



Styre: Fakultetsstyret ved Det juridiske fakultet
Styresak: 33/23
Møtedato: 21.03.2023
Journalnummer: 2023/1803

NEDLEGGING AV JUS278-2-A COMPARATIVE PRIVATE LAW OG OPPRETNING AV 2304 COMPARATIVE PRIVATE LAW OG 3504 COMPARATIVE PRIVATE LAW

Bakgrunn

I sak 76/22 til fakultetsstyret 27.9.2022 vedtok fakultetsstyret ny modell for engelskspråklege emne ved fakultetet der dei engelskspråklege emna som hovudregel skal finnast i to variantar med ulike emnkodar: Den eine versjonen av emnet skal ha læringsutbyteskildring i samsvar med bachelornivået i nasjonalt kvalifikasjonsrammeverk, og den andre versjonen av emnet skal ha læringsutbyteskildring i samsvar med masternivå i nasjonalt kvalifikasjonsrammeverk.

Som oppfølging av dette vedtaket har dei emneansvarlege i engelskspråklege spesialeemne blitt bedne om å utarbeida nye emneskildringar. Undervisar i emnet, Gianmaria Ajani, har utarbeidd dei to emneskildringane som ligg ved.

Som vedlegg følgjer saka slik ho vart presentert for studieutvalet, inkludert ei oppsummering av skilnadene på bacheloremnet og masteremnet, samt emneskildringar for begge emna.

Handsaming i studieutvalet

Studieutvalet handsama saka i sitt møte den 08.03.2023 og oversender saka til fakultetsstyret med følgjande uttale:

«Studieutvalet oppfordrar fakultetsstyret til å leggja ned emnet JUS278-2-A Comparative Private Law etter studieåret 22/23 og istaden oppretta JUS2304 Comparative Private Law og JUS3504 Comparative Private Law som skal undervisast første gong haustsemesteret 2023, og til å vedta overgangsordningar og tal på vurderingsforsøk som skildra.»

Merknader frå dekan og fakultetsdirektør

Dekan og fakultetsdirektør sluttar seg til forslaget frå Studieutvalget.

På denne bakgrunn blir det sett fram følgjande:

forslag til vedtak:

1. JUS278-2-A Comparative Private Law blir lagt ned etter studieåret 2022/2023.
2. Emna JUS2304 Comparative Private Law og JUS3504 Comparative Private Law blir oppretta og skal undervisast første gong haustsemesteret 2023.
3. Overgangsordning for studentar som treng å gjennomføra vurdering i gamalt emne JUS278-2-A Comparative Private Law etter studieåret 2022/2023: Studentane avlegg i staden eksamen i nytt emne JUS3504 Comparative Private Law.
4. Studentar har tre vurderingsforsøk samla både for det gamle emnet JUS278-2-A i kombinasjon med eitt av dei to nye emna, og samla for dei to nye emna i kombinasjon.

[Skriv her]

Karl Harald Søvig
dekan

Øystein L. Iversen
fakultetsdirektør

10.03.2023
INTØ

Vedlegg:

1. Sak 11/23-8 til Studieutvalet
2. Emneskildring JUS2304 Comparative Private Law
3. Emneskildring JUS3504 Comparative Private Law

[Skriv her]

Nedlegging av JUS278-2-A Comparative Private Law og oppretting av JUS2304/JUS3504 Comparative Private Law

I sak 76/22 til fakultetsstyret 27.9.2022 vedtok fakultetsstyret ny modell for engelskspråklege emne ved fakultetet der dei engelskspråklege emna som hovudregel skal finnast i to variantar med ulike emnkodar: Den eine versjonen av emnet skal ha læringsutbyteskildring i samsvar med bachelornivået i nasjonalt kvalifikasjonsrammeverk, og den andre versjonen av emnet skal ha læringsutbyteskildring i samsvar med masternivå i nasjonalt kvalifikasjonsrammeverk.

Som oppfølging av dette vedtaket har dei emneansvarlege for engelskspråklege spesialeemne blitt bedne om å utarbeida nye emneskildringar. Det er Berte-Elén Konow som er intern emneansvarleg for Comparative Private Law, medan emnet blir undervist av professor Gianmaria Ajani frå Università di Torino i Italia. Det er Gianmaria Ajani som har utarbeidd dei to emneskildringane som ligg ved.

