DET JURIDISKE FAKULTET
UNIVERSITETET I BERGEN

NOTAT

til

Fakultetsstyret

Jnr. Arkiv	Sak nr. 77 /09 Styremøte 20.10.09

Forslag om å opprette nytt spesialemne med to moduler: JUS283-2-A Arbitration: Theory and Principles og JUS283-2-B Arbitration: Practice and Advocacy

Emnemaler vedlagt.

Studieutvalget behandlet saken i sitt møte den 15. september, sak 6-09/10, og vedtok:

> Studieutvalget tilrår overfor fakultetsstyret at vi oppretter spesialemne med to moduler á 10 sp som foreslått, med professor Larry Bakken som emneansvarlig.
>
> Studieutvalget ba også om at det ble undersøkt med Camilla Bernt om en slik opprettelse ville være i strid med planer/ønsker hun kunne ha om utvikling på sitt fagområde. Det ble undersøkt: Hun har ingen innvendinger mot opprettelsen, tvert imot kan disse emnene bidra positivt til et fokus på dette feltet. Hennes satsing vil ventelig være mer generell innenfor alternativ konfliktløsing/konfliktmekling, enn disse spesifikke voldgiftsemnene.

Professor Larry Bakken har sagt seg interessert i å presentere disse to emnene ved vårt fakultet. Emnene passer inn i vår satsing på to områder, så vel forbedret tilbud om engelsk undervisning som økt satsing på alternativ konfliktløsing.

Vi har pr i dag et emne med to moduler konfliktmekling på norsk og vi har én modul Alternative Dispute Resolution på engelsk. Det nye tilbudet vil ikke representere overlapping med noe av det eksisterende, men i stedet vil det supplere tilbudet.

Kostnader:
Larry Bakken har allerede 3 engelskspråklige spesialemner hvor undervisningen fordeles på en periode på ca 14 dager relativt tidlig i vårsemesteret og en 14-dagers periode i slutten av vårsemesteret. Den siste har vært kombinert med sommerskolen han har hatt i Bergen for sine amerikanske studenter. Men pga av få påmeldte ble det ingen sommerskole i år, noe som gjorde at vi måtte bekoste dette oppholdet i sin helhet. Hva som skjer med sommerskolen i framtiden er så vidt vi vet ikke avklart. Med de to nye spesialemnene som Studieutvalget foreslår vil Larry Bakken ha 5 spesialemner. Undervisningen vil være 10 dobbeltimer pr modul, det vil si til sammen 40 timer á 1.328 kr = 53.120 kroner for de to nye modulene. I tillegg kommer sensur – kostnadene vil variere med antall studenter. Eksamen består av ”research paper” og ”personal journal” i tillegg til skoleeksamen og tilbys bare i undervisningssemestrene, med eventuell kontinuasjonseksamen i august. Vi må også holde professor Bakken med reise og opphold i Bergen, men eventuelle ekstrautgifter til

dette vil dels være avhengige om sommerskolen fortsetter og dels av om også undervisningen i de to foreslåtte spesialemnene kan gjennomføres under de to oppholdene han allerede har, eller om dette forutsetter nye opphold eller forlengelse av eksisterende opphold. For våren 2010 planlegger han forskningsopphold her (sannsynligvis fra mars til juni), og vi legger til grunn at det vil ikke påløpe ekstra omkostninger til reise/opphold dette semesteret. Men som det framgår ovenfor er det usikkert mht i hvilken grad en utvidelse fra 3 til 5 spesialemner vil føre til flere/lengre og dermed mer kostnadskrevende opphold i Bergen når dette ikke kan kombineres med forskningsopphold. Men dette har også en faglig/pedagogisk side, noe vi vil komme tilbake til nedenfor

Inntekter:
I forhold til våre egne masterstudenter vil endringer i spesialemneporteføljen i all hovedsak bare virke til at studentene flytter mellom emnene.
I forhold til innreisende utvekslingsstudenter kan vi håpe at økt/forbedret tilbud vil føre til økt netto tilstrømming.
Det samme gjelder studenter som får særskilt studierett til spesialemner: De vil kunne øke i antall ettersom tilbudet om spesialemner utvides/bedres.
Dette innebærer at det er realistisk å tenke seg at bedret engelskspråklig fagtilbud vil kunne gi en viss netto inntektsøking, men sannsynligvis mindre enn kostnadsøkningen

