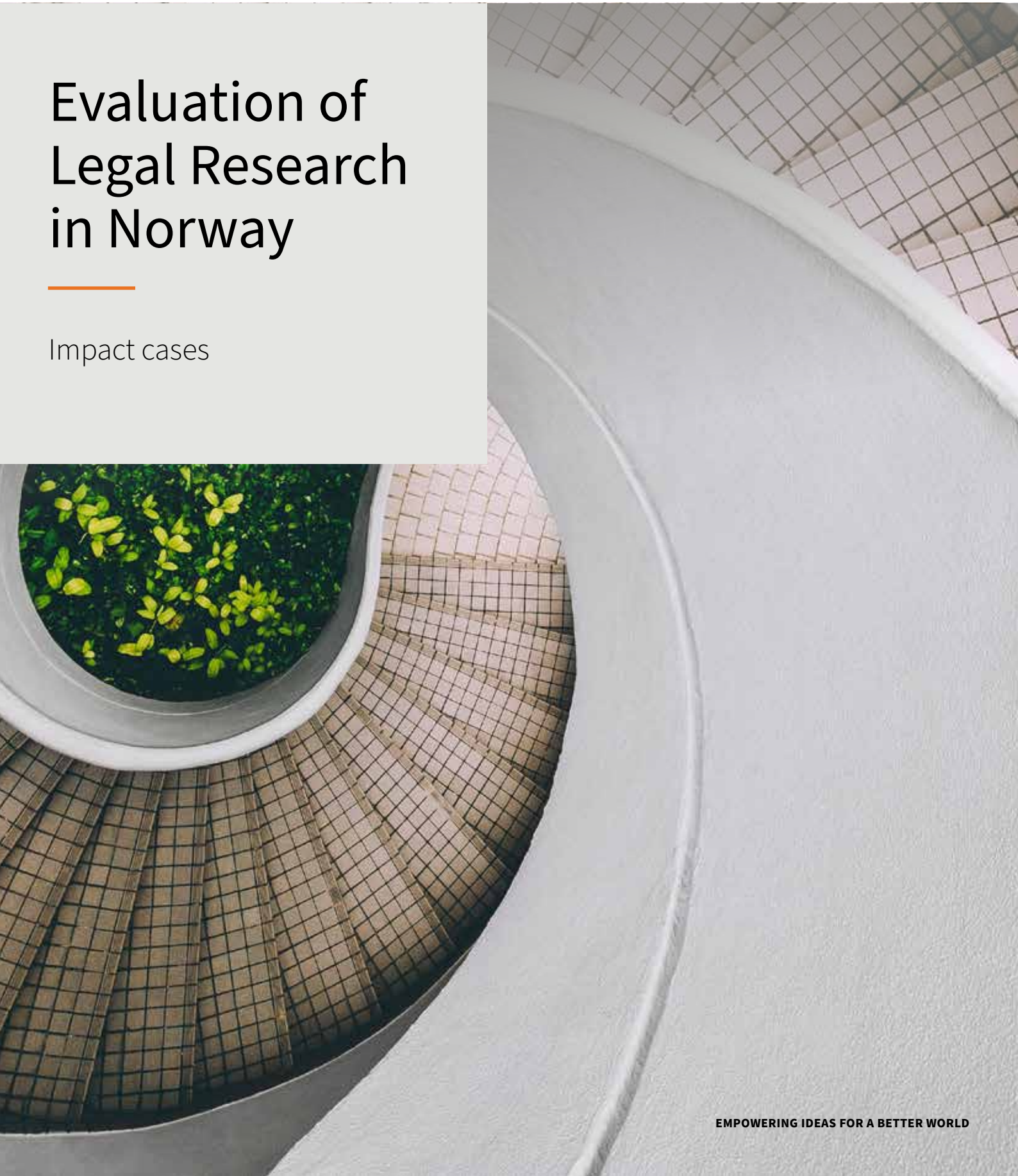
The Research Council of Norway

Evaluation of Legal Research in Norway

Impact cases



EMPOWERING IDEAS FOR A BETTER WORLD

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Contents

Introduction

Institutions that participated in the Evaluation of Legal Research in Norway were invited to submit case studies documenting the societal impact of their research. The Research Council of Norway held a webinar for participating institutions in September 2020 to specify the assignment.

Definition

The definition of, and model for, societal impact was derived from the 2021 Research Excellence Framework (REF) in the United Kingdom:

> Definition of Societal impact: an effect on, change or benefit to the economy, society, culture, public policy or services, health, the environment or quality of life, beyond academia.
>
> Impact includes the reduction or prevention of harm, risk, cost or other negative effects.
>
> Academic impacts on research or the advancement of academic knowledge are excluded. Impacts on students, teaching or other activities both within and/or beyond the submitting institution are included.
>
> Impact includes, but is not limited to, an effect on, change or benefit to:
>
> - the activity, attitude, awareness, behaviour, capacity, opportunity, performance, policy, practice, process or understanding
> - of an audience, beneficiary, community, constituency, organisation or individuals
> - in any geographic location whether locally, regionally, nationally or internationally.

Guidelines

The institutions were asked to use a template to report societal impact (Appendix A). The guidelines for submitting the case studies also included the following points:

- The research underpinning the impact cases should be anchored within the research institution.
- Both the research and the impact should have been produced within the last 10 – 15 years. Priority should be given to more recent examples. Special circumstances may allow for extending the given time interval when necessary to explain longer research traditions relevant to the reported impact. In such cases, great importance should be attached to documenting tangible impacts within the time frame provided.

- Higher education institutions with up to 50 academic employees (including PhD fellows, post-docs and externally funded researchers), may submit up to five impact cases.
- Higher education institutions with up to 100 academic employees (including PhD fellows, post-docs and externally funded researchers), may submit up to seven impact cases.
- Higher education institutions with above 100 academic employees (including PhD fellows, post-docs and externally funded researchers), may submit up to ten impact cases.

Amendments made by the RCN

33 impact cases were submitted to the Evaluation of Legal Research in Norway by five of the six institutions that participated in the evaluation. In this report the impact cases will be presented in the way they were submitted by the institutions, with two exceptions:

1. Supporting materials of a private character, such as the inclusion of e-mails or personal statements, have been omitted from section 5 in the template. This information has been available to the evaluation committee.
2. Names and contact information for external references have been left out from section 5 in the template. This information has also been available to the evaluation committee.

1 BI Norwegian Business School - Department of Law & Governance

1.1 Financial Regulation

Institution: BI Norwegian Business School		
Name of unit of assessment: Department of Law & Governance		
Title of case: Financial Regulation		
Period when the underpinning research was undertaken: 2015-2020		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Morten Kinander	**Role(s) (e.g. job title):** Professor dr.juris	**Period(s) employed by submitting institution:** 2012-
Period when the impact occurred: 2017 and onwards		

1. Summary of the impact

The establishment of the Center for Financial Regulation at BI, and the research and seminars that have been conducted from that platform, have had an impact on the current process of revising the Financial Agreements Act in Norway. Kinander's research on the Norwegian and European supervisory authorities within the field of financial regulation has also had some influence on the debate on the United Kingdom's alternatives in its relationship with the European Union going forward. This research will probably also demonstrate its continuing relevance going forward.

2.Underpinning research

The research at the foundation for this impact is mainly Kinander's articles on the regulation of markets and the role of financial supervisors and authorities.

The other aspect of the impact of Kinander's research relates to the EU's and EFTA/EEA 's supervision of financial markets and the relationship between them. The question of supervision of financial markets raises particular sovereignty issues, since the EFTA/EEA states cannot, without constitutional clearance, grant supervision by foreign organisations that they are not members of over its own physical and legal persons. This, however, is exactly what the EU requires in order to grant so-called passporting rights to financial firms, i.e., the right to market financial instruments EU-wide without asking for permission in every single member state. This arrangement, which is peculiar to the EEA/EFTA states, has attracted interest as 'the Norway Model' in Brexit debates, and the solution is often called a Gordian Knot, in the sense that it allows for both sovereign independence and foreign supervision.

3. References to the research

- Hearing response to report with proposal for new Law on financial agreements. (Norwegian: *Høringssvar til utkast om ny lov om finansavtaler*), https://www.regjeringen.no/no/dokumenter/horing---revisjon-av-finansavtaleloven/id2569865/
- Kinander, M. (2018). Conflicts of interest in Finance: Does Regulation of them Reduce Moral Judgment, and is Disclosure Harmful? *Journal of Financial Regulation and Compliance*, 26 (3), 334-350.
- Kinander, M. (2018). The Norwegian Model for Access to the European Financial Markets: The Principles and Practicalities of the EEA States' Solution to the Passporting Issue in Light of Brexit, *European Company and Financial Law Review* 2, 236–269.
- Kinander, M. (2018). Reform av norsk markedsmisbruksrett – En tapt mulighet? *Nordisk Tidsskrift for Selskabsret*, s. 1-13.
- Kinander, M. (2019). Ten Years After: The Spector Presumption in MAD, MAR and MAD II, *Capital Markets Law Journal*, 364-380.

4. Details of the impact

The Center for Financial Regulation at BI has been conducting research-based seminars on proposals for and practices of financial regulation, and other relevant issues. The most influential of this series of seminars would be the one dedicated to the report from the Ministry of Justice containing a first proposal for a new law on financial agreements (6th December 2017). Attended by approximately 100 high-level professionals on the first proposal of new law on financial agreements, this seminar was the basis for Kinander's written hearing response which is extensively quoted in the subsequent Government proposal for the new law, which will probably, at the time of writing, pass Parliament. The written hearing response is quoted extensively in the Government proposal, especially on the topic of the scope of the law. Initially, the law had a much wider scope, making strict liability meant for consumer protection mandatory also in a sophisticated professional relationship. This scope is now drastically narrowed, and much of bank lending to professionals can continue to be based on the London Loan Market Association Standard.

The way Norway solved the Gordian supervisory knot has prospective relevance for the UK financial market going forward is the topic of talks in high-level academic EU securities forums, and my article in European Company and Financial Law Review. This article prompted requests from the Oxford Business Law Blog and the London School of Economics Brexit Blog, both of which were reportedly widely read.

5. Sources to corroborate the impact

- Seminar om utkast til ny finansavtalelov, 6th December, 2017, Centre for Financial Regulation, BI, https://www.bi.no/om-bi/kalenderaktiviteter/2017/desember/seminar-om-utkast-til-ny-finansavtalelov/

- Prop. 92 LS (2019–2020) Lov om finansavtaler, (search “Senter for finansregulering» for further reference)
- Oxford Business Law Blog entry: Norway shows why the UK won’t get a good bespoke deal on financial services post-Brexit, 7th March 2018,
- London School of Economics Brexit Blog: Why won’t the UK get a good Brexit deal on financial services? One word: Norway, 13th March 2018,
- London School of Economics Brexit Blog: EFTA’s model of compliance would struggle to accommodate the UK, 12th April 2018.

1.2 Regulering av selskapers avtaler med nærstående

Institution: BI Norwegian Business School

Name of unit of assessment: Department of Law & Governance

Title of case: Regulering av selskapers avtaler med nærstående (Related Parties Transactions)

Period when the underpinning research was undertaken: 1995-2020

Details of staff conducting the underpinning research from the submitting unit

Name(s): Tore Bråthen	**Role(s) (e.g. job title):** Professor dr.juris	**Period(s) employed by submitting institution:** 1992-

Period when the impact occurred:
Særlig før, i forbindelse med og etter utarbeidelsen av *NOU 2016:22 Aksjelovgivning for økt verdiskaping*.

1. Summary of the impact

Regulering av related parties transactions (RPTs) har lenge vært et viktig emne – både internasjonalt og nasjonalt i Norge. Helt siden den første norske lovreguleringen trådte i kraft 1. januar 1996 har norsk rett – nå aksjelovene § 3-8 – inneholdt en regulering av RPTs som til dels har avveket fra reglene i andre land. Et særtrekk har vært at norsk rett siden ikrafttredelsen av aksjelovene av 1997 har hatt i det vesentlig sammenfallende regler for alle aksjeselskaper og allmennaksjeselskaper og at reglene har omhandlet saksbehandlingen for alle slags avtaler over en viss terskelverdi, men med visse unntak, for aksjonærene og en lang rekke likestilte fysiske eller juridiske personer i hele selskapets levetid. (Siden 2019 har allmennaksjeloven i tillegg hatt særregler for børsnoterte ASA, men disse reglene omtales ikke her.)

Tore Bråthen har skrevet mye om reguleringen av RPTs, se nedenfor. Han har dessuten vært mye brukt av pressen som fageksepert på reguleringen av RPTs, bl.a. i forbindelse med den såkalte Aker Solutions-saken (2009) som fikk stor politisk oppmerksomhet i Norge, se nedenfor.

Bråthens forskning om RPTs var utvilsomt medvirkende til at han ble utpekt av Regjeringen som leder av ekspertutvalget til å utrede endringer i aksjeloven (jf. NOU 2016:22). I mandatet for utredningen var RPTs angitt som ett av temaene som skulle utredes. BI-kollega høyskolelektor (nå stipendiat) Stine Winger Minde var utvalgets sekretær, og hun spilte en sentral rolle i utvalgets arbeid.

Som en oppfølging av forslaget i NOU 2016:22 ble aksjelovene § 3-8 vesentlig endret ved LOV-2019-12-06-77. Det prinsipielle grunnlaget for endringene er basert på NOU 2016:22. Flere av utvalgets forslag til endringer i detaljreglene er tatt til følge. (For børsnoterte allmennaksjeselskaper inneholder allmennaksjeloven særregler, som er basert på det endrede Shareholder Rights Directive – kjent som «SRD II».)

Senere har Bråthen skrevet en større fagartikkel som viser utviklingen av reguleringen av RPTs i norsk rett og en analyse av lovreglene etter lovendringen, se Bråthen i NTS 2020:3.

2.Underpinning research

Internasjonalt har RPTs fått stor oppmerksomhet, bl.a. fra juridiske og økonomiske forskere, se f.eks. Enriques & Tröger: The Law and Finance of Related Party Transactions (Cambridge 2019). EU har hatt regler om RPTs i 2. selskapsdirektiv, nå Generelt selskapsdirektiv, samt i SRD II.

De norske reglene har vært lovregulert siden midten av 1990-årene. Reglene har vært utviklet gjennom til sammen fem faser, se gjennomgangen i Bråthen: Reguleringen av avtaler mellom selskapet og tilknyttede parter i norsk aksjeselskapsrett, Nordic Journal of Company Law (NTS) 2019: 2 og 3 s. 13 flg. Fordi det har vært en pågående prosess helt frem til i dag, omtales som «underpining research» også prosessen og forskningslitteratur som faller utenfor perioden som JUREVAL direkte omfatter.

I Norge ble de første reglene om RPTs i allmennaksjeselskap vedtatt i 1995, se Bråthen: EØS-tilpasningen av lov om aksjeselskaper, Jussens Venner 1996:4 s. 242 flg. (s. 260-262). Reglene ble videreutviklet og gitt anvendelse for både AS og ASA ved aksjelovene 1997, se bl.a. Bråthen: Avtaler mellom selskap og aksjonær i norsk rett, I Iversen, Kristensen, Werlauff (red.): Hyldestskrift til Jørgen Nørgaard (København 2003) s. 875 flg. En vesentlig utvidelse av reglenes anvendelsesområde ble vedtatt i 2006, se bl.a. Bråthen: Selskapers avtaler med sine aksjonærer og medlemmer av ledelsen, NTS 2007:3 s. 65 flg. Noen mindre endringer ble vedtatt i 2013.