Mål og innhald er i hovudsak likelydande for dei to emna, med unntak av at det i masteremnet vert framheva at “[The students] are made familiar with a methodology based on comparison, namely the measurement of the impact of legal reforms, and become able to understand its critical aspects.”

Forventa læringsutbyte er til dels ulikt for studentar på 3. studieår (bachelornivå) og studentar på 5. studieår (masternivå). Skilnadene mellom forventa læringsutbyte på masternivå og bachelornivå går særleg på auka fokus på metodiske ferdigheiter hos masterstudentane, og forståing av rettsikkerheit (Rule of Law) som standard ved prosessar for å harmonisera dei nasjonale rettsreglane.

Det er ikkje obligatoriske arbeidskrav i emna, og dei ekstra «master classes» er heller ikkje føreslått å vera obligatoriske. Ajani opplyser følgjande om korleis han planlegg å bruka dei ekstra forelesingane på masternivå: *“With regard to the teaching, its focus is a comparative analysis of the recourse to international standards, like the “Rule of Law”, in the support of legal reforms by supranational institutions; the analysis will drive students to understand current methodologies in the measurement of impact of legal reforms.*

My proposal is to devote additional classes to investigate with Master students how this has been played in the context of EU law (particular reference to the current “rule of law crisis” between the EU Commission and some Member States governments.”

Ajani har teke utgangspunkt i litteraturlista for emnet JUS287-2-A slik den er i dag, men føreslått at to artiklar blir tekne ut og at det i staden blir lagt til ein del nye tekstar. Det skal ikkje lenger skiljast mellom «required reading» og «recommended reading». I dei nye emna vil all litteraturen vera «required reading». Gianmaria Ajani opplyser at til saman er litteraturen på om lag 450 sider i bacheloremnet og om lag 550 sider i masteremnet.¹

Overgangsordning og tal på eksamensforsøk
§3-2-4 i Forskrift om opptak, studier, vurdering og grader ved Universitetet i Bergen (UiB-forskrifta) seier: «Ved nedlegging av studieprogram, studieretninger og emner skal vedtaksorganet fastsette

¹ SU vedtok i sak 54/16 at for det integrerte masterprogram i rettsvitenskap ved Det juridiske fakultet gjeld følgjande sidetalsnorm: Hovudlitteraturen skal ha eit omfang på mellom 30 og 60 tekstsider pr. studiepoeng. I same sak uttalte også SU at «Det skal vidare tas hensyn til hvor i studiet emnet er plassert, sånn at hovedlitteraturen i emner som er plassert mot slutten av studiet normalt vil være mer omfattende enn emner tidlig i studiet.» Ut frå dette reknar studiedekanan at eit spesialeemne på 5. studieår bør ha opp mot 60 sider hovudlitteratur per studiepoeng, og at eit valemne på 3. studieår bør ha kring 45 sider hovudlitteratur per studiepoeng.

[Skriv her]

overgangstid for undervisning og vurdering. Studenter som er tatt opp til studieprogram som vedtas nedlagt, har rett til å fullføre dette i samsvar med vedtak om overgangstid. Ved nedlegging av emner skal det normalt avholdes vurdering i emnet i ett eller to påfølgende semestre etter siste undervisningssemester.»

I dette tilfellet er emna på masternivå så like at studentar som treng å gjennomføra vurdering i gamalt emne JUS278-2-A etter haustsemesteret 2023, i staden vil bli viste til å avlegga eksamen i nytt emne JUS3504 Comparative Private Law.

§ 6-8-1 i UiB-forskrifta seier følgjande om antall vurderingsforsøk: «Ved Universitetet i Bergen gjelder det ordinært en øvre grense på tre vurderingsforsøk for det enkelte emne. Begrensningen i antallet vurderingsforsøk gjelder også dersom emnet har skiftet emnekode, inngår med ulik kode i flere studieprogrammer eller inngår i ny form i et studieprogram i tilknytning til en overgangsordning.

I medhald av dette gjeld at studentar har tre vurderingsforsøk samla både for det gamle emnet JUS278-2-A og kvart av dei to nye emna, og samla for dei to nye emna i kombinasjon. Ein student som tidlegare har nytta alle vurderingsforsøka i emnet på 3. studieår, kan ikkje få nye høve til å greia emnet ved å i staden melda seg til den andre utgåva av emnet på 5. studieår.

Studieutvalet uttalar:

Studieutvalet oppfordrar fakultetsstyret til å leggja ned emnet JUS278-2-A Comparative Private Law og istaden oppretta JUS2304 Comparative Private Law og JUS3504 Comparative Private Law som skal undervisast første gong haustsemesteret 2023, og til å vedta overgangsordningar og tal på vurderingsforsøk som skildra.

