalget fattet slikt vedtak i sak 61/13:

> Studieutvalget tilrår at fakultetsstyret oppretter emnet, og uttaler at dette synes å være en god modell for tverrfakultært samarbeid. Det tas forbehold om at litteraturlisten foreligger komplett til styremøtet.

Litteraturlisten foreligger nå, og går fram av vedlagte emnemal.

I samsvar med det framlagte forslaget inviterer dekan og fakultetsdirektør fakultetsstyret til å gjøre slikt

Vedtak:

Spesialemne JUS286-2-A Constitution and Politics i henhold til vedlagte emnemal opprettes fra og med vårsemesteret 2014.

Emnet kan inngå som spesialemne i masterstudiet i rettsvitenskap.

Astrjan Skundbakk
Dekan

Fakultetsdirektør

Mal for vedtak om opprettelse av nye emner ved Det juridiske fakultet

Tegnforklaring:
*** skal inngå i kursbeskrivelsen i studieplanen.**
**** skal formuleres godt slik at tekstene egner seg for publisering på emnets hjemmeside.**

Tema	
Kursets navn	Constitution and politics
Kode	JUS286-2-A
Kursets navn – bokmål*	Constitution and politics
Kursets navn – nynorsk*	Constitution and politics
Kursets navn – engelsk*	Constitution and politics
Antall studiepoeng*	10
Studienivå (BA eller MA)	MA
Kursansvarlig*	Karl Harald Søvig (jus) og Siri Gloppen (sam. pol.)
Faglærer(e)*	Karl Harald Søvig (jus) og Siri Gloppen (sam. pol.)
Administrativ kontaktperson (kan endres av administrasjonen uten nytt vedtak)	Kjersti.Lillegraven@jurfa.uib.no
For rettsstudiets emner:	
- Kursinnhold**	*Objectives:* Introduce students to Norwegian Constitutional law, it's foundations and current challenges. The course is an interdisciplinary project between Faculty of social sciences, department of Comparative Politics and Faculty of law, and addresses the topic both from a legal perspective and from social sciences. The lectures will be given by teachers from both the faculties, as well as invited guests. The aim of the current subject is to bring together students who share the same interest for constitutional matters in the conjunction between law and politics, but who never meet in the spaces created by the university. The course will introduce students to ongoing research on central aspects of constitutional development and bring students up to date on the frontiers of research and literature in the field, encourage active participation and independent thinking in engaging with the issues, provide a forum for students to present project proposals for master projects and develop their research skills Through this course the student will gain an overview of theoretical literature on the Norwegian constitution, and the relationship between rule of law and democracy. The constitution is an outcome of political activity, and at the same time it establishes the boundaries for all branches of the state, including the parliament, the central administrative apparatus and the Audit Office. The students will engage with the main theoretical perspectives to understand the dilemmas involved in securing the rule of law in a modern state, and the checks and balances between the executive, the legislator and the courts. *Content:* The constitution is the legal basis of all modern states, and in Norway the written constitution "Grunnloven" (from 1814) plays an important role. The executive power is vested with the King, the legislative power lies in the parliament, while the judicative power is conferred to a single court system, with the Supreme Court in Oslo. A special feature in Norway has been a rather