Vurderinger
Dersom dagens ordning med 2 opphold á 14 dager opprettholdes vil studentene kunne få det meste eller all undervisning i spesialemnene konsentrert på til sammen 4 uker, avhengig av hvilke spesialemner en velger. Både ut fra et pedagogisk synspunkt og av hensyn til innreisende studenters studiesituasjon ser vi det som uheldig dersom de må oppholde seg storparten av semesteret i Bergen uten undervisning eller kontakt med den kursansvarlige. Vi mener derfor at spørsmålet om å tilby de to nye emnene også ut over 2010 må ses i sammenheng med hvor ofte og hvor lenge Bakken vil oppholde seg i Bergen – noe som også har en økonomisk side. Dessuten bør det ses i sammenheng med den gjennomgang av spesialemnene fakultetet skal ha i 2010.

Når det gjelder 2010 har vi følgende kommentarer: Ut fra en rein økonomisk vurdering bør det ikke opprettes flere spesialemner på det nåværende tidspunkt, og vi viser her til flere styremøter hvor spørsmålet om nedlegging av spesialemner ut fra økonomiske vurderinger har stått på dagsorden. I dette tilfellet mener vi imidlertid at de to spesialemnene har en så god faglig begrunnelse at dette - kombinert med at undervisningen kan spres ut over semesteret og at det ikke vil komme ekstra reise- og oppholdsutgifter som følge av hans forskningsopphold - gjør at vi tilrår forslaget for vårsemesteret 2010

Vedtaksforslag

På ovennevnte bakgrunn framsetter dekan og fakultetdirektør slikt **vedtaksforslag:**

1. Fakultetsstyret oppretter spesialemnene JUS283-2-A Arbitration: Theory and Principles og JUS283-2-B Arbitration: Practice and Advocacy.
2. professor Larry Bakken engasjeres som emneansvarlig lærer..
3. Emnene opprettes som en prøveordning for våresmesteret 2010. Styret tar i løpet av høsten 2010 stilling til videre drift i lys av erfaringer med oppslutning om kurset, kostnader mv. og som ledd i gjennomgangen av den totale spesialemneporteføljen

Asbjørn Strandbakken	Eivind Buanes
Dekanus	Fakultetsdirektør

12.10.09

JOSP-EIBU

Vedlegg

Vedlegg

Subject	
Course title	
Code	JUS283-2-A
Course title – bokmål*	Arbitration: Theory and Principles
Course title – nynorsk*	Arbitration: Theory and Principles
Course title – english*	Arbitration: Theory and Principles
Number of credits*	10
Level (BA or MA)	MA
Course leader*	Professor Larry Bakken
Subject lecturer(s)*	Professor Larry Bakken
Contact person in the Administration (can be changed by the Admin. without a new decision)	Bitten.Lunde@jurfa.uib.no
Combines successfully with	JUS283-2-B, JUS280-2-A Dispute resolution
For the subjects in the law programme:	
- Course content**	This course provides an introduction to basic foundations, guiding principles and key elements of arbitration. The course will include a brief history of arbitration, an overview of its significant features and will examine the role of arbitration in the broader context of Dispute Resolution. Special attention will be given to the law of arbitration in Norway, the New York conventions, Geneva conventions, UNCITRAL (UN Commission on International Trade Law) and WIPO (World Intellectual Property Organization). Attention will be given to national arbitration legislation found in the United States, France, England, German, Sweden, Russia, Japan and China. Some attention will also be given International Dispute Settlement Mechanisms such as WTO (World Trade Organization) NAFTA (North American Free Trade Agreement) and ASEAN (Association of South East Asian Nations). Arbitration traditionally has been used in labor and commercial transactions, and international contacts. Now however, arbitration extends to consumer, investment, and security transactions. Rarely are arbitrator awards overturned by local judicial action. However, judicial oversight has been extended to issues of disclosure and arbitrator neutrality. Other areas of judicial review include opt-in provisions and clarity of arbitration awards, and enforcement of arbitration agreements. The course provides students with an understanding of the essential stages of arbitration and it provides students an opportunity to evaluate legal doctrines and concepts that surround the law and practice of arbitration.
- Learning outcome**	
- Literature**	**Required:** Arbitration in a Nutshell, Thomas E. Carbonneau, Thomson-West 2007 or Law and Practice of International Commercial Arbitration, 4th ed. Alan Redfern, Martin Hunter, Nigel Blackaby and Constantine Partasides, Sweet & Maxwell, 2004 or Arbitration Law and Practice 4th ed. Thomas Carbonneau, Thomson-West, 2007 **Recommended Reading:**