Gjennom årene var det reist mot mye kritikk mot reglene om RPTs, se f.eks. Bråthen: Anvendelsen av aksjelovene § 3-8 på datterselskapers garantier for morselskapets lån, I Bråthen (red): Moderne forretningsjus II (Bergen 2011) s. 43 flg.

Reglene hadde også fått mye offentlig oppmerksomhet. Et spesielt eksempel er den såkalte Aker Solutions-saken, som sto sentralt i den politiske debatt i 2009, se f.eks. https://www.nrk.no/norge/--brustad-for-passiv-i-aker-saken-1.6636963 , Næringsministeren vs Aker (uib.no) og https://www.nettavisen.no/okonomi/full-stotte-til-rokke/2628894.html . Ved Handelshøyskolen ble det dagen før behandlingen i Stortingets kontroll- og konstitusjonskomite holdt et åpent seminar, som til en viss grad satte sitt preg på stortingsbehandlingen, se https://www.nettavisen.no/okonomi/full-stotte-til-rokke/2628894.html og Matre: Nærståendetransaksjoner i konsernforhold, Revisjon og regnskap nr. 6/2009 (https://www.revregn.no/asset/pdf/2009/6-18-24.pdf).

Som forberedelse til arbeidet med en gjennomgang av aksjelovene, arrangerte Næringsdepartementet i samarbeid med Universitetet i Bergen et høringsmøte den 5. november 2015, se Invitasjon til fagmøte om selskapsretten - regjeringen.no. Bråthen var en av innlederne om aksjelovene § 3-8.

Bl.a. på bakgrunn av den kritikk som gjennom årene hadde vært reist mot reglene om RPTs, ble det i Regjeringens mandat for ekspertutvalget som skulle utrede endringer i aksjeloven, fremhevet at utvalget skulle «vurdere om aksjeloven § 3-8 bør endres eller oppheves», se NOU 2016:22 s. 17. Bråthen ble utpekt til å lede dette lovutvalget med høyskolelektor Stine Winger Minde, Handelshøyskolen BI, som utvalgets sekretær. Utvalget foretok en bred analyse av reglene og fremmet flere forslag til endringer, se NOU 2016:22 s. 129-152. Regjeringen fulgte opp med bl.a. Prop.135 L (2018–2019) Endringer i aksjelovgivningen mv. (langsiktig eierskap i noterte selskaper mv). Endringsforslaget ble vedtatt ved LOV-2019-12-06-77.

Bråthen redegjorde for de norske reglene om RPTs på The NTS 25 Years Anniversary Conference, Copenhagen October 4, 2019, se Lidman: Nordic Cooperation on the Implementation of EU

Company Law – Report for the anniversary conference of Nordisk Tidsskrift for Selskabsret, NTS 2019:4 s. 1-5.

Han har senere skrevet en større fagfellevurdert artikkel om utviklingen av de norske reglene om RPTs og en analyse og vurdering av reglene etter endringen ved LOV-2019-12-06-77, se Bråthen: Regulering av avtaler mellom selskapet og tilknyttede parter i norsk aksjeselskapsrett, NTS 2020: 2 og 3 s. 13-44.

3. References to the research

Forskningen er også nevnt i punkt 2 foran.

- Bråthen: EØS-tilpasningen av lov om aksjeselskaper, Jussens Venner 1996:4 s. 242 flg.
- Bråthen: Avtaler mellom selskap og aksjonær i norsk rett, I Iversen, Kristensen, Werlauff (red.): Hyldestskrift til Jørgen Nørgaard (København 2003) s. 875 flg.
- Bråthen: Selskapers avtaler med sine aksjonærer og medlemmer av ledelsen, Nordic Journal of Company Law (NTS) 2007:3 s. 65 flg.
- Bråthen: Anvendelsen av aksjelovene § 3-8 på datterselskapers garantier for morselskapets lån, I Bråthen (red): Moderne forretningsjus II (Bergen 2011) s. 43 flg.
- NOU 2016:22 Aksjelovgivning for økt verdiskaping
- Bråthen: Regulering av avtaler mellom selskapet og tilknyttede parter i norsk aksjeselskapsrett, NTS 2020: 2 og 3 s. 13-44.

4.Details of the impact

Som nevnt i punkt 2, er reguleringen av RPTs vesentlig endret ved LOV-2019-12-06-77, se Bråthen: Regulering av avtaler mellom selskapet og tilknyttede parter i norsk aksjeselskapsrett, NTS 2020: 2 og 3 s. 13-44.

Bråthen har presentert lovendringene ved flere anledninger, bl.a. på Den årlige selskapsretts- og transaksjonskonferansen, JUS, Sandefjord 21. oktober 2019.

5. Sources to corroborate the impact

- See inline citations in text above.

1.3 Hindre uønsket norsk og internasjonal skatteplanlegging

Institution: BI Norwegian Business School		
Name of unit of assessment: Department of Law & Governance		
Title of case: Hindre uønsket norsk og internasjonal skatteplanlegging		
Period when the underpinning research was undertaken: prior to 2016		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Eivind Furuseth	**Role(s) (e.g. job title):** Førsteamanuensis	**Period(s) employed by submitting institution:** 2010 - present

Period when the impact occurred:

Etter innlevering av doktorgradsavhandling 2016-2020.

1. Summary of the impact

I min doktoravhandling, The relationship between domestic anti-avoidance rules and tax treaties (utgitt 2018), analyserer jeg forholdet mellom nasjonale omgåelsesregler og skatteavtaler.

Min konklusjon er i korte trekk at skatteavtalene som Norge (vi har skatteavtaler med ca 90 land) setter betydelige begrensninger på bruken av våre nasjonale omgåelsesregler for å hindre internasjonal skatteplanlegging. Doktoravhandlingen, etterfølgende artikler, seminarer og foredrag, samt pågående arbeide i OECD, har ført til større bevissthet rundt skatteavtalens betydning for å stoppe uønsket internasjonal skatteplanlegging. I Norge har dette resultert i økt kunnskap hos skattemyndighetene og forhåpentligvis riktigere prioriteringer og avgjørelser fra skattemyndighetene.

2.Underpinning research

Frem til 2017 var få i Norge (og også internasjonalt) som hadde et bevisst forhold til om skatteavtaler satte en stopper for bruken av den norske omgåelsesregelen for å stoppe uønsket internasjonal skatteplanlegging. Det var med andre ord liten interesse og forståelse for i hvilken grad skatteavtalene kunne sette til side nasjonale regler som hindret det skattemyndighetene så på som uønsket internasjonal skatteplanlegging.

Tilbake i 2013 startet OECD et større arbeide hvor de så på forskjellige tiltak for å redusere uønsket internasjonal skatteplanlegging. Dette arbeidet resulterte blant annet i en viktig endring av OECD modellskatteavtale i 2017 og, kanskje viktigst av alt, en klargjøring av samspillet mellom nasjonale omgåelsesregler og skatteavtalene. Denne klargjøringen kom til uttrykk i OECD kommentarer til OECD modellskatteavtalen. OECDs synspunkt om samspillet mellom nasjonale omgåelsesregler og skatteavtaler samsvarer med det jeg fant i min PhD-avhandling.

PhD-avhandlingen er publisert i IBFD Doctoral Series og antas å ha hatt en viss påvirkning i den internasjonale skattedebatten om bruken av nasjonale omgåelsesregler og skatteavtaler for å stoppe uønsket internasjonal skatteplanlegging.

3. References to the research

- Furuseth, E. (2016) The relationship between domestic anti-avoidance rules and tax treaties. Doctoral thesis.
- Furuseth, E. (2016) En sammenligning av gjennomskjæringsregelen og "principal purposes test." Skatterett, 34(4), 291-319.
- Furuseth, E. (2018) The Interpretation of Tax Treaties in Relation to Domestic GAARs, IBFD Doctoral Series, ISBN: 978-90-8722-479-0 .

4.Details of the impact

Under arbeidet med PhD-avhandlingen om samspillet mellom nasjonale omgåelsesregler og skatteavtaler ble jeg invitert til å holde foredrag for skatteetaten, Finansdepartementet, JUS.no og det private næringsliv. Gjennom disse foredragene og diskusjon med personer fra Skatteetaten og Finansdepartementet ble det mer fokus på, og forståelse for, problemstillingen.

Som en følge av mitt arbeide med PhD-avhandlingen har jeg blitt invitert til å skrive flere nasjonalrapporter for Norge til internasjonale skatterettskonferanser. Nedenfor i punkt 3 er to nasjonalrapporter trukket frem. Disse omhandler begge problemstillingen knyttet til hvordan hindre uønsket internasjonal skatteplanlegging.

Et eksempel på at bevisstgjøringen på samspillet mellom nasjonale omgåelsesregler og skatteavtaler finner vi i NOU 2016: 5 Omgåelsesregel i skatteretten. I denne NOU'en blir det fremmet forslag om lovfesting av den ulovfestede norske omgåelsesregelen og på side 62 tas forholdet skatteavtalene opp.

Sammen med kolleger har jeg også engasjert meg i den norske debatten om lovfesting av omgåelsesregelen innen skatterett. Omgåelsesregelen er nå lovfestet i skatteloven § 13-2 og merverdiavgiftsloven § 12-1. Forslaget i NOU 2016: 5 Omgåelsesregel i skatteretten ble kommentert i høringsuttalelse fra professor Ole Gjems-Onstad, jf. Prop.98 L (2018–2019) Endringer i skatteloven og merverdiavgiftsloven (lovfesting av en generell omgåelsesregel) kapittel 6.1.2, 6.4.2, 7.1.2, 7.4.3, 7.5.2 og 7.6.2 mv. og i to artikler i tidsskriftet *Skatterett* bind 2 2016 (professor Ole Gjems-Onstad, *Uforutsigbar omgåelsesnorm* og Anders Mikelsen, *En generell omgåelsesnorm for skatt og merverdiavgift - noen kritiske bemerkninger til NOU 2016:5*). Det kom mange høringsinnspill til NOU 2016:5 og departementet gjorde flere endringer i forslaget. jf. Prop.98 L (2018–2019) Endringer i skatteloven og merverdiavgiftsloven (lovfesting av en generell omgåelsesregel). Flere av endringene var i samsvar med våre innspill.

Stortingets justiskomite ønsket videre ytterligere innspill til lovforslaget og det ble inngitt kommentarer fra BIs fagmiljø innen skatt og avgift.

Et annet eksempel på betydningen av PhD-avhandlingen min er at jeg ble invitert til å holde innlegg for medlemmene av NOU 2019:15 «Skatterådgiveres opplysningsplikt og taushetsplikt. Forslag til opplysningsplikt om skattearrangement.» NOU 2019:15 ble ledet av professor Morten Kinander, Handelshøyskolen BI. Denne NOU'en tar opp grunnleggende spørsmål knyttet til bekjempelse av uønsket internasjonal skatteplanlegging og er et viktig bidrag i så henseende. Skattemyndighetenes tilgang på informasjon om skattyters organisering og gjennomførte

transaksjoner er av mange sett på som nøkkelen til bekjempelse av uønsket internasjonal skatteplanlegging. Det økt bevissthet rundt informasjonsflyten til skattemyndighetene både i Norge og internasjonalt.

Fokuset på å hindre uønsket internasjonal omgåelse og unndragelse er også noe som har blitt, og blir, løftet frem under skatterettsundervisingen på BI også. På masterprogrammet som BI har utviklet i samarbeid med Skatteetaten er to semester (av totalt 6) viet til internasjonal skatterett hvor det er et stort fokus på grensene for lovlig skatteplanlegging på den ene siden og uønsket og ulovlig internasjonal skatteplanlegging på den andre siden. Dette fokuset har blant annet resultert i boken Gjems-Onstad og Furuseth (red.), *Praktisk internasjonal skatterett og internprising* (2013).

I artikkelen *En sammenligning av gjennomskjæringsregelen og "principal purposes test"* ser jeg på den norske omgåelsesregelen (som nå er lovfestet i skatteloven § 13-2) og OECD Modelskatteavtalens art. 29(9) og i hvilken grad anvendelsesområdet er identiske eller om det er gradsforskjeller mellom de to regelsettene.

En annen, og nyere, artikkel som bygger videre på PhD-avhandlingen min er:

- *Hvor langt strekker Principle Purposes Test seg?* i Bråthen, Furuseth og Mikelsen (red.). (2020). Hvor din skatt er, vil også ditt hjerte være : festskrift til Ole Gjems-Onstad : 70 år

Denne artikkelen er sentral når man skal se hvor langt skatteavtalen er anvendelig for å hindre uønsket internasjonal skatteplanlegging.

5.Sources to corroborate the impact

- Furuseth, E. (2020) Hvor langt strekker Principle Purposes Test seg? In: Bråthen, Furuseth og Mikelsen (red.). (2020). Hvor din skatt er, vil også ditt hjerte være: festskrift til Ole Gjems-Onstad : 70 år.
- Furuseth, E. (2020) Nasjonalrapport til konferansen “Tax Treaty Arbitration” ved Wirtschaftsuniversität i Wien i 2018. In: Lang, Owens, Pistone, Rust, Schuch, Staringer and Storck, "Tax Treaty Arbitration."
- Furuseth, E. (2018) Nasjonalrapport til konferansen “Tax Treaty Arbitration” ved Wirtschaftsuniversität i Wien i 2016. In: Evans / Lang / Pistone / Rust / Schuch / Staringer, "Improving Tax Compliance in a Globalized World."
- Østgårdsgjelten, R. Skatteforsker mener Siv Jensen har sovet i timen. Aftenposten, 13. juni 2016
- Mullis, M.E. Smiths Venner | Smiths venner og skjulte koblinger - slik smadret denne rønna prisrekorden. Nettavisen, 1. mars 2019
- NTB. Banker kan dømmes for medvirkning til skatteunndragelse (dagbladet.no). Dagbladet, 7. april 2016

1.4 Copyright for performing artists

Institution: BI Norwegian Business School		
Name of unit of assessment: Department of Law & Governance		
Title of case: Copyright for performing artists		
Period when the underpinning research was undertaken: 2011-2015		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Irina Eidsvold-Tøien	**Role(s) (e.g. job title):** Associate professor	**Period(s) employed by submitting institution:** 2015-present
Period when the impact occurred: 2016-present		

1. Summary of the impact

In my PhD "Creative, performing artists" (2015) I found that performers fulfill the requirement for copyright. The research was a basis for a proposal from the Norwegian Bar Associations for enhancing copyright for performers. The legislator did not find room for the change "at this time" (2016). The research is continuously communicated in different arenas in order to increase the consciousness of the topic and to try to achieve changes.

From BIs research work in 2018 and 2019 in the film and music field, supported the finding of performers excessively losing positions in the digital content market. Enclosures for our findings underneath (pnt.5).