	conservative attitude concerning amendments and revisions to the written constitution. Partly, this conservatism can be traced back to the union with Sweden (1814-1905), where the parliament used the constitution as a form of shelter against Swedish influence. The course will give an introduction to the principles and the architecture of three bodies of the state, and the checks and balances between them. Historically, the combat of constitutional power was between the King and the parliament, where the latter in the end turned out to be the strongest. An ongoing constitutional discussion is related to juridification and judicialization and issues of accountability. This has partly a national component where courts are setting aside parliamentary decisions due to constitutional norms, but the forefront of this discussion is the influx of international norms, like the European Convention of Human Rights and the European Economic Area. Another constitutional development relates to the growth of different forms of accountability mechanism, like the ombudsmen and auditing offices. One aim of the course is to give an introduction of the 'living' constitution which also include the role of political parties, the central government apparatus, the corporative arrangements and the principle of local self government. The course will discuss constitutional policies and politics focusing on reforms and changes in the relationships between the executive, the legislator and the court. Comparative elements will be included when appropriate.
- Læringsutbytte**	The student should be able to analyze how law and legal institutions constitute, shape and constrain political action under the Norwegian constitution, and how the legal institutions themselves are shaped by the political and social context. The student should be able to express central concepts and theoretical debates such as separation of power, rule of law and access to courts. The student should be able to analyze how legal and political institutions in Norway effects on society.
- Litteratur**	Karl Harald Søvig, Introduction to Norwegian Constitutional Law (ca 20 pages) Hans Petter Graver, "Mission Impossible: Supranationality and National Legal Autonomy in the EEA Agreement", *7 European Foreign Affairs Review*, 2002 p. 73-90 Thomas Burri og Benedikt Pirker, «Constitutionalization by Assosiaction? The Doubtful Case of the European Economic Area», *Yearbook of European Law,* 2013 p. 1-23 "The Two EEA Courts - a Norwegian Perspective", i: EFTA Court (ed.), *Judicial Protection in the European Economic Area,* Stuttgart 2012, p. 187-210 Jørn Øyrehagen Sunde, "Dissenting Votes in the Norwegian Supreme Court 1965-2000. A legal cultural analysis", 1 *Rechtkultur*, 2012 s. 59-73. Bellamy, Richard, (2013) "Constitutional Democracy". The Encyclopedia of Political Thought, Michael T. Gibbons (ed.), Wiley-Blackwell, Forthcoming. Available at SSRN: http://ssrn.com/abstract=2272188 Sweet, Alec Stone. "Constitutional Courts and Parliamentary Democracy." West European Politics 25.1 (2002): 77-100. Siri Gloppen, B. Wilson, R Gargarella, E Skaar M. Kinander Law and Power in Latin America and Africa (Palgrave,

	2010) Chapter 2 • Tushnet, Mark. "Constitutional Foundation: Constitution-Making: An Introduction." Tex. L. Rev. 91 (2013): 1983-2015. • Jon Elster: "Clearing and Strengtening the Channels of Constitution-making" in Tom Ginsburg (ed) Comparative Constitutional Design. Cambridge Universtiy Press 2002. pp 15-30 • Sajó, András. "Constitution without the constitutional moment: A view from the new member states." Int'l J. Const. L. 3 (2005): 243. • Grendstad, Gunnar, William R. Shaffer, and Eric N. Waltenburg. 2010. Revealed Preferences of Norwegian Supreme Court Justices. Tidsskrift for Rettsvitenskap 123 (1):73-101. • Grendstad, Gunnar, William R. Shaffer, and Eric N. Waltenburg. 2011. When justices disagree. The Influence of Ideology and Geography on Economic Voting on the Norwegian Supreme Court. Retfærd 34 (1):3-22. Norsk debatt: • Føllesdal, Andreas. 2013. Much Ado about Nothing? Claims about political appointment to the Norwegian Supreme Court - and what to do - and not to do - about it. Tidsskrift for Rettsvitenskap 126 (3):365-371. • Shaffer, William R., Gunnar Grendstad, and Eric N. Waltenburg. 2014. Standards of interpretation. Rejoinder to Føllesdal. Tidsskrift for Rettsvitenskap (forthcoming) • Roberto Gargarella, Pilar Domingo and Theuis Roux Courts and Social Transforamtion (Ashgate 2006) "Conclusion" pp 255-281 • Alicia Yamin and Siri Gloppen Litigating Health Rights: Can Courts Bring More Justice to Health (HLS Human Rights Programme Series with Harvard University Press 2011) Chapters 1,2,13 • Ran Hirschl: The Nordic counternarrative: Democracy, human development, and judicial review Int J Constitutional Law (2011) 9 (2): 449-469 doi:10.1093/icon/mor034 • Cichowski, Rachel, Civil Society and the European Court of Human Rights (2010). APSA 2010 Annual Meeting Paper. Available at SSRN: http://ssrn.com/abstract=1643604 • Grewal, Sharanbir, and Erik Voeten. "The Politics of Implementing European Court of Human Rights Judgements." Available at SSRN 1988258 (2012) *Samlet sidetall: 470.*
Særlig egnet i kombinasjon med	
Undervisning:	
- undervisningssemester (høst/vår)*	Spring
- undervisningsform*	Lectures and seminars
- undervisningsspråk*	English
- obligatoriske elementer*	Attendance at 75 % of lectures/seminars, and approved paper.
Opptak/adgangsregulering:	
- studierettskrav*	MAJUR – JUSVALG – INTL-JUS
- undervisningsopptak*	Ingen
- deltakerkapasitet	Antakelig ubegrenset
- privatistadgang*	Nei
Eksamen:	
- eksamenssemester(høst/vår) *	Eksamen hver vår
- eksamensform* o semester med	Graded home exam (one week) and school exam (4 hours).