	International Commercial Arbitration, Giuditta Cordero Moss, Tano Aschegoug, 1999 Handouts of journal articles and copies of appropriate arbitration laws, rules and practices.
Teaching:	
- teaching semester (autumn/spring)*	Spring
- teaching methods*	**Class format** – Attendance is expected, lectures, discussions, problems and simulations. Session — Topic — Readings One — Introduction – Approaches to Dispute Resolution and comparison of litigation to the Arbitration Process Two — Forms of Arbitration Basic concepts, Applicable laws (national and international) and Arbitration Agreement Three — Arbitration Agreements continued Arbitrators Rights and Responsibilities and Process and Jurisdiction of Arbitration Tribunals Four — Arbitration Proceedings - Focal Points of the Arbitration Process Five — Arbitration Awards Enforcement, Judicial Control Domestic and Foreign Awards Public Policy, Partiality and Standard of Revenue Six — International Commercial Arbitration and International Arbitration Options Seven — International Arbitration Options continued Eight — International Investment Treaties WTO, NAFTA, ASEAN, European Union UNCITRAL, ICSID Nine — International Investment Treaties Continued Arbitrator misconduct, Conflict of Interest and Ethics Ten — Summary Conclusion and Review
- teaching language*	English
- compulsory elements*	Class attendance 70 % (7 class meetings)
Admission/admittance regulation:	
- general admittance requirements*	INTL-JUS, JUSVALG or MAJUR
- course admission*	None in addition to general admission requirements
- capacity of course participant	Unlimited
- private candidate admittance*	No (due to compulsory attendance)
Exam:	
- examination semester (Autumn/Spring)*	Spring
- type of examination * o semester with teaching	A final examination consisting of one or more essay questions. A research paper of seven to ten (7-10) pages on a topic approved by the instructor.

o semester without teaching	A personal journal of eight to twelve (10-12) pages. No exam
- duration of exam*	School exam: 4 hours
- examination language* - the exam question - the answer	 English English
- grade system*	Graded scale with 5 levels from A to E for passes and F for fail, see Section 3-1 no. 2, first sentence of *Studieplanen for masterstudiet I rettsvitenskap ved UiB*.
Remedies permitted in addition to § 3-6	None
Basic admission requirements (including language requirements):	
- compulsory*	Three years of university studies. Good written and spoken English
- recommended*	Three years of law studies.
Academic overlap with other courses*	No overlapping with courses at the Law Faculty in Bergen
Evaluation*	According to routines for course evaluation at the faculty.
Contact information* - Department/Institute/ Faculty	Contact person in the Administration: **Bitten.Lunde@jurfa.uib.no** Department: **The Faculty of Law** Visiting address: Magnus Lagabøtes plass 1 Office hours: 09.00 – 14.00. Postal address: Postboks 7800 Post number and city: 5020 BERGEN Phone: + 47 55 58 95 00 Fax: + 47 55 58 95 10 E-mail: info@jurfa.uib.no Web: http://www.jur.uib.no/
Target group(s)	Any law student or lawyer who ***
The need for adjustment with regard to the target groups	None
Financing of the coruse	Ordinary, internal
Resources	
- course leader	External professor
- teaching resources	External professor
- administrative resources	Ordinary teaching administration
Relevance of the course	