2. Underpinning research (indicative maximum 500 words)

The cultural economy in Europe and Norway is in great growth and is expected to increase largely in the forthcoming years. Of major importance for the cultural activity is the performing artist contribution. it is often the value of the performance that brings a film or a recording to fame and acknowledgement, for instance a well-known musician's/composer's contribution to film music, a famous actor's participation in a film or a dancer's in a music video. In spite of this, the legal protection of performers is less than for authors, both in length and scope. In my PhD I found that performers qualify for copyright. Findings in 2018 (BI Report for the Ministry of Culture on Film and TV-series) and 2019 (BI Report for the Ministry of Culture on the Music Industry) verify the deteriorated positions for performers, both in width (what kind of performances) and in income.

- Legal findings in my PhD in connection with different performers' contributions and why they qualify for copyright, even though they do not according to the structure of the legislation today.
- There has been little done in the Nordic countries in connection with performers' contributions. Anna Hammarén; «Teaterregi och upphovsrätt», (1997), Bendt Rothe; «Ophavsretens stebørn» (1987), Jurist og økonomforlaget, København, Birger Stuevold-Lassen; «Kvalitetskrav som vern for utøvende kunstneres prestasjoner», NIR 1981/4

3. References to the research (indicative maximum of six references)

- Eidsvold-Tøien, I. (2017) Creative, Performing Artists: Copyright for Performers, NIR: Nordiskt immateriellt rättsskydd, 86(2), 130-146.
- Rognstad, Ole-Andreas (2020) "Opphavsrett", s. 406 flg., Oslo: Universitetsforlaget, Oslo
- Schovsbo, Jens m. flere (2018) «Immaterialrett», s. 106., Jurist og økonomforbudets forlag, København
- Jensen, Jacob (2019) «Skuespilleres rett til rimelig vederlag etter åndsverklovens § 69», University of Oslo (master theses)

4. Details of the impact

In my doctorial theses, I found that *performers qualify for copyright*. Therefore, the wording of the Norwegian Copyright Act should be changed. My research finding was used as background for a *proposal for change of law* from the Norwegian Bar association and the preparatory work for a new Copyright Act in 2018 commented the proposal. The research has been *communicated on different arenas*: in artist communities, in public press and in arenas for legal and cultural research. After my PhD I have done research work for the Ministry of Culture, in 2018 (film and TV-series) and 2019 (music). The reports document the deteriorated situation for performers (the core product in the cultural economy). Both studies were used as a basis for deciding on measures/actions for safeguarding Norwegian content in competition with international blockbusters. My continuous research tries to identify the creative room for performers and their income streams. Performers are often less organized than their employers, and therefor in constant danger of deterioration of their position in the market. You will find documentation for my research activity and the communication of it in the point below. In 2021/22 I will have sabbatical and intend to go to the US and The Cal. University of Berkeley for further study on the topic.

5. Sources to corroborate the impact

2017. Proposal for change of law. My finding was used as background for a proposal for change of law from the Norwegian Bar association

2017. Comment preparatory works. The preparatory work commented the proposal

- Prop. 104L (2016-2017)

2017. Further communication of my findings in the press. Both state press and professional journals, communicated the matter in several communications

- BI Business Review: "Skuespillere mindre verdt"
- Klassekampen: "Skuespill er mindre verdt»
- Stikkordet: "Den skapendes, utøvendes skuespilleren."
- DN 2018: "Skuespillere mindre verdt"
- Dagsavisen 2015: «Prøysen-nekt kan hemme kulturutviklingen»

2017. Another proposal for change of law. Also, in 2017 when the Norwegian Copyright Act was changed, my research was indirectly part of argumentation in a specific statue. Through pressure in newspaper and towards politicians, the statute was withdrawn:

- DN (2017): "Kunstnerne har grunn til bekymring"

2018/2019. Research work for the Ministry of Culture (enclosures) for film and music were done in 2018 (film and TV-series) and 2019 (music). The reports document the deteriorated situation for performers (the core product in the cultural economy). Both studies were used as a basis for deciding on measures/actions for safeguarding Norwegian content in competition with international blockbusters

- Film report for the Ministry of Culture (2018): Om pengestrømmer i film- og TV-serier
- Music report for the Ministry of Culture (2019): Hva nå- digitaliseringens innvirkning på musikkbransjen

1.5 Internasjonalisering og forenkling av regnskapsretten

Institution: BI Norwegian Business School		
Name of unit of assessment: Department of Law & Governance		
Title of case: Internasjonalisering og forenkling av regnskapsretten.		
Period when the underpinning research was undertaken: 2009-2019		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Hans Robert Schwencke	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 1990-
Period when the impact occurred: 2009-2019		

1. Summary of the impact

Forskningsaktiviteten har i årene 2009-2019 har primært dreid seg om bidrag knyttet til utviklingen av regnskapsreguleringen- spesielt knyttet til internasjonalisering av norsk regnskapsrett, dvs tilpasning til EU-direktiver og til IFRS.

Forskningen har også vurdert muligheten for å forenkle regnskapskravene for små aksjeselskaper gjennom tilpasning til skattereglene. Det fremstår som unødig krevende for disse selskapene for eksempel å avskrive eiendeler på to forskjellige måter, både regnskapsmessig og skattemessig

I tillegg til disse dimensjonen har undertegnede bidratt gjennom fortolkning av IFRS, spesielt inntektsføring av langsiktige tilvirkningskontrakter, jf IAS 11 (senere IFRS 15). Norske nedskrivningsregler er også drøftet i egen artikkel.

2.Underpinning research

Min doktorgrad fra 2002 var et sammenlignende studium i regnskapsrett knyttet til oppkjøp og fusjoner i Storbritannia, Tyskland, Sverige, Danmark og Norge. Min forskning etter 2008 videreførte studiet av EU-Rett, IFRS og norsk regnskapsregulering. Et bidrag til norsk regelutvikling ble utført som nestleder i Regnskapsstandardstyret under Norsk RegnskapsStiftelse.

Fra 2012 har arbeidet med norsk standardsetting primært dreid seg om å utvikle èn norsk standard tilpasset det internasjonale regelverket IFRS for SMEs. (IFRS for mellomstore foretak). I denne sammenheng har jeg skrevet en lang rekke artikler om internasjonalisering av norsk regnskapsrett, publisert i norske og nordiske tidsskrifter og i boken «Moderne forretningsjus». Artiklene er skrevet alene eller med 1 eller 2 medforfattere.

Som vedlegg 1 til NOU 2015:10 Ny regnskapslov gjennomgikk jeg norske høyesterettsdommer hvor innholdet i regnskapsretten ble bedømt av retten. Gjennomgangen viste blant annet at de norske regnskapsstandardene hadde en høy rettslig status som uttrykk for gjeldende regnskapsrett; dvs som utdyping/videreutvikling av de generelle lovbestemmelsene i regnskapsloven av 17.juli 1998.

Min forskning hadde også fokus på forenkling av regnskapsretten for små aksjeselskaper. I mai 2019 skrev undertegnede en forstudie til Finansdepartementet med bidrag fra førsteamanuensis

Eivind Furuseth ved BI. Temaet var forslag til forenkling i norske foretaks regnskaps – og skatterapportering. En rekke endringsforslag i skatterett og regnskapsrett ble lagt fram. Når det gjelder forslagene til endringer i regnskapsretten var disse bl.a. basert på å identifisere mulighetene, dvs. fortolkning av relevante bestemmelser i EU retten, primært bestemmelsene om regnskapsmessige avskrivninger i 4. selskapsrettsdirektiv fra 1978. En viktig konklusjon i denne sammenheng er at jeg mener at skattemessige saldoavskrivninger ikke bryter med regnskapsdirektivets avskrivningsregler.

3. References to the research

Bøker

- Accounting for mergers and acquisitions in Europe. Doktorgrad fra 2002
- Hans Robert Schwencke, Baksaas, Haugen, Stenheim, & Avlesen-Østli (2018) Årsregnskapet i teori og praksis. Gyldendal økonomisk Forlag.
- Handeland & Schwencke (2011) Kommentarutgave til regnskapsloven. Gyldendal Forlag. Ny utgave kom i 2020
- Regnskapsretten i et nøtteskall, utkommer i 2021

Artikler

- Regnskapsregulering av ikke børsnoterte foretak- Bør "IFRS for SMEs" erstatte dagens regnskapsregler? (Moderne Forretningsjus II, 2011)
- Accounting regulation in Europe. Consequences of IFRS for SMES (2009) and new accounting directive (2013). Festskrift for Arne Fagerstrøm 2013
- Får Norge Europas mest rettsliggjorte regnskapsregulering? (Moderne forretningsjus III, 2016)
- Nedskrivninger av anleggsmidler i årsoppgjøret for 2008 - glem "forbigående art" (Tidsskrift Revisjon og Regnskap 2009)

Rapport

- En forstudie om forenkling av regnskaps-og skatteregler for små aksjeselskaper. Avgitt til Finansdepartementet 15. mai 2019

4. Details of the impact

Alle børsnoterte foretak benytter IFRS som regnskapsspråk innen EU. Arbeidet med doktorgraden inspirerte meg til å innta en internasjonal grunninnstilling til norsk regnskapsregulering. Da jeg ble medlem, senere nestleder i Regnskapsstandardstyret i Norsk RegnskapsStiftelse, forfektet jeg disse holdningene og bidro kanskje noe til at Norsk RegnskapsStiftelse ønsket å etablere en norsk standard basert på IFRS for SMEs for norske mellomstore foretak. Stiftelsens strateginotat fra 2012 klargjorde at en slik utvikling var ønskelig. I 2014 la stiftelsen fram et forslag til slik internasjonalisert standard innenfor rammen av regnskapslovens krav.

I 2015 ble NOU 2015:10 Ny Regnskapslov lagt frem. Innstillingen gikk svært langt i å kreve at IFRS for SMEs skulle legges til grunn for regnskapsavleggelsen for mellomstore foretak i Norge; det ble foreslått et forskriftskrav om dette.

Innstillingen fikk bred støtte i høringsrunden, og Norsk RegnskapsStiftelse endret derfor sin strategi om standardsetting. IFRS for SMEs ble lagt grunn slik at stiftelse forutsatte nødvendig lovendringer slik at IFRS for SMEs skulle bli rettslig bindende.

Forslaget om å gjøre IFRS for SMEs bindende gjennom forskrifter møtte imidlertid en del motbør i høringsrunden.

Etter hvert viste det seg at tre av de store revisjonsselskapene mente at arbeidet med den nye standarden måtte legges bort i påvente av nødvendige lovendringer. I mellomtiden (des 2018) utarbeidet stiftelsen et notat til Finansdepartementet hvor den søkte å dokumentere at IFRS for SMEs ikke er særlig bebyrdende for mellomstore norske foretak sammenlignet med dagens regler.

Finansdepartementet har foreløpig ikke fulgt opp lovutvalgets innstilling, og dette har ført til at standardsetting på regnskapsområdet er satt på vent. Det er likevel forventet at dette arbeidet vil tas opp igjen ved å videreføre arbeidet med IFRS for SMEs innen rammen av gjeldende regnskapslov. Det ser ut til at det tradisjonelle arbeidet med å utarbeide en rekke norske regnskapsstandarder ikke blir tatt opp igjen.

Diskusjonen rundt IFRS for SMEs gjelder mellomstore aksjeselskaper i Norge. Når det gjelder små aksjeselskaper har jeg i en forstudie til Finansdepartementet foreslått at disse må kunne må få enklere, skattetilpassede regnskapsregler. Til grunn for dette forslaget er blant annet at behovet for teoretisk korrekte regnskaper for denne minste gruppen er langt lavere enn for mellomstore og store foretak.

Arbeidet med forstudien ble gjort med nær kontakt med skattemyndighetene, og de virket tilfreds med vinklingen i dette arbeidet.

Oppfølgingen av forstudien fra myndighetenes side blir interessant å følge. Statssekretær Jørgen Næsje (FrP) uttalte under offentliggjøringen av rapporten i mai 2019:

«Finansdepartementet er opptatt av forenklinger for næringslivet, og dette er et spennende forslag som vi vil jobbe videre med.»

I et intervju med Erna Solberg og Siv Jensen i Dagens Næringsliv 3. september 2019 gir Statsministeren og daværende Finansminister en positiv omtale av forslaget, som de hevder kan gi betydelige forenklinger- og med en besparelse opp i mot 500 mill. Kr - for næringslivet. Samtidig hevder Siv Jensen at hun ikke regner med at noen vil være uenig i forslagene. Jeg tror det er grunn til tro at forslagene i utgangspunktet får bred politisk støtte.

Den videre framdrift knyttet til forslagene ble omtalt i tilknytning til Statsbudsjettet for 2020 (Finansdepartementet 2019, pkt 17.4.2) :

«Departementet vil vurdere tiltakene som er omtalt i Schwenckes forstudie nærmere. Det innebærer blant annet en vurdering av tiltakenes forenklingspotensial, forholdet til generelle prinsipper som bør ligge til grunn for beskatningen og forholdet til EØS-retten. Et eventuelt forslag til endringer må sendes på høring, og kan derfor tidligst fremmes for Stortinget i forbindelse med budsjettet for 2021.»

Slik jeg ser det, er de største utfordringene knyttet til forenklingsforslagene de utfordrende juridiske spørsmålene knyttet til forslaget. Den største utfordringen er antakelig vurderingen av om EU-retten kan være til hinder for å benytte skattemessige saldoavskrivninger i årsregnskapet. I rapporten argumenteres det som nevnt for at dette er mulig.
5.Sources to corroborate the impact • Prop 1 LS (2019-2020) Statsbudsjettet 2020 pkt 17.4.2 • Intervju med Erna Solberg og Siv Jensen i Dagens Næringsliv 3. september 2019. Støtte av forslagene i forstudien om forenkling

2 UiT The Arctic University of Norway - The Faculty of Law

2.1 Modifying the Local Government Act

Institution: UiT The Arctic University of Norway		
Name of unit of assessment: The Faculty of Law		
Name of the case: Modifying the Local Government Act		
Period when the underpinning research was undertaken: Summer 2016		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Markus Hoel Lie	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2008-
Period when the impact occurred: 2016-2018		
1. Summary of the impact A draft bill was modified partially due to my article.		

2. Underpinning research

The ground insight achieved to address the topic was obtained during work on my PhD thesis – Kommunalrettslig representasjon. This work was published by Universitetsforlaget in 2011. I followed up this work with a commentary to the work on a new Local Government Act in 2015. In this commentary, I argued that the then applicable act should be modified to increase the foreseeability of the law and prevent conflicts when it comes to people acting on behalf of the municipality outside of their legal competence ("Kommuneloven bør endres", Lov og Rett, 2015 nr. 4, pp 246 – 250). However, the expert committee working on a draft bill for a new Local Government Act did not follow my advice, and their draft bill made me address the problem in greater depth in an article that is the main article in this case. I also addressed the topic in another article, in which I carried out a comparative analysis of some aspects of these rules (apparent authority) with similar rules in Sweden, Denmark, UK and USA ("Kombinasjonsfullmakt" - en komparativ analyse av fullmakt på ulovfestet grunnlag. *Tidsskrift for Rettsvitenskap* 2017 s. 433-489). This article also forms part of the reasoning why the Ministry of Local Government and Modernisation argued that the draft bill should be modified in accordance with my view, see Prop. L (2017-2018) p. 74. As a part of the work on this article, I visited University of Oslo and University of California (Berkeley) in 2016 and 2017 as a guest researcher.