Vedlegg: Emneskildringar

[Skriv her]

JUS2304 Comparative Private Law – BACHELOR LEVEL VERSION

ECTS Credits

10 ECTS Credits

Level of Study

Bachelor

Full-time/Part-time

Full time

Teaching semester

Autumn.

Place of Instruction

Faculty of Law, University of Bergen

Objectives and Content

Students are introduced to comparative law as a method of legal enquiry, which is significant to the cosmopolitan lawyer who requires knowledge of more than one legal system. They will consider the practical aims and theoretical underpinnings of the comparative legal method and examine how the process of comparing laws has moved from a pure descriptive analysis into a normative evaluation.

Emphasis is placed on the current use of the comparative method by global actors such as the International Financial Institutions (World Bank, IMF, EBRD) to promote national legal reforms for a better and sustainable economic performance based on the Rule of Law

Learning Outcomes

Knowledge

On successful completion of the course, students will be able to:

- understand the main aspects of the distinction between common law and civil law legal systems
- analyse the impact of comparative law from comparative and international perspectives, and in the context of social and cultural diversity
- understand the reasons for pursuing, and the factors of resistance against, legal harmonization of private laws

Skills

On successful completion of the course, students will be able to:

- identify the different role played by judicial interpretation in the civil law and common law based legal systems

[Skriv her]

- understand the reasons supporting the process of harmonization of private laws in Europe

General competence

On successful completion of the course students:

- will be able to participate in discussions concerning the role of comparative law in the making of legal reforms
- will be familiar with the use of comparative law made by international institutions to propose best models for updating private and commercial laws

Required Previous Knowledge

Two years of law studies

Recommended Previous Knowledge

Good level of English language

Credit Reduction due to Course Overlap

In combination with JUS358 Comparative Private Law, JUS278-2-A Comparative Private Law or JUS3504 Comparative Private Law this course generates no new credits.

The course combines well with

JUS2313/3513 Human Rights and Welfare Policies

JUS23XX Introduction to Chinese Law

JUS2317/3517 Comparative European Constitutional Law

JUS2307 Introduction to European Human Rights

JUS2308 Constitution, Courts and Politics

JUS23XX Comparing Legal Cultures in Europe

Access to the Course

The course is available for students:

- admitted to the five-year master programme in law
- granted admission to elective courses at the Faculty of Law
- exchange students at the Faculty of Law

The pre-requirements may still limit certain students' access to the course

Teaching and learning methods

Lectures.

Compulsory Assignments and Attendance

None

Forms of Assessment

Four-hour digital school exam.

Information about digital examination can be found here:

<http://www.uib.no/en/education/87471/digital-examination>.

[Skriv her]

Exam language:

- Question paper: English
- Answer paper: English

Examination Support Material

Support materials allowed during school exam:

See section 3-5 of the Supplementary Regulations for Studies at the Faculty of Law at the University of Bergen.

Special regulations about dictionaries:

- According to the Regulations for Studies, one dictionary is permitted support material during the examination. Bilingual dictionaries containing for example *both* Norwegian-English and English-Norwegian are considered as one dictionary.
- Bilingual dictionaries to/from the same two languages - for example Norwegian-English/English-Norwegian - in *two* different volumes are also considered as one dictionary (irrespective of publisher or edition).
- Dictionaries as described above cannot be combined with any other types of dictionaries.
- Any kind of combination which makes up *more than* two physical volumes is forbidden.
- In case a student has a special need for any other combination than the above mentioned, such combination has to be clarified with/approved by the course coordinator *minimum two weeks* before the exam. Students who have not been granted permission to have a special combination *minimum two weeks* before the exam will be subject to the [usual regulations](#) (Section 3-5) about examination support materials.

Grading Scale

A - E for passed, F for failed.

Course Evaluation

According to the administrative arrangements for course evaluation at the Faculty of Law

Course Coordinators

Professor Berte-Elen Konow and Guest Professor Gianmaria Ajani.

Reading List (saksopplysning: til sammen ca 450 sider)

Sacco, Rodolfo. 1991. «Legal formants: a dynamic approach to comparative law (part 1)». *The American Journal of Comparative Law* 39 (1): 1.

Gianmaria Ajani. 2007. «Transplants, Legal Borrowing and Reception». *Encyclopedia of Law & Society*, 1–8.