undervisning o semester uten undervisning	Exam only in semesters with teaching. Resit of school exam only when mandatory elements are approved and home exam is passed.
- eksamenstid*	One week / 4 hours
- eksamensspråk* -oppgaven -besvarelsen	 English. English.
- karakterregel*	Grading is based on a joint evaluation of home exam and school exam, app. 50/50. Graded scale: A – E for passed exam, F for fail, jfr. Studieplan for masterstudiet I rettsvitenskap ved UiB § 3-1 nr 2 første punktum.
Hjelpemidler til skoleeksamen, avvik fra § 3-6 flg.	None.
Forkunnskaper (inkludert språkkunnskaper):	
- obligatoriske*	Bachelors degree in political scienses or equivalent, or completed third year of masterstudy in law, or equivalent.
- anbefalte*	Bachelors degree in political scienses or equivalent, or completed third year of masterstudy in law, or equivalent.
Faglig overlapping med andre emner*	The course has partly the same themes that JUS281-2-A (Comparative Constitutional Law)), but the overlap is limited. At JUS-281 the Norwegian Constitution is one of several constitutions included as object of comparison, while on this course the Norwegian constitution is the main object. Approaches are also different as this course draws on both legal and social perspectives. The course has points in common with JUS 121 (Norwegian and international legal institutions), but this course gives a short introduction to the Norwegian Constitution and tasks between states.
Evaluering*	According to faculty regulations
Kontaktinformasjon*- Avdeling/institutt/ /fakultet	Administrativ kontaktperson: Kjersti.Lillegraven@jurfa.uib.no Enhetens navn: **Det juridiske fakultet** Besøksadresse: Magnus Lagabøtes plass 1 Ekspedisjonstid: 09.00 – 14.00. Postadresse: Postboks 7800 Postnummer og -sted: 5020 BERGEN Telefon: 55 58 95 00 Faks: 55 58 95 10 E-post: info@jurfa.uib.no Web: http://www.jur.uib.no/
Målgruppe(r)	Both as a special course for domestic students interested in the intersection between law and politics, and for visiting exchange students.
Behovet for tilrettelegging i forhold til målgruppene	None.
Finansiering av emnet	Ordinary internal
Ressurser	
- kursansvarlig	Internal
- undervisningsressurser	Internal. [Fakultetets lærere (Halvard H. Fredriksen, Jørn Ø. Sunde, Eirik Holmøyvik og Karl Harald Søvig) vil gi undervisning med til sammen 10 timer.]

- administrative ressurser	Ordinary internal
Kursets relevans	The course is part of UiB's celebration of the upcoming 200 year anniversary of the Constitution. As of today there are hardly any common courses across faculties, and the basic idea is to provide a service to students interested in the intersection between law and politics.