3. References to the research (indicative maximum of six references)

- **Lie, Markus Hoel.** Gyldig avtale på tross av personelle kompetansebrudd i kommunen - en analyse av HR-2016-476-A og av forslagene til regulering av personelle kompetansebrudd i forslaget til ny kommunelov i NOU 2016: 4. *Lov og Rett* 2016 (9)

s. 566-588

- **Lie, Markus Hoel.** Kombinasjonsfullmakt - en komparativ analyse av fullmakt på ulovfestet grunnlag. *Tidsskrift for Rettsvitenskap* 2017 s. 433-489
- **Lie, Markus Hoel.** Kommuneloven bør endres. *Lov og Rett* 2015 (4) s. 246-249.
- **Lie, Markus Hoel.** Kommunalrettslig representasjon - binding og erstatning. Universitetsforlaget 2011 (ISBN 978-82-15-01910-9) 313 s.

4.Details of the impact

The impact occurred during the process of adopting the new Local Government Act, which was finalised in June 2018. The problem with the Norwegian Official Report NOU 2016:4 was that it did not take into account various factors related to the suggestion of a rule of apparent authority in municipalities. I addressed the shortcomings of the draft bill in an article that was submitted to the Ministry (as a consultative statement) and published in the scientific journal Lov og Rett. The Ministry took notice of this article (and another article I wrote on the subject of Kombinasjonsfullmakt (apparent authority), published in Tidsskrift for Rettsvitenskap, no. 5, 2017, on pp 433-489) and changed the draft bill in accordance with my suggestion. The Parliament (Stortinget) followed up and the draft bill was then adopted into law as I suggested in June 2018.

5. Sources to corroborate the impact

The Ministry referred to the article in Prop. 46 L. (2017-2018) p. 74 and modified the draft bill in accordance with my suggestion. The modified draft bill was adopted by the Parliament and became part of the new the Local Government Act of 2018.

2.2 Child law research reforming legislation, practice and education in Norway

Institution:
UiT The Arctic University of Norway

Name of unit of assessment:
Faculty of Law

Title of case:
Child law research reforming legislation, practice and education in Norway.

Period when the underpinning research was undertaken:
The research has been done over a long period of time and is still ongoing. The research used to document impact in this case is four doctoral/PhD theses, undertaken from 1998 to 2019. In addition, a monograph first published in 2014, new editions in 2015 and 2018, and an anthology published in 2019, were also used. Even though some of the research was done quite a long time ago, the societal impact is still ongoing. In addition, there is a strong link between the research, and the impact is not strictly limited to the six publications mentioned below. The extensive societal impact is mainly a result of building a strong research group over time and, by doing so, contributing with important research of high quality, for many years.

Details of staff conducting the underpinning research from the submitting unit

Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting institution:
Trude Haugli	Professor	1989 -
Lena R. L. Bendiksen	Professor	1998 -
Anna Nylund	Professor	2007-
Randi Sigurdsen	Professor	2010 -
Mona Martnes	Postdoc	2013-

Period when the impact occurred:
The impact occurred subsequent to the research and is still ongoing.

1. Summary of the impact

1. Exerting influence on the future of legislation concerning children In Norway, by participating in public committees and Law Commissions appointed by the Norwegian Government related to child law.
2. Contributing to a balanced and child-centred practice by the Norwegian Directorate of Immigration by making guidelines and a description of best practise.
3. Contributing to an increased awareness and value of the rights of children in court proceedings.
4. Affecting everyday life for children by contributing to the education of people working with children doing legal work, as teachers, child welfare workers and health workers, etc.

2. Underpinning research

- Haugli´s doctoral thesis from 1998 marks the starting point for research done by the Child Law Research Group, with an aim to participate in developing child law, nationally and internationally, and at the same time to increase the awareness and importance of children's rights and contribute to strengthening children's rights. All four doctoral/PhD theses deal with topics that are of important academic and practical interest, and at the same time of great importance for many children. By addressing several aims, the research has had substantial societal impact, directly and more indirectly by influencing the attitude and awareness of children's rights, the policy and practice of children's rights and the legislation concerning children.

  The fundament of the research underpinning the impact is based on the four doctoral/PhD theses. Haugli addresses contact rights between children and their parents when children are taken into public

care. By being the only the second doctoral thesis in Norway to address a child law topic, and by following up the thesis with a new project for herself and new members of the group, Haugli has been of major importance for the development of children's rights and the forming of one of the leading child law research groups in the Nordic countries. Bendiksen discusses parental responsibility and adoption in childcare cases in her thesis. Sigurdsen addresses coercive measures towards children, while Martnes addresses the child's best interest in immigration cases. Three theses are published as monographs, and the fourth is in press. In addition, the researchers have published extensively on other topics. In addition, Haugli and Bendiksen have used their long-time ongoing child law research to write a book combining both the private child law and the public child law, and at the same time addressing children's human and constitutional rights, into a monograph. The human rights aspect is significant in all the above-mentioned research. In addition to the human rights approach, the Child Law Research Group have addressed the constitutionalizing of children's rights. One example is initiating a Nordic research project and editing and writing several chapters in an anthology about children's constitutional rights in the Nordic countries. The importance of the Convention on the Rights of the Child is highlighted in all the research.

Even though the researchers addresses different topics, all have a theoretical and, at the same time, very practical approach. This provides the opportunity to influence, change and benefit children's rights in different ways. In addition to the specific topics addressed in the research, fundamental rights like the best interest of the child, children's rights to participate, children's family rights and the right to non-discrimination are emphasized in the research. This increases the area of which the research could have and has had societal impact. The research aiming to impact the life of children is an ongoing project, recently focusing especially on the child's right to health.

3. References to the research (indicative maximum of six references)

- Haugli, Trude: Samværsrett i barnevernssaker, Monografi Universitetsforlaget 1998, 2. utgave 2000 Dr thesis
- Bendiksen, Lena R. L.: Barn i langvarige fosterhjemsplasseringer – foreldreansvar og adopsjon, Monografi Fagbokforlaget 2008 Dr thesis
- Haugli, Trude; Bendiksen, Lena Lauritsen Sentrale emner i barneretten, Monografi Universitetsforlaget 2014, 2. utgave 2015, 3. utgave 2018
- Sigurdsen, Randi Tvangsplassering av barn med utfordrende atferd, Monografi Fagbokforlaget, 2015 PhD thesis
- Haugli, Trude; Nylund, Anna; Sigurdsen, Randi and Bendiksen, Lena (eds) Children's Constitutional Rights in the Nordic Countries, Anthology Brill | Nijhoff, 2019
- Martnes, Mona; Barnets beste Rettighetens innhold i saker om opphold på humanitært grunnlag og utvisning, Phd thesis, 2019 UiT Norges arktiske universitet

4.Details of the impact

1. Exerting influence on the future of legislation affecting children in Norway

Based on the research in their doctoral/PhD thesis and their experiences as researchers, Haugli, Bendiksen and Sigurdsen have participated in most major public committees and Law Commissions appointed by the Norwegian Government related to child law for many years. Public committees have a key position in the Norwegian model of government administration. Public committees aim to develop the knowledge base for the policy, and to propose specific measures, such as new legislation. By participating in these committees, the researchers can influence the advice given to the government or ministers on how to develop and implement public policy or future legislation concerning children. By participating, Haugli, Bendiksen and Sigurdsen have had

extensive influence on the public reports published as Official Norwegian Reports (Norges offentlige utredninger, NOU), which provide formal advice and form the fundament of new practice and legislation.

The three researchers have been asked to participate or head all public committees/law committees concerning aspects of questions addressed in their research. Therefore, they have had and still have an influence on the public discussions, the governmental work and the legislation concerning; adoption, foster care, parenthood, the Child Welfare Act, the Children Act and regulations regarding the use of coercion in the health and care sector.

2. *Contributing to a balanced and child-centred practice by the Norwegian Directorate of Immigration*
   Mona Martnes' research concerning the best interest approach in immigration cases is of great political and practical significant and came at a time when the topic was highly relevant. Owing to and based on her research, she was asked to make a digital guideline and a description of best practise. She has made this guideline, addressing the best interests of the child and how to use the principle in the assessments and decisions made at the Directorate of Immigration. Martnes' research has therefore had a direct and substantial impact on the decision makers.

3. *Contributing to an increased awareness and value of the rights of children in court proceedings*
   The above-mentioned research is used as a legal source directly in several specific cases in Norwegian courts and administrative practice. Both the Supreme Court and Norwegian courts in general make references to the research done and, even if it is not stated specifically, we assume that when the research is mentioned in a judgement that it has had some kind of impact on the decision.

4. *Affecting everyday life for children by contributing to the education of people working with children*
   Haugli and Bendiksen wrote the book "Sentrale emner i barneretten" in 2014. This is the first book covering both the private and the public part of child law, and at the same time focusing on children's human and constitutional rights. The book is part of the syllabus in master's degree programmes and several bachelor's degree programmes in law, as well as in different education programmes training teachers, child welfare workers and health workers, etc. The research has therefore had considerable impact on both students and teaching activities within and beyond UiT, and within and beyond law. The book is also used extensively by lawyers and in the different courts. Owing to high sales figures and constant legal changes in the child law field, new editions of the book were necessary in 2015 and 2018. The fourth edition will be published in January 2021. By keeping the research and the book as updated as possible, we try to ensure that the impact is up to date to ensure children's everyday life is affected in the best possible way.

   Chapters from the anthology "Children's constitutional rights in the Nordic countries" are also used as syllabus in the master's degree programme in law and, as such, impact on students and teaching.

5.Sources to corroborate the impact

1. NOU 2009: 5 Farskap og annen morskap (T. Haugli expert member)
2. NOU 2009: 8 Kompetanseutvikling i barnevernet (T. Haugli expert member)
3. NOU 2009: 21, Adopsjon – til barnets beste— En utredning om de mange ulike sidene ved adopsjon (L. Bendiksen expert member)
4. NOU 2016: 16 Ny barnevernslov — Sikring av barnets rett til omsorg og beskyttelse (T. Haugli head)
5. NOU 2018: 18 Trygge rammer for fosterhjem (L. Bendiksen expert member)
6. NOU 2019: 14 Tvangsbegrensningsloven — Forslag til felles regler om tvang og inngrep uten samtykke i helse- og omsorgstjenesten (R. Sigurdsen expert member)
7. NOU 2020:14 Ny barnelov Til barnets beste (L. Bendiksen expert member)

8. Barnets beste i utlendingsrettslige saker - Barnerettslig veileder for vedtak om opphold og utvisning, pdf version, see Annex 20
9. Bokanmeldelse: Sentrale emner i BARNERETTEN av Lena R.L av Geir Kjell Andersland: Tidsskrift for familierett, arverett og barnevernrettslige spørsmål 03 / 2014 (Volum 12) s. 260-264
10. List with some examples of the research used as syllabus and as a legal source in court cases, Annex 21

2.3 ECHR Protection of Property and the Norwegian Ground Lease Act

Institution: UiT The Arctic University of Norway		
Name of unit of assessment: Faculty of Law		
Title of case: ECHR Protection of Property and the Norwegian Ground Lease Act		
Period when the underpinning research was undertaken: 2009-2019		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Stig H. Solheim	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2009- (on leave for a year in 2010/11)
Period when the impact occurred: 2010 – 2019		

1. Summary of the impact

The research produced the following impacts:

1. Increased awareness of the relevance of the Protection of Property in the European Convention on Human Rights (ECHR P1-1) in Norwegian Courts, the political environment and the legal community (beyond academia)
2. Contributed to (balanced) adjustments in the Norwegian Ground Lease Act
3. Contributed to a continued dialogue between the Norwegian courts and the academic environment on the relevance and applicability of ECHR P1-1 in Norwegian law
4. Research used as a legal source - directly - in several specific cases in Norwegian courts, including the Supreme Court of Norway

2. Underpinning research

"The Concept of Property in the European Convention on Human Rights" (1) started out as a PhD project. In 2010, a developed version of the research was published as a monograph by Stig H. Solheim. At that time, the Right to Property in the European Convention on Human Rights (ECHR) was an underdeveloped topic in Norwegian legal literature. The monograph analyses both the background and legal structure of the Right to Property, as well as an in-depth analysis of the Concept of Property. The research shows how ECHR P1-1 has a much wider application than the traditional Norwegian legal regime on property rights.

In 2013, Solheim published an article (2) on the possible impacts of the *Lindheim case*, ECHR judgement of 12 June 2012. The case concerns the Norwegian Ground Lease Act and this was the first time Norway was held in breach of ECHR P1-1 in Strasbourg. The Court concluded that the problem underlying the violation "concerns the legislation itself and that its findings extend beyond the sole interests of the applicants in the instant case" (para 137). The article analyses the extent of the violation and how this underlying problem can be fixed. The main finding was that the legislation only needs some adjustments, and that there is no need to scrap the entire bill. The government appointed an expert panel to prepare a new bill to amend the legislation. Solheim was appointed as a member of the panel and in 2013 the panel published its report (3). The main conclusion was that the core principles in the Ground Lease Act could be sustained, but

the balance between the rights of the owners, and the rights of the lessors, needed some adjustments.

The new legal literature, and the *Lindheim case*, led to increased awareness of the role of ECHR P1-1 in Norwegian law. In 2016, Solheim published an article (4) on how the Norwegian Supreme Court has addressed claims regarding ECHR P1-1. The main finding was that there has been a notable change in the Supreme Court's reasoning, even before the Lindheim case. Over time, the reasoning has become much more in line with the Court in Strasbourg. After the Lindheim case, this development seems to have accelerated even further. Still, there are topics where the Supreme Court does not seem to follow the same reasoning as in Strasbourg. In 2019, Solheim published a critical article (5) on how the Supreme Court addresses protection of future income under ECHR P1-1. The main finding was that the Supreme Court does not acknowledge that there are at least three categories of future income, and that this is crucial for the possible application of ECHR P1-1. In 2019, Solheim also published a book chapter (6) on ECHR legal method. The publication mainly describes the recognized method for ECHR law in Norwegian courts. The chapter also addresses some possible misconceptions on this topic and suggests how the Supreme Court may address these issues.

3. References to the research (indicative maximum of six references)

Include the following details for each cited output:

1) *2010* Solheim, Stig H., Eiendomsbegrepet i Den europeiske menneskerettskonvensjon. Cappelen Akademisk forlag (monografi) 376 sider.
2) *2013* Solheim, Stig H., EMDs avgjørelse i tomtefestesaken: revolusjonerende eller justerende? Lov og Rett nr. 4 s. 295-310.
3) *2013* Solheim, Stig H. **(m.fl.)**, Festekontrakter og folkerett NOU 2013:11
4) *2016* Solheim, Stig H., Fra bot til bedring - Høyesteretts behandling av EMK P1-1. Rettsavklaring og rettsutvikling (antologi Universitetsforlaget) s. 387-418.
5) *2019* Solheim, Stig H., Beskyttelse av fremtidige inntekter. Lov og Rett nr. 3 s. 171-194.
6) *2019* Solheim, Stig H., Rettsanvendelsesprosessen på EMK-rettens område, Juridisk metode og tenkemåte (antologi Universitetsforlaget) s. 360-385.