[Skriv her]

David Kennedy. 2006. «The 'Rule of Law', Political Choices and Development Common Sense». I *The New Law and Economic Development: A Critical Appraisal*, av David M. Trubeck and Alvaro Santos (eds.), 95–98–150–73. Cambridge University Press.
<https://litteraturkiosken.uib.no/JUS278-2-A>.

Gordon Barron. 2005. *The World Bank & Rule of Law Reforms*. LSE, Department of International Development.
<http://www.lse.ac.uk/internationalDevelopment/pdf/WP/WP70.pdf>.

Michaels, Ralf. 2009. «Comparative Law by Numbers? Legal Origins Thesis, Doing Business Reports, and the Silence of Traditional Comparative Law». *American Journal Of Comparative Law* 57 (4): 765–95. <https://doi.org/10.5131/ajcl.2008.0022>.

Dimitri Van Den Meerssche. 2017. «Redefining Political Interference in the World Bank: a genealogy of governance and rule of law reform, in European Society of International Law». *European Society of International Law, ESIL Conference Paper Series* 9 (9).
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3045255.

Holger Spamann. 2009. «Large-Sample, Quantitative Research Designs for Comparative Law?» *The American Journal of Comparative Law* 57 (4): 797–810.
<https://www.jstor.org/stable/25652670?seq=1>.

- V. ZENO-ZENCOVICH, *Comparative Legal Systems. A Short Introduction*, 2017, pp.1-120
- D. CURREN, *Comparative Law and Language*, 2017, pp. 1-46
- G: AJANI, *Ruling by Indicators*, 2017, pp. 1-27
- S. SEPPÄNEN, *After Difference: A Meta-Comparative Study of Chinese Encounters with Foreign Comparative Law*, 2020, pp. 1-36
- U. MATTEI, M. DE MORPURGO, *Global Law and Plunder: The Dark Side of the Rule of Law*, 209, pp. 1-20

[Skriv her]

JUS3504 Comparative Private Law

MASTER LEVEL VERSION

ECTS Credits

10 ECTS Credits

Level of Study

Master

Full-time/Part-time

Full time

Teaching semester

Autumn.

Place of Instruction

Faculty of Law, University of Bergen

Objectives and Content

Master Students are introduced to comparative law as a method of legal enquiry, which is significant to the cosmopolitan lawyer who requires knowledge of more than one legal system.

Students consider the practical aims and theoretical underpinnings of the comparative legal method and examine how the process of comparing laws has moved from a pure descriptive analysis into a normative evaluation.

Throughout the course they are made familiar with a methodology based on comparison, namely the measurement of the impact of legal reforms, and become able to understand its critical aspects.

Emphasis is placed on the current use of the comparative method by global actors such as the International Financial Institutions (World Bank, IMF, EBRD) and the European Union to promote national legal reforms for a better and sustainable economic performance based on the Rule of Law.

Learning Outcomes**Knowledge**

On successful completion of the course, students will be able to:

-understand the main aspects of the distinction between common law and civil law legal systems (role of legal interpretation, law-making process)

[Skriv her]

- understand the reasons for pursuing, and the factors of resistance against, legal harmonization of private laws
- analyse the impact of comparative law from comparative and international perspectives, and in the context of social and cultural diversity
- identify possible advantages and/or factors of resistance in a course of national legal reform based on abstract models driven by international institutions

Skills

On successful completion of the course, students will be able to:

- recognize the different role played by judicial interpretation in the civil law and common law based legal systems
- apply a methodology based on an evaluation of effectiveness of legal reforms in the field of economic laws
- apply comparative law methodology to complex problems/issues

General competence

On successful completion of the course, students

- will be able to participate in discussions concerning the role of comparative law in the making of legal reforms
- will be familiar with the use of comparative law made by international institutions to propose best models for updating private and commercial laws
- will acquire a firm understanding of the role played by the Rule of Law as a general standard in the process of harmonization of national legal systems

Required Previous Knowledge

Three years of law studies.

Recommended Previous Knowledge

Good level of English language

Credit Reduction due to Course Overlap

In combination with JUS358 Comparative Private Law, JUS278-2-A Comparative Private Law or JUS2304 Comparative Private Law this course generates no new credits.