Subject	
Course title	
Code	JUS283-2-B
Course title – bokmål*	Arbitration: Practice and Advocacy
Course title – nynorsk*	Arbitration: Practice and Advocacy
Course title – english*	Arbitration: Practice and Advocacy
Number of credits*	10
Level (BA or MA)	MA
Course leader*	Professor Larry Bakken
Subject lecturer(s)*	Professor Larry Bakken
Contact person in the Administration (can be changed by the Admin. without a new decision)	Bitten.Lunde@jurfa.uib.no
Combines successfully with	JUS280-2-A Dispute resolution, JUS283-2-A Arbitration: Theory and Principles
For the subjects in the law programme:	
- Course content**	Arbitration is a widely used method of private dispute resolution. It is quasi-judicial in nature and lawyers, especially commercial lawyers, should be familiar with its procedures and processes. Lawyers need to know when to use arbitration, the framework of an arbitration hearing, lawyer conduct in arbitration proceedings, the rights and duties of the parties, claimants, respondents, arbitrators, lawyers and judges. Special attention will be given to the authority of the arbitration tribunal and arbitrator awards. Other topics discussed in the class will be freedom of contact, separability, arbitrability, irrational awards, clarification of awards and other conflicts between judicial and private resolution of disputes. Arbitration requires significant preparation. This course will address client and witness preparation, address issues and topics related to advocacy during the pre-arbitration hearing which includes opening statement, rules of evidence, examination and cross-examination of witnesses, preparation and use of depositions and transcripts. Post hearing advocacy will also be included in the course. Finally, this course will examine hybrid processes and international dispute settlement mechanisms and how arbitration procedures are utilized to resolve commercial conflicts. This course will conclude with a series of exercises which will provide students with a first hand understanding of arbitration practice and advocacy.
- Learning outcome**	
- Literature**	**Required:** Arbitration in a Nutshell, Thomas E. Carbonneau, Thomson-West 2007 Arbitration Interactive, Klaus Peter Burger, Peter Lang, 2002 **Recommended:** International Commercial Arbitration, Giuditta Cordero Moss, Tano Aschegoug, 1999 Arbitration Advocacy 2nd ed. John Cooley, Steven Leebet, NITA, 2003
Teaching:	

- teaching semester (autumn/spring)*	Spring
- teaching methods*	The class will include lectures, discussions Special emphasis will be placed on arbitration simulations. Session Topic Readings One Introduction: What is arbitration? Overview of the process and related arbitration law Two Arbitration agreements and the Arbitration Tribunal Three Legal principles and current issues, Arbitration awards and Judicial Review Four Arbitration Process Pre-arbitration consideration and simulations Five Pre-hearing Advocacy and simulations Six The Arbitration Hearing and simulations Seven Advocacy during arbitration hearing and simulations Eight Post Hearing Advocacy and simulations Nine International Treaties & Dispute Settlement Mechanisms WTO, EU, NAFTA, & ASEAN The use of consultation, good offices, conciliation and arbitration. Related simulations. Ten Review of arbitration, Institutions, ICC, London, Stockholm, Norway, & China
- teaching language*	English
- compulsory elements*	Class attendance 70 % (7 class meetings)
Admission/admittance regulation:	
- general admittance requirements*	INTL-JUS, JUSVALG or MAJUR
- course admission*	None in addition to general admission requirements
- capacity of course participant	Unlimited
- private candidate admittance*	No (due to compulsory attendance)
Exam:	
- examination semester (Autumn/Spring)*	Spring
- type of examination * o semester with teaching	The finals grade will be determined by: • A final examination consisting of one or more essay questions. • A five to seven (5-7) page evaluation of a commercial conflict utilizing arbitration as a dispute resolution method. A journal of ten to twelve (10-12) pages describing an understanding and evaluating their experience in class and from their involvement in arbitration simulations. ***We must have guidance to the relative weight of these elements***.
o semester without	No exam

- duration of exam*	School exam 4 hours
- examination language* - the exam question - the answer	 English English
- grade system*	Graded scale with 5 levels from A to E for passes and F for fail, see Section 3-1 no. 2, first sentence of *Studieplanen for masterstudiet I rettsvitenskap ved UiB*.
Remedies permitted in addition to § 3-6	None
Basic admission requirements (including language requirements):	
- compulsory*	Three years of university studies. Good written and spoken English
- recommended*	Three years of law studies. Participation in the teaching of JUS283-2-A.
Academic overlap with other courses*	No overlapping with courses at the Law Faculty in Bergen
Evaluation*	According to routines for course evaluation at the faculty.
Contact information* - Department/Institute/ Faculty	Contact person in the Administration: **Bitten.Lunde@jurfa.uib.no** Department: **The Faculty of Law** Visiting address: Magnus Lagabøtes plass 1 Office hours: 09.00 – 14.00. Postal address: Postboks 7800 Post number and city: 5020 BERGEN Phone: + 47 55 58 95 00 Fax: + 47 55 58 95 10 E-mail: info@jurfa.uib.no Web: http://www.jur.uib.no/
Target group(s)	Any law student or lawyer who ***
The need for adjustment with regard to the target groups	None
Financing of the coruse	Ordinary, internal
Resources	
- course leader	External professor
- teaching resources	External professor
- administrative resources	Ordinary teaching administration
Relevance of the course	***