4. Details of the impact

The research produced the first major work (1) on ECHR P1-1 in Norwegian legal literature, in 2010. Two years after the publication, in 2012, Norway was found in breach of P1-1 for the first time in Strasbourg (the Lindheim case). There is no direct link between this publication and the judgement, but the research (both the publication and numerous speeches) contributed to *greater awareness* of the relevance of P1-1 in Norwegian law; specifically that P1-1 had a very wide application, and that this protection was not limited to formal expropriation. The Norwegian Supreme Court has referred to this publication in at least two cases, see Rt. 2012 s. 18 (para 87) and Rt. 2013 s. 1345 (para 233).

The article on the Lindheim case (2) has had the clearest impact. As a result of the judgment, Norway had to change the Ground Lease Act. The main finding in the article was that the legislation only needed some adjustments, and that Norway did not need to scrap the entire bill. An expert panel was given the task of preparing the new bill, and Solheim was appointed as a member. The expert panel relied heavily on Solheim's publications in its publication NOU 2013: 11 (3). The research (1 and 2) was cited at least 25 times in the NOU (with appendixes). Solheim wrote two opinions for the panel, which were integrated directly in the NOU (see chapters 6.2.5 and 6.2.6). The Government adopted most of the recommendation from the panel in its report to the Parliament, which later became the new bill. In later

cases, the Supreme Court of Norway has cited the expert panel's publication, see inter alia HR-2019-1206-A (para 72-76). Lower courts have cited the article on the Lindheim case directly, see inter alia TNETE-2013-48739.

After the *Lindheim case*, far more attention has been paid to possible impacts of the ECHR P1-1 in Norwegian law. Naturally, this starts with a newfound responsiveness in the legal community outside academia. Since the ECHR law is less accessible than traditional law, lawyers tend to lean (even) more on academic works. There has also been a notable change in how the Supreme Court addresses this type of claims. Solheim addressed this development in an article from 2016 (4). In short, the court has moved from a dubious start to a line of reasoning much more coherently with the Court in Strasbourg. This development started even before the judgment in the *Lindheim case*. Since Solheim has been one of very few authors in Norwegian legal literature to analyse the structure and applicability of P1-1, it seems likely that his publications have made a contribution to this development (see list of some court-citations below). The ECHR P1-1 has also received much more attention in the political environment. Inter alia, when Parliament decided to end Norwegian fur farming, the ECHR P1-1 was central to both the debate on the timeline and the compensation required, see Prop.99 L (2018-19).

Despite this positive development, there is still a need for further dialogue between the courts and academia as to the status of ECHR P1-1,in regards to both specific areas, such as protection of future income (5), and to more general methodical issues (6). It is too early to conclude that the latest publications will impact the reasoning of the courts, but the track record shows that it is possible to influence the court's reasoning in this type of case. For long-term effects, the most valuable contributions might be towards the students (6). The chapter on ECHR methodical issues is part of the curriculum for students at the Faculty of Law in Oslo.

5.Sources to corroborate the impact

1) NOU 2013:11 Festekontrakter og folkerett (Norwegian Official Report)
2) Prop. 73 L (2014-2015) (government proposal)
3) Prop. 99 L (2018-19) (government proposal)
4) Rt. 2012 s. 18 (supreme court judgment)
5) Rt. 2013 s. 1345 (supreme court judgment)
6) LA-2011-188344 (court of appeal)
7) LH-2018-60068 (court of appeal)
8) TNETE-2013-48739 (lower court)
9) TOSLO-2014-10957 (lower court)
10) TINFI-2015-84532 (lower court)

2.4 Arctic Shipping research projects

Institution:
UiT The Arctic University of Norway

Name of unit of assessment:
Faculty of Law

Title of case:
Arctic Shipping research projects

Period when the underpinning research was undertaken:
The research was done from 2012-2021 and consists of several projects. The impacts of climate change in the Arctic have been at the focus of the research group on Law of the Sea (later KG Jebsen Centre for the Law of the Sea – JCLOS (2013-19) and Norwegian Centre for the Law of the Sea – NCLOS (2019-). This has primarily involved legal research on the adequacy of international law of the sea and national implementation, as well as projects with interdisciplinary aspects (engineering, marine biology and political science).

Details of staff conducting the underpinning research from the submitting unit

Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting institution:
Tore Henriksen	Professor/Project manager	1995-
Erik J. Molenaar	Professor/Project manager	2006-2020
Jan Solski	PhD student	2013-
Dorottya Bognar	PhD student	2016-2019
Hans Kr. Hernes	Professor	Social Sciences (in project 2013-2019)
Victoria Gribkovskaia	Research Scientist	SINTEF Ocean (in project 2012-2018)
Lars-Henrik Larsen	Senior Researcher	Akvaplan Niva (in project 2012-2018)
Øystein Jensen	Senior Researcher	Fridtjof Nansen Institute (in project 2013-2019)
Arild Moe	Research Professor	Fridtjof Nansen Institute (in project 2019-2021)
Piotr Graczyk	PhD student	Social Sciences (in project 2014-2016)

Period when the impact occurred:
The impact occurred subsequent to the research 2012-2021 and is still ongoing.

1. Summary of the impact
The research produced the following impacts:

5. Increased awareness of the effects of a maritime casualty on Arctic marine environment and the inadequacies of law and infrastructure,
6. Insights into how the Russian law regulates international shipping in the Arctic and its relationship with the international law of the sea,
7. Insights into Russia's behaviour within the International Maritime Organization as the organisation was discussing adopting regulations for shipping in Arctic waters,
8. Insights into how other states view the legal regime of the Russian Federation, and
9. New knowledge for students at the Faculty of Law.

2.Underpinning research
As mentioned above, this research has been a body of work produced since 2012 subject to different projects:

- "Regulating Arctic Shipping: Political, legal, technological and environmental challenges" (A-LEX), 2012-2013 involved a case study of a vessel navigating between Rotterdam and a

port in the Russian Arctic. It met several challenges during its voyage spanning from engine failure and the need for towing to distress and ultimately shipwreck with inadequate search and rescue as well as pollution prevention capabilities. The case study was established to analyse the adequacy of the legal framework as well as the technical capabilities of vessels and available infrastructure as well as the fragility of the marine environment.

- "Arctic Shipping through challenging waters" (2013-2019) included two PhD projects and a collaborative project between JCLOS and Center for International Law, National University of Singapore.

  The PhD project "Russian Coastal State Jurisdiction over Commercial Vessels Navigating for the Northern Sea Route" (Jan Solski), included analyses of Russian legislation on shipping in the Arctic waters under its jurisdiction (Northern Sea Route) and assessment whether the legislation was consistent with international law of the sea. PhD project "An analysis of the IMO's Negotiations of the Mandatory Polar Code, with Special Focus on Russia's Role and Behaviour" (Dorottya Bognar) investigated how Russia, as the major Arctic coastal State, operated under the development of the Polar Code, how active it was and what kind of interests was it promoting. The collaborative project involved an international conference and anthology – "Governance of Arctic Shipping". The project discussed the need to balance the rights and interests of the Arctic States, user States and other stakeholders in the governance of Arctic shipping. It added new perspectives to the ongoing research, the rights and interests of flag States in Arctic shipping. It provided output *inter alia* on the rights and interests of Asian States, the legislative measures taken by Arctic coastal States such as Canada and Norway and the role of the Arctic Council and indigenous peoples in the governance of shipping.
- "Regulating shipping in Russian Arctic Waters: Between international law, national interests and geopolitics" (2019-21). The project includes investigation on whether Russian shipping legislation is influenced by, and how it influences, international law. It involves analysing the status and trends on the development and implementation of the Russian Arctic shipping regulations. An international and interdisciplinary workshop resulted in ten papers, published in a special issue of a peer-reviewed journal. It includes findings on how domestic Russian stakeholders, such as the military and commercial stakeholders (Novatek and Yamal LNG), have influenced the priorities of the Russian policy for the NSR.

3. References to the research (indicative maximum of six references)

- Lars-Henrik Larsen et al. "Technological and environmental challenges of Arctic shipping - a case study of a fictional voyage in the Arctic", 35 *Polar Research* (2016) https://doi.org/10.3402/polar.v35.27977;
- Jan J. Solski: *Russian Coastal State Jurisdiction over commercial Vessels Navigating the Northern Sea Route*, PhD-dissertation, 2018, UiT The Arctic University of Norway;
- Dorottya Bognar: *Navigating between freedom of navigation and coastal State jurisdiction*, PhD-dissertation, 2019, UiT the Arctic University of Norway;
- B. Beckman, T. Henriksen, K. D. Kraabel, E.J. Molenaar and A. Roach (eds.), *Governance of Arctic Shipping: Balancing Rights and Interests of Arctic States and User States*, 2017, Brill Academic Publishers, ISBN 9789004339378 https://doi.org/10.1163/9789004339385 The following chapters:
  - Erik J. Molenaar, "The Arctic, the Arctic Council, and the Law of the Sea", 24.
  - Tore Henriksen: "Norway, Denmark (in respect of Greenland)" and Iceland, 245.
  - Jan Solski, "Russia", 173.
- Øystein Jensen: "The International Code for Ships Operating in Polar Waters: Finalization,

Adoption and Law of the Sea Implications», 7 *Arctic Review on Law and Politics, 2016, 60–82.* http://dx.doi.org/10.17585/arctic.v7.236

- Arild Moe: "A new Russian policy for the Northern sea route? State interests, key stakeholders and economic opportunities in changing times", *The Polar Journal*, doi.org/10.1080/2154896X.2020.1799611

4.Details of the impact

With reference to the impacts listed in #1, below follows details on how the research contributed to the identified impact and on the type and extent of the impact:

Impact 1: The construction of the research as a case study provided with concrete and realistic examples of the risks of navigating in Arctic waters. They were easily recognisable. The research group provided the legal aspects of the research. The impact was provided over a period of 2-3 years from the presentation of the results of the case study in seminars with user groups (public officials and representatives from industry) and blog posts to its publication in a scientific journal. The case study confirmed and specified the prevailing concerns of the risks connected to shipping in Arctic waters, adding to the realism of the prospect of shipping in the region. It probably contributed to substantiating the need for further national as well as international legal regulations, e.g. the IMO Polar Code and shipping in the waters off Svalbard.

Impact 2*:* As the major Arctic coastal State with jurisdiction over waters where Trans-Arctic shipping is realistic in the short-term, research on the Russian national legislation and its implementation has provided vital information for user groups. This includes Information to the shipping industry on the limits and possibilities in planning to use these waters for transport and information to legal departments of foreign ministries to assess compliance with international law and to provide advice on measures to address possible infringements. The research is ongoing and has provided impact through different means, ranging from blog posts, seminars and meetings with user groups to scientific publications and PhD theses. It has provided them with updated information on the legal framework for international shipping in Russian Arctic waters, in addition to an understanding of Russian legal thinking and the relevance and weight of international law in Russian Law.

Impact 3: The investigation of the "behaviour" of Russia in the negotiations of IMO provides a valuable insight into the interests, priorities and attitudes of the major Arctic coastal State in developing the legal framework for Arctic governance, *inter alia* information on its commitment to international cooperation and inclination to act unilaterally. This information is valuable to different groups, from researchers specializing on Russia and Russian policies, to representatives from the shipping industry or other industries operating/planning to operate in the Russian Arctic and representatives from governments of other countries in analysing and projecting future Russian policies.

Impact 4: By investigating general law of the sea and policies and national legislation of relevant states, the research has provided insight into how other states view and may react to the legislative actions taken by Russia in recent years. This will provide the shipping industry, governmental agencies and the research community with insights into the potentials for conflicts and disputes or even options to prevent disputes and promote cooperation. The primary means of impact has been international conferences in Norway (Arctic Frontiers) and Singapore with participation of relevant user groups followed by scientific publications.

Impact 5*:* The findings of the Arctic Shipping research projects have been used in teaching in the Master of Law Programme in the Law of the Sea. Thus, new generations of law of the sea experts have broader insights into the legal and other challenges of Arctic Shipping.

5.Sources to corroborate the impact

- Report: *Norway and Arctic Marine Shipping*, Fram Centre Report Series No. 2
- Regular contacts with users:
  - Norwegian Ministry of Foreign Affairs: Øyvind Hernes and Ane Jørem, rettsavd@mfa.no

    - Norwegian Ministry of Trade, Industry and Fisheries: Maritime Department, postmottak@nhd.dep.no
    - Swedish Ministry of Foreign Affairs: Marie Jacobsson
    - Danish Ministry of Foreign Affairs: Henning Dobson Knudsen
- Regular outreach seminars, with participation of industry etc., including:
    - Tschudi Shipping
    - Maritim Forum Nord
    - Research Council of Norway
    - Nordic Shipowners' Associations
    - US Naval Academy
- Seminar on Arctic Shipping, Tromsø 2014
- Blog Posts on Sea-change in polar shipping: from Arctic to Antarctic Polar Code initiatives and Navigational rights of warships through the Northern Sea Route (NSR) – all bark and no bite?
- BOOK REVIEW: Governance of Arctic shipping: Balancing rights and interest of Arctic states and user states. Eds. Robert C. Beckman, Tore Henriksen, Kristine Dalaker Kraabel, Erik J. Molenaar, Roach, Johnstone, Rachael Lorna; ***The Polar Record;*** **Cambridge, Vol. 55, Issue 3,** (May 2019): 189-190. DOI:10.1017/S0032247419000329

2.5 Distribution issues in the seafood industry

Institution: UiT The Arctic University of Norway		
Name of unit of assessment: Faculty of Law		
Title of case: Distribution issues in the seafood industry		
Period when the underpinning research was undertaken: 2009-2019		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Svein Kristian Arntzen	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2009-
Period when the impact occurred: 2011 – 2019		

1. Summary of the impact

Legal research on distribution issues in the Norwegian seafood industry is widely used in the daily work of Norwegian fisheries organisations.

2.Underpinning research

(1) This article discusses the limits of the fisheries companies' competence under Norwegian legislation, and whether the companies are obligated to impose market prices.

(2) This article examines whether under Norwegian law fishing quotas can be classified as assets, by comparing them with assets in other fields of law and with the Individual Transferable Quota system.

(3) In this article, Arntzen covers differences in the regulation of Norway's coastal fishing fleet in the context of Article 98 of the Norwegian Constitution concerning non-discriminatory treatment. The relevant Norwegian regulation makes a distinction among the coastal fishing fleet depending on whether the vessels fall under the open fishing system (smaller vessels) or the closed system. In the closed system, in addition to requiring an annual fishing quota, only a fixed number of vessels can fish, so to join the system one needs to acquire a vessel that belonged to the system when it was established. Neither condition applies to the vessels belonging to the open system. Among the consequences of the system are that the closed system has created a valuable tradable right for its members. The basic research question was whether these differences in regulating the coastal fishing fleet ran counter to Article 98 of the Norwegian Constitution.

(4) This article examines the dispute resolution mechanism in Norwegian legislation on the sale of fish. The legislation gives certain companies a monopoly. The article asks how broad the companies' powers are.

(5) In this article, Arntzen discusses a proposal prepared by the quota committee relating to time-unlimited fishing concessions in the coastal fishing fleet. The committee's view is that the change would have few practical consequences. If implemented, as Arntzen argues, the changes would fundamentally change the current fisheries system of the coastal fishing fleet, which has until now consisted of fishing concessions awarded to a limited number of vessels for one year at the time. As Arntzen points out, the change concerns the question of who will be allowed to harvest and profit from the common marine natural resources. Against this background and having in mind the possibility that the change could be reversed, restoring a system of time-limited fishing

concessions in the future, the author discusses whether the proposed changes are of importance to the legal status of the fishing concessions.