The course combines well with

JUS2313/3513 Human Rights and Welfare Policies
JUS23XX Introduction to Chinese Law
JUS2317/3517 Comparative European Constitutional Law
JUS2307 Introduction to European Human Rights
JUS2308 Constitution, Courts and Politics
JUS23XX Comparing Legal Cultures in Europe

Access to the Course

The course is available for students:

- admitted to the five-year master programme in law
- admitted to the two-year master programme in law

[Skriv her]

- granted admission to elective courses at the Faculty of Law
- granted additional right to study following completed master's degree in law at UiB
- exchange students at the Faculty of Law

The pre-requirements may still limit certain students' access to the course

Teaching and learning methods

Lectures and in-class discussion

Compulsory Assignments and Attendance

None

Forms of Assessment

Four-hour digital school exam.

Information about digital examination can be found here:

<http://www.uib.no/en/education/87471/digital-examination>.

Exam language:

- Question paper: English
- Answer paper: English

Examination Support Material

Support materials allowed during school exam:

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- Bilingual dictionaries to/from the same two languages - for example Norwegian-English/English-Norwegian - in *two* different volumes are also considered as one dictionary (irrespective of publisher or edition).
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Grading Scale

A - E for passed, F for failed.

[Skriv her]

Course Evaluation

According to the administrative arrangements for course evaluation at the Faculty of Law

Course Coordinators

Professor Berte-Elen Konow and Guest Professor Gianmaria Ajani.

Reading List (saksopplysning: rundt 550 sider til sammen)

Sacco, Rodolfo. 1991. «Legal formants: a dynamic approach to comparative law (part 1)». *The American Journal of Comparative Law* 39 (1): 1.

Gianmaria Ajani. 2007. «Transplants, Legal Borrowing and Reception». *Encyclopedia of Law & Society*, 1–8.

David Kennedy. 2006. «The ‘Rule of Law’, Political Choices and Development Common Sense». I *The New Law and Economic Development: A Critical Appraisal*, av David M. Trubeck and Alvaro Santos (eds.), 95–98–150–73. Cambridge University Press.
<https://litteraturkiosken.uib.no/JUS278-2-A>.

Gordon Barron. 2005. *The World Bank & Rule of Law Reforms*. LSE, Department of International Development.
<http://www.lse.ac.uk/internationalDevelopment/pdf/WP/WP70.pdf>.

Michaels, Ralf. 2009. «Comparative Law by Numbers? Legal Origins Thesis, Doing Business Reports, and the Silence of Traditional Comparative Law». *American Journal Of Comparative Law* 57 (4): 765–95. <https://doi.org/10.5131/ajcl.2008.0022>.

~~Peerenboom, Randall. 2012. *Toward a Methodology for Successful Legal Transplants*. <https://doi.org/10.2139/ssrn.1981887>. (saksopplysning: Fjernes fra litteraturlisten sammenlignet med dagens emne JUS278-2-A)~~

Dimitri Van Den Meerssche. 2017. «Redefining Political Interference in the World Bank: a genealogy of governance and rule of law reform, in European Society of International Law». *European Society of International Law, ESIL Conference Paper Series* 9 (9).
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3045255.

Additional reading

~~Femke Gremmelpré, u.å. *The EU Rule of Law Crisis to the Next Level: A Proliferation of Institutional Constructions*. Ghent European Law Institute—Ghent University Ghent Belgium. (saksopplysning: Fjernes fra litteraturlisten sammenlignet med dagens emne JUS278-2-A)~~

Holger Spamann. 2009. «Large-Sample, Quantitative Research Designs for Comparative Law?» *The American Journal of Comparative Law* 57 (4): 797–810.
<https://www.jstor.org/stable/25652670?seq=1>.

[Skriv her]

(saksopplysning: Legges til litteraturlisten sammenlignet med dagens emne JUS278-2-A):

- V. ZENO-ZENCOVICH, Comparative Legal Systems. A Short Introduction, 2017, pp.1-120
- D. CURREN, Comparative Law and Language, 2017, pp. 1-46
- G: AJANI, Ruling by Indicators, 2017, pp. 1-27
- S. SEPPÄNEN, After Difference: A Meta-Comparative Study of Chinese Encounters with Foreign Comparative Law, 2020, pp. 1-36
- U. MATTEI, M. DE MORPURGO, Global Law and Plunder: The Dark Side of the Rule of Law, 209, pp. 1-20

- J. KRONCKE, Law and Development as Anti-Comparative Law, 2012, pp. 1-81
- N. AROUPA et al., A Law and Economics Perspective on Legal Families, 2013, pp.1-25