(6) This article discusses certain government bodies' powers to promote habitation in coastal areas in Norway, which is one purpose of Norwegian fisheries legislation. Arntzen asks whether abolishing the duty on vessels to deliver fish to local facilities may be contrary to the established rights.

3. References to the research (indicative maximum of six references)
Include the following details for each cited output:

1. Svein Kristian Arntzen, 'Fiskesalgslagenes prisfastsettingskompetanse' (2011) *Lov og Rett* p. 159-169
2. Svein Kristian Arntzen, 'Strukturkvotetillatelser som formuesgoder' in *Juss i Nord*, Tore Henriksen og Øyvind Ravna (ed.) p. 121-135
3. Svein Kristian Arntzen, 'Just let sleeping dogs lie?" – Om forskjellsbehandlingen i kystfartøygruppen og Grunnloven § 98' (2015) *Lov og Rett* p. 133-153
4. Svein Kristian Arntzen, 'Minsteprisfastsetting på førstehåndsomsetning av viltlevende marine ressurser: en sak for jevnbyrdige parter?' (2016) *Kritisk juss* p. 163-176
5. Svein Kristian Arntzen, 'Tidsuavgrensede fisketillatelser i kystfiskeflåten? (2017) *Kritisk juss* p. 61-83
6. Svein Kristian Arntzen, '«Å sikre sysselsetjing og busetjing i kystsamfunna»: Om pliktsystemet for torsketrålere og noen andre styringsmuligheter' i *Rettsvitenskap under nordlys og midnattsol. Festskrift ved Det juridiske fakultets 30-årsjubileum*, Trude Haugli, Gunnar Eriksen og Ingvild Ulrikke Jakobsen (ed.), p. 11-25

4.Details of the impact

There is limited research on distribution issues in Norwegian fisheries law, and Arntzen's research provides useful insights into a highly practical and economically important field. His research is used by fisheries organisations in negotiations and when communicating with public authorities. One source for this is an e-mail from the director of the Norwegian Coastal Fishermen's Association, which states that she found Arntzen's research useful and that the organisation will utilise it when debating proposed new legislation with the government. Arntzen has also organised several academic events where representatives of the industry have participated, and he has cooperated with an industry mentor with funding from the local government.

5.Sources to corroborate the impact

- Programme for a 2018 seminar on legal challenges in the seafood industry: https://intranett.uit.no/Content/573852/cache=20182604090241/Program.pdf
- Programme for a 2019 seminar on seafood and Norwegian legal system.

2.6 Reform of appellate proceedings in civil cases

Institution: UiT The Arctic University of Norway		
Name of unit of assessment: Faculty of Law		
Title of case: Reform of appellate proceedings in civil cases		
Period when the underpinning research was undertaken: 2015-2019		
Details of staff conducting the underpinning research from the submitting unit		
Name: Anna Nylund	**Role:** Professor	**Period employed by submitting institution:** 2007-
Period when the impact occurred: 2019-2020		

1. Summary of the impact

- The research has resulted in the researcher co-drafting new rules for court proceedings in the second court in civil cases, as well as amendments to the rules regarding case management. The draft rules and the rationale of the suggested reform are part of the government report NOU 2020: 11
- The researcher has been invited to share insights and best practices with judges from south-eastern Europe in the Western Balkans Judicial Reform Project in December 2020.

2. Underpinning research

The underpinning research merges two lines of research. The first one builds on Anna Nylund's expertise in appellate proceedings in civil cases, which she acquired through her dissertation project on the topic. In 2015, she was invited to revisit and update her previous work, in a talk at the tri-annual meeting of the Nordic Association for Procedural Law. The ensuing article included novel insights into how access to second courts could be limited both by rejecting cases through various mechanisms, and by limiting the scope of the proceedings by introducing a two-track system. This model, which involves appeals without any reasonable prospect of success being dealt with in a simplified written procedure and other appeals in a regular oral or written procedure, has largely replaced leave-to-appeals procedures in Sweden and Finland.

As a result of the article, Anna Nylund was invited to participate in the meeting of the group on Appellate proceedings of the ELI/UNIDROIT Model Rules of European Civil Procedure. The invitation resulted in a co-authored article with Professor Magne Strandberg University of Bergen. The article identified key problems with current rules and practices and possible solutions to these problems by comparing Norwegian law with English, Finnish, French, German and Spanish law. Some of the main findings were that the scope of proceedings in second courts is much wider in Norway, which is very costly, and the courts in the other countries studied operate on a presumption that the first court has determined the facts of the case correctly.

In parallel with this line of research, Anna Nylund conducted comparative work on the preparatory (interim) stage of civil proceedings, initially as part of the NOS-HS funded project Current Trends in Pre-Trial Proceedings in 2014-2016, where she was a co-applicant. Later, she continued to explore the varieties of case management and tools applied by courts to increase both the quality and efficiency of court proceedings. One of the findings was the role of written

case summaries for timely identification of the ambit of the dispute. Written summaries are a tool that allows the court and the parties to distinguish disputed and undisputed elements, core elements and peripheral elements. Thus, case summaries can expedite civil proceedings and reduce costs, in particular costs for producing evidence. This line of work has been presented at conferences in Brazil, Hungary and Lithuania, and in participation in the case management working group in the Comparative Procedural Law and Justice-project at Max Planck Institute Luxembourg, financed by the Research Council of Luxembourg.

3. References to the research

- Strandberg, Magne and Nylund, Anna, Utsikt til innsikt: En komparativ tilnærming til reform av reglene om anke til lagmannsretten over dommer i sivile saker. *Lov og Rett* 2020; Vol 59.(2) pp. 84-102
- Nylund, Anna, Saksforberedelsen i tvistemål i et komparativt perspektiv. In Magnus Matningsdal and Asbjörn Strandbakken (eds.) *Integritet og ære: festskrift til Henry John Mæland*. Gyldendal 2019.
- Nylund, Anna, Case Management in a Comparative Perspective: regulation, principles and practice. *Revista do processo – RePro* 2019; Vol. 292. s. 377-398
- Nylund, Anna. The structure of civil proceedings – convergence through the main hearing model? *Civil Procedure Review* 2018; Vol. 9(2) pp. 13-39
- Nylund, Anna, Preparatory Proceedings in Norway: Efficiency by Flexibility and Case Management. In Laura Ervo and Anna Nylund (eds.), *Current Trends in Preparatory Proceedings. A Comparative Study of Nordic and Former Communist Countries*. Springer Publishing Company 2016, pp. 57-79
- Nylund, Anna, Begränsningen av tillgången till den andra instansen i tvistemål i ett nordiskt perspektiv. *Tidskrift utgiven av juridiska föreningen Finland* 2015; Vol. 151(5-6) s. 431-450

4. Details of the impact

Anna Nylund has been invited to talk to judges about her research findings on three occasions: Tvistelovsseminar, an annual conference organised by Bergen District Court, the the Norwegian Bar Association, Hordaland district and the University of Bergen, in November 2017; the annual seminar of Borgarting Court of Appeals in Oslo in January 2019, and a joint seminar with the Courts Commission and Gulating Court of Appeals in Bergen in September 2019. On all three occasions, she has been asked to discuss both the theoretical and comparative perspective, and to discuss how courts could improve their work within the current regulatory framework.

In the summer of 2019, the Norwegian Courts Commission invited Anna Nylund to co-draft rules on civil proceedings in second courts, and to make necessary adjustments to rules regarding proceedings in first courts. The work consisted of three parts: (1) drafting the texts justifying the need for reforms and identifying the central principles of the reform drawing inter alia insights from comparative studies, (2) drafting the rules and (3) drafting brief explanatory notes to those rules. Although the Courts Commission determined the main principles and features of the reforms, they relied heavily on draft versions and an oral presentation of the draft article on comparative insights on Norwegian proceedings in second courts in civil cases, that was published in early 2020, and on the article on case management published in Norwegian.

The Courts Commission published its second report, NOU 2020: 11 Den tredje statsmakt – Domstolene i endring, on 30 September 2020. Anna Nylund and Magne Strandberg are explicitly credited for drafting the chapter and rules concerning appellate proceedings (chapter 25). Additionally, sections 22.5.2.3 (Sammenfatninga av sakens tvistespørsmål) and 22.5.2.4 (Avsatt tid til forberedelse av

planmøter) are based on draft texts written by Anna Nylund with some input from Magne Strandberg. This also applies to the suggested amendments to sections 9-4, 9-11, 10-2, 29-4 and 29-9 of the Dispute Act and the comments that accompany the recommended amendments. Moreover, since time constraints hindered drafting revisions to the rules regarding interlocutory appeals, the researchers produced an outline to guide a future reform of the said rules, published in section 27.4.3 of the report.

At the time of writing, the report has been sent for consultation. Hence, it is premature to speculate whether the draft rules will be enacted. So far, no response has been aired, and the rules of civil procedure are seldom subject to debate, unless someone disapproves of the proposed changes.
Moreover, Anna Nylund has been invited to discuss the topic of case management and concentrated proceedings at the December 2020 meeting of the Western Balkans Judicial Reform Project, which is funded by the Norwegian Ministry of Foreign Affairs and implemented by the Norwegian Court Administration. The project seeks to enhance efficiency and effectiveness in the judicial systems in Albania, Bosnia and Herzegovina, North Macedonia, Montenegro, Serbia and Croatia, by sharing know-how and best practices with sitting judges and court administrators.

5.Sources to corroborate the impact

NOU 2020: 11 Den tredje statsmakt – Domstolene i endring

2.7 Survey and recognition of land rights in the Sámi area of Finnmark – the legal clarification process

Institution: UiT The Arctic University of Norway		
Name of unit of assessment: Faculty of Law		
Title of case: Survey and recognition of land rights in the Sámi area of Finnmark – the legal clarification process		
Period when the underpinning research was undertaken: 2002 - 2016		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Gunnar Eriksen and Øyvind Ravna	**Role(s) (e.g. job title):** Professors (law)	**Period(s) employed by submitting institution:** 1991-; 2004-
Period when the impact occurred: 2019-		

1. Summary of the impact

This research focuses on law and legal history in relation to the process of surveying and recognizing of land rights in Finnmark and has, in this way, helped the Finnmark Commission and other users of law in taking a more nuanced approach to the legal history and the current property law with regard to the indigenous Sámi people. By inquiring about and criticizing the Finnmark Commission's assessments of evidence and application of law, the research has probably also contributed to the commission adopting a different conclusion for field 4 Karasjok than it has done in its five previous investigation reports.

Underpinning research

The key scientific insights or findings that underpinned the impact are:

1. Publication no. 1 (see below) is Eriksen's PhD thesis processed into a monograph. The work investigates thoroughly the concept of immemorial use of land and natural resources. This concept is suitable for the Sámi land right requirements because the Sámi have less written legal culture, but have a historical presence including use of the land areas they traditionally have occupied. The monograph has played an important role in the theoretical base in the reports from the Finnmark Commission and the Land Tribunal for Finnmark from 2012 to 2020.
2. Publications no. 3 and 4 focus on the assessment of evidence and application of law that has been used as a basis during the legal survey in Finnmark, where both factual errors and methodological issues are uncovered. This seems to have affected the Finnmark Commission, which in its latest report from 2019 recognizes property rights for a local Sámi population, and thus comes to a quite different result than in the five previous reports.
3. Publication no. 5 shows that it is not obvious that legal dispositions exercised by the State can form the basis for the lapse of private law rights.
4. Publication no. 6 challenges the established legal history that states there were no private properties in Finnmark before the State began to issue and measure such properties in 1775. The research visualizes the existence of many such properties in East Finnmark, arising regardless of state dispositions. This has contributed to the Finnmark Commission keeping an eye on the existence of independent properties and property rights in the 18th and 19th centuries including in Karasjok.

In summary, the research has provided new scientific insight into legal history and property law adapted to Sámi usage and culture, which has helped to shift both perceptions of legal history and property history, and how the rules of immemorial use should be applied and adopted in connection with the legal mapping process in Finnmark. This has contributed to the Finnmark Commission reaching a changed result in 2019, compared with previous reports.

2. References to the research (indicative maximum of six references)

1. Gunnar Eriksen, *Alders tids bruk,* (Fagbokforlaget 2008, 386 p.)
2. Øyvind Ravna, *Finnmarksloven – og retten til jorden i Finnmark* (Gyldendal akademisk, 2013, 517 p).
3. Øyvind Ravna, «Finnmarkskommisjonens bevisvurderinger og rettsanvendelse – drøftet ut fra dens to første rapporter», *Lov og Rett* 2013 (52) no. 8 pp. pp. 555–574
4. Øyvind Ravna «Rettskartleggingen i Finnmark og reglene om alders tids bruk», *Tidsskrift for Rettsvitenskap* 2015, (128), no. 1, pp. s. 53–90
5. Ravna, Øyvind, «Rettslige disposisjoner som grunnlag for bortfall av rettigheter», *Tidsskrift for eiendomsrett,* (12), 1/2016
6. Ravna, Øyvind, «Nye bidrag til eiendomshistorien i Finnmark», *Heimen - Lokal og regional historie* 2017, (54), no 1, pp. 6–27. 10.18261/issn.1894-3195-2017-01-02.

3.Details of the impact

Since the 1980s, there has been a process to identify the legal position of the indigenous Sámi, chaired by the Sámi Rights Committee. A highlight of this process was the adoption of the 2005 Finnmark Act, which in 2006 transferred the former "state lands" to an ownership body, the Finnmark Estate (FeFo). The estate is controlled equally by the Sámi Parliament and the Troms and Finnmark County Council, and administers 95 percent of the area in Finnmark, pending a further legal clarification.

The legal clarification is mandated to the Finnmark Commission, through Chapter 5 of the Finnmark Act. In addition, a land tribunal is mandated to settle disputes arising from the investigations The judgement of the land tribunal can be appealed directly to the Supreme Court of Norway.

The impact of the research referred to above can briefly be divided into promotion of knowledge about 1) legal history on property related to the Sámi, which is important not only for the history, but also for current legal situations and judicial decisions, and 2) how evidence should be assessed, and legal rules applied when land claims and legal issues rooted in long-term Sámi use of land are taken into account. A description on how the research has made a distinct contribution, including the nature and extent of the impact follows below.

Publication no. 1 has played a key role in the theoretical base of the reports of the Finnmark Commission. The use of this work underpins the importance of understanding of the complex case law norms in a context where the Land Right subjects are Sámi people, and the use of the natural resources stands out from the resident majority population's use of land and natural resources.

Publication no. 2 is a collection of articles on the Finnmark Act and particularly on the rules aimed at the legal clarification process. The Commission's use of the anthology shows its impact on the findings of the commission.

Publication no. 3 and 4 focus on the assessment of evidence and application of law during the legal survey in Finnmark, where both factual and methodological issues are uncovered. These findings seem to have significantly influenced the Finnmark Commission, which is evident both from direct references and from the arguments of law the Commission has used. From 2015, when the Commission submitted its fifth report (field 6 Varanger-Vest) to 2019, when it submitted its sixth report (field 4 Karasjok), there has been a significant change in both the assessment of evidence and the application of law, which led to recognition of property rights for the local population of Karasjok municipality (predominantly Sámi people), and thus comes to a quite different result than in the five previous reports.

Publication no. 5 shows that it is not obvious that legal dispositions exercised by the State can form the basis for the lapse of private rights and property. It cannot be ruled out that these findings have contributed to the Commissions result in 2019, including by questioning whether the concept of "fixed conditions" can be given the same weight that it has been given in previous reports.

Publication no. 6 challenges the established legal history, which had stated that there were no private properties in Finnmark before the State began to issue and measure out lands in 1775. The research visualizes the existence of many such properties in East Finnmark, arising regardless of State dispositions. This has contributed to the Commission keeping an eye on the existence of independent properties and property rights in the 18th and 19th centuries in Karasjok, too.

A summary of the details of the beneficiaries and the nature of the impact can be pointed out as research that has contributed to changing the outcome with regard to the question of whether a Sámi population can acquire or possess ownership of a larger outlying area in Finnmark. Specifically, the research has benefited the local Sámi population in Karasjok municipality. However, it is highly probable that it will also have a significant effect on the other Sámi areas in Finnmark through the ongoing legal clarification process, and it is not unthinkable that it will also be significant for traditional Sámi areas outside Finnmark.

The nature of the effect is the recognition of property rights, including the right to manage one's own land areas, and not least be entitled to the income from its resources. As mentioned, this is stated in the Finnmark Commission's report for Karasjok, presented in December 2019.

4.Sources to corroborate the impact

1. Finnmarkskommisjonen, Rapport felt 6 Varangerhalvøya vest (2015) (https://www.domstol.no/globalassets/upload/finn/rapporter-utredinger-og-kunngjoringer/rapporter/rapport-felt-6.pdf), pp. 35, 36, 40, 45, 46, 47, 98, 113, 114, 116, 133, 144, 157, 163, 165, 195, 209 (ref. to publ. No 1, pp. 186–195, 264, 222–224, 240 etc.). Finnmarkskommisjonen, Rapport felt 6 Varangerhalvøya vest (2015) s. 24, 165 og 167 (ref. to publ. No 2, pp. 62, s. 188–189, 259).
2. Finnmarkskommisjonen, Rapport felt 4 Karasjok (1) (2019) (https://www.domstol.no/globalassets/upload/finn/rapporter-utredinger-og-kunngjoringer/rapporter/felt-4/rapport-felt-4-karasjok-bind-1.pdf)pp. 66, 68, 69, 72, 79, 86, 111, 113, 163 (ref. to publ. No 1 p. 232–235, 186–181, 203, 224, 286 – 287, 264 – 268, 219, 297 etc.).
3. Finnmarkskommisjonen, Rapport felt 4 Karasjok (1) (2019) p. 31 (ref. to publ. No 2 p. 62).
4. Finnmarkskommisjonen, Rapport felt 4 Karasjok (1) (2019) p. 37, 39 (ref. to publ. No 6, pp. 18–25, 16).
5. Finnmarkskommisjonen, Rapport felt 4 Karasjok (1) (2019) pp. 66, 186 (ref. to publ. No 5, p. 51 ff., 66)
6. Utmarksdomstolen for Finnmark, Case UTMA-2014-164739 (Nesseby) (ref. to publ. No. 1)
7. Einar Niemi, *Lokalbefolkningen og staten i Nesseby. Et utsyn fra 1700-tallet til 1900-tallet* (expert report submitted to the Supreme Court in case HR-2018-456-P (Nesseby)) pp. 2,3, 23, 25, 30, 31 (ref to publ. No. 6).

3 University of Agder - Department of Law

3.1 Review of administrative decisions

Institution: University of Agder		
Name of unit of assessment: Department of Law		
Title of case: "Review of administrative decisions"		
Period when the underpinning research was undertaken: 2009-2019 (2020)		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Sunniva Cristina Bragdø-Ellenes	**Role(s) (e.g. job title):** Associate Professor	**Period(s) employed by submitting institution:** 2011 à
Period when the impact occurred: 2014-2020		

1. Summary of the impact

In Norway, very few appeals against administrative decisions are taken to court. This is mainly due to the nature of the court proceedings and a system where numerous administrative appeal boards are quantitatively important in the control of individual public decisions. An alternative court procedure for the review of administrative disputes is therefore suggested. The scholarly work of Associate Professor Sunniva Bragdø-Ellenes on this topic has led to her being invited to participate in expert groups and law commissions. This, as well as her engagement in the public debate, has contributed to several political processes regarding the Norwegian legal system.

2. Underpinning research

Associate Professor Bragdø-Ellenes took an early interest in the topic of appeals against administrative decisions. Her master's thesis, published in 2002 by Gyldendal Akademisk as a chapter in the anthology *"Barnevern, fylkesnemnder og rettssikkerhet" ISBN 82-05-30025-9*, dealt in a comparative perspective with the court-like administrative board deciding in child welfare cases, and gave insight into how such boards often replace courts in the Norwegian system of review of an administrative decision. In 2005, she published an article on the topic of review of administrative decisions with a comparative perspective: *Domstolsprøving av forvaltningsvedtak et komparativt perspektiv, Lov og rett 2005, issue 1/2. p. 68-89. ISSN 0024-6980.* She elaborated further upon this topic in her doctoral thesis.

Her doctoral thesis was defended at the University of Oslo in 2009 and an updated and slightly reworked version was published by Universitetsforlaget in 2014: *Overprøving av forvaltningsvedtak i Norge, Sverige og Frankrike. Monography. ISBN: 978-82-15-01849-2* /.

The thesis explains how the relatively low number of administrative disputes before the courts represents a problem and discusses how this problem should be addressed. In Norway, appeals against administrative decisions are usually reviewed by the administration itself, even though the organisation of the courts fulfils important guaranties such as independence to a greater extent, thus ensuring that the case will be considered in the best possible manner. This is probably related to the high financial risk that litigation entails.

In many other countries, like Sweden and France, administrative decisions are ordinarily controlled by administrative courts. The administrative judges have a greater responsibility to investigate the case, and thus the parties do not need to be represented by (expensive) lawyers.

The court's review of administrative decisions in Norway and France is limited to a review of the decision's legality, whereas the court's review in Sweden encompasses all aspects of the decision, including the discretionary parts. In Sweden, an appealed decision may usually be replaced by a new decision by the courts; this is also true for a number of types of cases reviewed by the French administrative courts.

Among the changes proposed in the doctoral thesis, the most important one is the proposal for an administrative court procedure. The question of whether administrative decisions should be reviewed in special administrative courts or in ordinary courts, or even in specific divisions of the ordinary courts that could handle administrative decisions or in selected ordinary courts, is also raised.

Since joining the Department of Law at the University of Agder in 2011, Bragdø-Ellenes has produced further work in this area, for example dealing with the numerous administrative appeal boards reviewing administrative appeals in Norway. Her key message is that the mechanisms for dispute resolutions – whether in or outside the courts – must be considered as a whole, and court proceedings must be adapted to better suit the nature of administrative disputes, with the aim of increasing the number of administrative review cases before the courts.

This topic has been further elaborated upon in an article dealing with how the state's representation by its own professional attorneys in civil cases (*Regjeringsadvokaten*) impacts the rule of law in the administration, as well as the influence of human rights on the interpretation of the law and the review of the constitutionality of statutes. Bragdø-Ellenes argues that the state employed lawyers providing legal services to the Government (including the entire state administration), are highly skilled and tend to argue in favour of the administration, meaning mainly against the impact of human rights and against claims of unconstitutional laws, thereby likely impacting the result in such cases.

In 2019, Bragdø-Ellenes wrote a chapter on the review of individual administrative decisions in environmental cases, published in an anthology about article 112 of the Norwegian constitution, which was published in connection with an ongoing court process, "the climate trial". The trial was much discussed in the media and among academics because the private parties, in this case environmental organisations, claimed that the ten new permits for oil exploration in the Barents Sea which the Government awarded to the oil industry in June 2016, were in breach of the right to an environment that is conducive to health and to a natural environment where productivity and diversity are maintained (the Norwegian Constitution article 112). In the chapter, Bragdø-Ellenes discusses if the review of individual environmental administrative decisions is better in courts or administrative appeal boards.

In her chapter on dispute resolutions in and outside of courts from 2020, she argues that the systems of dispute resolution are built on partly incoherent considerations (particularly regarding specialisation) and should be reformed as a whole, with a view to better fulfilling their purpose.

3. References to the research (indicative maximum of six references)

a) Bragdø-Ellenes, S. C. (2009). Overprøving av forvaltningsvedtak i Norge, Sverige og

Frankrike. [Doctoral thesis], University of Oslo.

b) Bragdø-Ellenes, S. C. (2010). Regjeringsadvokatens betydning for rettssikkerheten i forvaltningen, for menneskerettighetenes gjennomslag og for prøvingen av lovers grunnlovsmessighet. *Lov og Rett, volum 49 hefte 8*, 490-504.

c) Bragdø-Ellenes, S. C. (2014). *Overprøving av forvaltningsvedtak i Norge, Sverige og Frankrike.* Universitetsforlaget. ISBN: 978-82-15-01849-2.

d) Bragdø-Ellenes, S. C. (2014). Hvilke forhold ved klagenemnder bør reguleres? I Difi: *Viltvoksende nemnder? Om organisering og regulering av statlige klagenemnder.* Vedlegg, 73-79. Hefte 2014:2. ISSN 1890-6583.

e) Bragdø-Ellenes, S. C. (2019). Overprøving av vedtak i miljøsaker - i domstol eller klagenemnd?. I E. Smith og O. C. Fauchald (Red.), *Mellom jus og politikk. Grunnloven § 112*, (p. 119-137) Fagbokforlaget. ISBN: 978-82-450-2701-3.

f) Bragdø-Ellenes, S. C. (2020). Alminnelig og spesialisert tvisteløsning – i og utenfor domstolene. I I. Nguyen-Duy, S. C. Bragdø-Ellenes, I. L. Backer, S. Eng og B. E. Rasch (Red.) *Festskrift til Eivind Smith. Uten sammenligning.* (p. 127-151). Fagbokforlaget. ISBN: 978-82-450-3300-7.

4. Details of the impact

On the basis of Bragdø-Ellenes' research in connection with her master's and doctoral dissertations, she was invited by the Norwegian Digitalisation Agency (the then Agency for Public Management and eGovernment (Difi)) to participate in the reference group for the Difi project "Independent Exercise of Authority". Her contribution and previous work were mentioned several times in the resulting reports. In an appendix to one of the reports, she developed a "checklist" for when the Government organises administrative appeal boards, to ensure a certain degree of independence from the first instance and other parts of the administration as well as an effective and adversarial process, due preparation of the legal aspects of the cases, etc. These administrative appeal boards are quantitatively important in the Norwegian system of legal control with administrative, individual decisions, but have been created and regulated rather randomly and ad hoc.

Presentations i relation to the Difi project:

- Internal workshop at Difi in 2012: Cristin-result-ID: 927537. Overprøving av forvaltningsvedtak i Norge og Sverige (Review of administrative decisions in Norway and Sweden). Special focus on administrative appeals, boards of appeal and rules regarding the appropriate channel of appeals in the Swedish system. Event title: Seminar and workshop. Place: Oslo. Date: 1 June 2012. Arranged by: The Agency of Public Management and eGovernment.
- The project held a conference about administrative courts, where Bragdø-Ellenes held a presentation. See Cristin-result-ID: 1034514. Event title: Arbeidsseminar om reformforslag om forvaltningsdomstoler/overprøving av forvaltningsvedtak (Seminar and workshop on the suggested reform of administrative courts/review of administrative decisions). Place:

Oslo. Date: 14 June 2013. Arranged by: The Agency of Public Management and eGovernment. The topic of independent exercise of state authority was debated in the press and in Parliament.

Other presentations:

- Bragdø-Ellenes also held a seminar on the topic for students at the University of Bergen: Cristin-result-ID: 1028853. Event title: Overprøving av forvaltningsvedtak i Frankrike og Norge. Det franske domstolssystemet. Prosessen for alminnelige forvaltningsdomstoler (Review of public management decisions in France and Norway. The French court system. The process for ordinary administrative courts). Perspective seminar for students. Place: UiB, Bergen. Date: 15 May 2013. Arranged by: The University of Bergen.

- For employees of Oslo municipality: Cristin-result-ID: 1394913. Event title: Overprøving av forvaltningsvedtak i et komparativt perspektiv (Review of public management decisions in a comparative perspective). Academic seminar arranged by Oslo municipality's Board of Appeals. Place: Oslo. Date: 15 October 2016. Arranged by: Oslo municipality.

- Lawyers' academic day (Juristenes fagdag): Cristin-result-ID: 1299378, Event title: Er domstolene viktige i kontrollen med forvaltningen? Hvis ikke: Hva er viktig? (Are the courts important in auditing the administration? If not: What is important?). JUS Lawyers' academic day. Place: Oslo. Date: 9 December 2015. Arranged by: JUS Lawyers' educational centre.

In 2015, Bragdø-Ellenes had a one-page opinion editorial titled "Trenger vi advokater?" ("Do we need lawyers?") in Dagens Næringsliv (Saturday edition) on the topic: Cristin-result-ID: 1262366 Dagens næringsliv ISSN 0803-9372

After holding a lecture on the topic during the Lawyers' academic days in Sandefjord in 2013, she was invited by the Ministry of Trade, Industry and Fisheries to be a part of the law commission tasked with proposing the establishment of a board of appeals for competition cases so that appeals would not be dealt with by the Ministry. This work resulted in NOU 2014:11, which constituted the basis for the Ministry's later proposition to the Parliament. The Parliament adopted the proposal. (Cristin-result-ID: 1067534 Event title: "Domstollignende forvaltningsorganer" Lawyers' academic days. Place: Sandefjord. Date: 18 – 19 November 2013. Arranged by: Professional Association of Lawyers / JUS.

The law commission had designed a completely new, independent administrative entity which would review decisions made by the Norwegian Competition Authority. The committee also won support for a very unusual solution that involves decisions made by the Competition Board of Appeals being brought directly to the Gulating Appeals Court in Bergen instead of starting in the ordinary court (*tingretten*), as is common procedure (cf. § 39 of the Competition Act). Bragdø-Ellenes has recommended this in her work because the Norwegian system where review of administrative decisions is first dealt with by the administration itself (through an administrative appeal to a board or other entity), results in an extra step for all cases that progress further through the justice system. This leads to longer case processing time and increases the costs associated with an appeal. There are very few cases regarding the Competition Act in the courts, and by allowing all of them to go directly to one court (Gulating), necessary niche competence on

competition law is built up in this court.

The law commission's work resulted in a completely new Act of Parliament: the Competition Act (konkurranseloven, §§ 35-40) and a new regulation regarding the board of appeals: Regulation (FOR-2018-12-14-2031) regarding the processing of cases for the Competition Board of Appeals. See in particular the Government's document to the Parliament, Prop. 37 L (2015-2016): Establishment of an independent board of appeals for competition cases.

We note that Bragdø-Ellenes' research has contributed to putting the topic of administrative review on the agenda, and that her expertise is sought after. Her contributions have played a part in processes leading to changes in the law.

5. Sources to corroborate the impact

References regarding membership in the reference group for the Difi project on "the independent exercise of authority":

- https://www.difi.no/rapport/2010/11/statlig-men-uavhengig-myndighets-utovelse-gjennom-forvaltningsvedtak
- https://www.difi.no/rapport/2014/06/klart-reformbehov-nar-det-gjeld-statleg-myndigheitsutoving

Bragdø-Ellenes' work has also influenced the the debate on specialisation in the courts and specialised courts. See references in the following NOU's:

- NOU 2017:8 *Særdomstoler på nye områder* (Specialised courts in new areas): https://www.regjeringen.no/no/dokumenter/nou-2017-8/id2542284/
    - p. 285, footnote 9: Bragdø-Ellenes, Sunniva Christina, Overprøving av forvaltningsvedtak i Norge, Sverige og Frankrike, Universitetsforlaget 2014 p. 217 ff.
    - p. 288, footnote 18: See Bragdø-Ellenes, Sunniva C., Overprøving av forvaltningsvedtak i Norge, Sverige og Frankrike, Universitetsforlaget 2014, page 50, with further references to Smith, Eivind, Regeringsrätten som «domstol», in Regeringsrätten 100 år, Uppsala 2009 on p. 477.
    - p. 288, footnote 19: See Bragdø-Ellenes, Sunniva C., Overprøving av forvaltningsvedtak i Norge, Sverige og Frankrike, Universitetsforlaget 2014, chapter 2.4, SOU 1994:117 paragraph 2.1 and 2.2, and SOU 1991:106.
    - p. 332, footnote 46: See Bragdø-Ellenes, Sunniva Christina, Overprøving av forvaltningsvedtak i Norge, Sverige og Frankrike, chapter 5.2.2
- NOU 2019: 5 Ny forvaltningslov (New Administrative Act, chapter on independent administrative organs) p. 366 note 11 (or note 688, depending upon version): https://www.regjeringen.no/no/dokumenter/nou-2019-5/id2632006/
- NOU 2020 Den tredje statsmakt. Domstoler i endring (The third branch of state power. Courts changing), p. 66 note 11 and p. 67 note 14: https://www.regjeringen.no/no/dokumenter/nou-2020-11/id2766587/

- NOU 2020: 5 Likhet for loven. Lov om støtte til rettshjelp (rettshjelpsloven), (Equality before the law. Act on legal aid), reference on p. 229, footnote 2: https://www.regjeringen.no/no/dokumenter/nou-2020-5/id2700210/

References connected to work in the law commission for a new Competition Board of Appeals:

- Parliamentary proposition 37 L (2015-2016), Endringer i konkurranseloven (Changes in the Competition Act): https://www.regjeringen.no/no/dokumenter/prop.-37-l-20152016/id2466637/
- Konkurranseloven (The Competition Act): https://lovdata.no/dokument/NL/lov/2004-03-05-12?q=konkurranseloven
- Forskrift om behandling av saker for Konkurranseklagenemnda (Regulation on the processing of cases for the Competition Board of Appeals): https://lovdata.no/dokument/SF/forskrift/2018-12-14-2031?q=FOR-2018-12-14-2031

3.2 Educational Law

Institution: University of Agder		
Name of unit of assessment: Department of Law		
Title of case: Educational Law		
Period when the underpinning research was undertaken: Autumn 2017 until today		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Marianne Klungland Bahus	**Role(s) (e.g. job title):** Associate Professor	**Period(s) employed by submitting institution:** Temporarily in the period 1 September 2015 – 31 December 2016, and permanently from 1 September 2017
Period when the impact occurred: Autumn 2017 – 2020		

1. Summary of the impact

Children in primary and secondary school have several national and international rights that must be applied by teachers, school leaders and executive school officers. The implementation and application of children's legal rights can be demanding if employees in the school sector do not have sufficient legal competence.

The scholarly work of Associate Professor Marianne K. Bahus on challenges in the application and implementation of basic human rights and statutory rights in school (Educational Law) has led to her being invited to a government-appointed committee proposing concrete changes in the new Education Act, and to the county Governors' meeting for municipal leaders in Agder. Bahus has also been engaged in the public debate concerning the right to special needs education.

2. Underpinning research

In the fall of 2017, Bahus and her colleague at the UiA Department of Education, Camilla Herlofsen, with whom she leads the research group "Educational law" (https://utdanningsrett.no/), conducted a survey (with approval from the Norwegian Centre for Research Data) among teachers, school leaders and other personnel at secondary schools who participated in a course in Educational Law and Labour Law at the Department of law, and a similar course at the Department of Education. The course at the Department of Law was set in motion following a request from the county municipality, and the participants came mainly from the secondary school setting. They were asked to present a relevant legal and educational

issue that they had experienced. These issues, which were presented anonymously in writing, constituted the data material in their study.

Bahus and Herlofsen analysed the legal and educational issues and have presented papers at international conferences based on this study.

In December 2017 Bahus and Herlofsen arranged a two-day seminar with participants from the University of Agder, the University of Uppsala, participants from the County Governor's office and participants from the Children's Ombudsman's office. The theme of the seminar was "special education and educational law in interaction". Several of the participants gave presentations on, for instance, various aspects of children's rights in school.

In 2018, Bahus and Herlofsen informed about their research on educational law at a seminar at the UiA Department of Law.

Along with several colleagues, Bahus and Herlofsen published an opinion piece in a regional paper about special needs education without special educators in 2017. In 2020, in an opinion piece in a regional paper, Bahus and Herlofsen pointed out the problem with the disappearance of special education hours for children, based on their study.

In 2020, Bahus and Herlofsen submitted one manuscript each to peer-reviewed journals (Bahus to a legal journal at level 2 and Herlofsen to a pedagogical journal at level 1) related to educational law.

3. References to the research (indicative maximum of six references)

1) Bahus, Marianne; Herlofsen, Camilla.
   En studie av pedagogiske og juridiske utfordringer i skolen.
   Spesialpedagogikk og utdanningsrett i samspill; 2017-12-04 - 2017-12-05

2) Bahus, Marianne; Herlofsen, Camilla.
   The Child's best interest in Secondary School – school leaders as interpreters of the law. ECER 2019; 2018-09-03 - 2018-09-07

3) Bahus, Marianne; Herlofsen, Camilla.
   Om profesjonsutøvere i skolen som rettsanvendere. Presentasjon for opplæringslov-utvalg; 2018-04-24 - 2018-04-24

4) Bahus, Marianne; Herlofsen, Camilla.
   Legal and pedagogical dilemmas in the Norwegian unified school: the perspectives of teachers and other educational professionals. NERA 2018 - 46th Congress; 2018-03-08 – 2018-03-10

5) Bahus, Marianne; Herlofsen, Camilla.
   The Child's Best Interest in Legal-Pedagogical Dilemmas. ECER 2019, Education in an Era of Risk – the Role of Educational Research for the Future; 2019-09-03 - 2019-09-06

6) Bahus, Marianne; Herlofsen, Camilla.
   Spesialundervisningstimer forsvinner uten å bli registrert. Fædrelandsvennen 2020

4. Details of the impact

At the NERA Conference 2018, Bahus and Herlofsen held an oral presentation with the title "Legal and pedagogical dilemmas in the Norwegian unified school: the perspectives of teachers and other educational professionals". In April of the same year, they were invited to a meeting in the Education Act Committee (Opplæringslovutvalget). The subject of the meeting was professionals in schools. Two of the committee members, Sølvi Mausethagen and Jan Merok Paulsen, spoke about the role of the teacher and the role of the principal. Associate Professors Camilla Herlofsen and Marianne K. Bahus from the University of Agder gave a presentation about professionals in schools as law enforcers. Bahus and Herlofsen proposed and argued in favour of including a professional standard in schools into the new Education Act, and the child's best interest as a guiding principle. They also argued to maintain special needs education as a right for children who do not have sufficient outcomes from ordinary teaching, and they remarked on the role of the educational and psychological counselling service.

On the basis of the input, the committee discussed, among other things, state and local management of professionals in schools, discretionary rules and the relationship between legal and professional judgment. The Education Act Committee has in an Official Norwegian Report (NOU; preparatory works for an Act of Parliament) included a professional standard of reliability and the child's best interest as a guiding principle, and confirmed the right to special needs education for children who do not have sufficient outcome of ordinary teaching. A new Education Act has not yet been passed but is being prepared and has been through a consultation process.

In a national context, the research Bahus and Herlofsen performed during fall 2017 has led to cooperation with the County Governor and a presentation for municipal leaders in Agder in the primary educational sector in 2018. Also, representatives from both the Children's Ombudsman's office and the County Governor's office have participated in a seminar Bahus and Herlofsen arranged, and they have had informal conversations with their contacts at the Children's Ombudsman's office and their contacts at the County Governor's office. The Education Act Committee, appointed by the Government, invited Bahus and Herlofsen to present the findings from their research, and they have presented their points of view to the committee both orally and in writing. The research Bahus and Herlofsen performed has several times been accepted for oral presentations at international conferences. Discussing their findings with other researchers from several different countries led to new insights and ideas, also for their international colleagues, and provided a valuable supplement to their previous findings in Norway.

Bahus and Herlofsen held an oral presentation at the ECER 2018 (Italy) Conference: *Inclusion and Exclusion, Resources for Educational Research?* with the title: "The Child's best interest in Secondary School – school leaders as interpreters of the law", and at the ECER 2019 (Germany) Conference: *Education in an Era of Risk – the Role of Educational Research for the Future*, with the title "The child's best interest in legal-pedagogical dilemmas".

In 2020, Bahus and Herlofsen wrote an opinion in a regional newspaper about the lack of a system for registering the special education hours that "disappear" - with a particular focus on the Covid 19- situation. A national newspaper then followed up with an interview of Herlofsen and a hyperlink to Bahus and Herlofsen's opinion. The newspaper followed up with further articles, featuring i.a. statements by the Minister of Education and other researchers in the field, and the minister was required to answer questions raised by representatives in the Norwegian Parliament. The Children's Ombudsman also stated their opinion in an article on their

webpage. After the public debate, the parent committee for Kindergartens contacted Bahus and Herlofsen and asked about the possibility of cooperation. This will be followed up in future relevant research and dissemination activities as opportunity arises.

5. Sources to corroborate the impact

1. https://www.fvn.no/mening/kronikk/i/86wOa2/spesialundervisningstimer-forsvinner-uten-aa-bli-registrert#xtor=RSS-3
2. https://www.vg.no/nyheter/innenriks/i/JJJwlR/spesialundervisning-null-kontroll-av-tapte-timer
3. https://www.barneombudet.no/aktuelt/inyhetene/barneombodet-reagerer-pa-tap-av-spesialundervisning?fbclid=IwAR1q-cUYPtdJ1pg7MMnxu-vLecPBanW4XK4AYySTnFs3TgtV9j8QGKeJ204
4. https://www.vg.no/nyheter/innenriks/i/JJJ577/melby-skoler-kan-ikke-droppe-noedvendig-spesialundervisning
5. https://www.vg.no/nyheter/innenriks/i/2ddQ0r/grillet-melby-om-corona-kutt-i-spesialundervisning
6. https://www.fvn.no/krsby/i/y3M20E/spesialundervisning-uten-spesialpedagog-er-det-forsvarlig
7. https://www.fylkesmannen.no/nn/agder/Arkiv---kurs-og-konferanser/Fylkesmannens-oppvekstmote-2018/
8. https://www.opplaringslovutvalget.no/utvalgsmoter/
9. https://www.vg.no/nyheter/innenriks/i/50gRRb/ks-bekymret-for-at-mange-vil-velge-hjemmeskole-etter-skoleaapning?fbclid=IwAR1BVK_EU9wSqAyaLtfW56hLJ8wAZsyg7YkZ5lT891By9Xzr9R6iP18lScM
10. https://www.uia.no/nyheter/mange-barn-faar-ikke-den-opplaeringen-de-har-krav-paa

3.3 Research on Health Law

Institution: University of Agder		
Name of unit of assessment: Department of Law		
Title of case: Research on Health Law		
Period when the underpinning research was undertaken: 2005-2020		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Marianne K. Bahus	**Role(s) (e.g. job title):** Associate Professor	**Period(s) employed by submitting institution:** Temporarily in the period 1 September 2015 – 31 December 2016, and permanently from 1 September 2017
Period when the impact occurred: **2005-2020**		

1. Summary of the impact

Bahus has, as part of her PhD thesis, investigated how doctors' attitudes and knowledge correspond with legal provisions in end-of-life decisions, and in particular how the statutory provision on emergency situations influences the principle of patient autonomy for severely ill, but not dying, patients. Based on her findings, Bahus was invited to talk about patient autonomy and life/death decisions at an internal seminar for the Ministry of Health and Care Services in 2015.

In 2016, Bahus became a government-appointed member of the palliative care committee. According to the mandate, the committee should, among other things, assess the balance between health personnel's duty to intervene and patients' right to self-determination. As the sole lawyer of the committee, Bahus was the author of this part of the Official Norwegian Report on palliative care (Chapter 13 in NOU 2017: 16). Bahus also contributed to several other parts of the Report. Following its publication, the Report was sent on public hearing, resulting in a report to the Norwegian Parliament (Stortingsmelding), and finally a recommendation from the Parliamentary Health and Care Committee.

2. Underpinning research (indicative maximum 500 words)

In the period 2005-2013 Bahus was a part-time PhD research fellow at the Centre for Medical Ethics, University of Oslo. Bahus combined the PhD position with her work as a lawyer in Kristiansand. Bahus was temporarily employed by the Department of Law at the University of Agder from 1 September 2015 until the end of 2016. From January 2017 she worked as a lawyer until she was permanently employed by the Department of Law, University of Agder on 1 September 2017.

During her period as a PhD research fellow, she investigated doctors' end-of-life decisions from a legal perspective. She also held several lectures and presentations about legal guidelines for life-and-death decisions for doctors, nurses, ethicists and theologians. She co-authored an

article about passive euthanasia, ethics and law with colleagues from the Centre for Medical Ethics in 2007.

In 2008, Bahus wrote an opinion about the participation of next of kin in end-of-life decisions. In 2010, she held an oral presentation at the EACME (European Association of Centres of Medical Ethics) Conference with the title: “What do doctors tell about their experience with Clinical Ethical Committees concerning difficult end-of-life decisions?” The same year she also had an opinion about parents and dying children published in a professional journal (Dagens Medisin). In 2011, as part of her Ph.D. research, Bahus published a peer-reviewed manuscript (co-authored by her Ph.D. supervisor) with the title: “Parents as Decision-makers - Do the Attitudes of Norwegian Doctors Conform to Law?” in the European Journal of Health Law. The same year, she held an oral presentation at a conference by the European Society on Philosophy of Medicine and Health Care "Priorities in Medicine and Health Care” with the title: “Doctors' knowledge about the legal position of relatives.”

In 2011, Bahus participated at the ICCEC conference with an oral presentation entitled: “Involvement of parents in Clinical Ethics Committees in end-of-life decisions regarding children.” In 2012, Bahus, together with two co-authors, published a peer-reviewed manuscript in Resuscitation with the title “Law, ethics and clinical judgement in end-of-life decisions – How do Norwegian doctors think?” (also part of her Ph.D. research). The same year, Bahus published an opinion in a professional journal about patients’ right to self-determination. In 2013, Bahus published an article in a peer-review level 2 journal about doctors' application of the law in life/death decisions (also part of her Ph.D. research). In addition, she published an opinion about dying children and their best interest.

In 2014, Bahus defended her PhD thesis: “The decision-making process for life/death decisions: an empirical study of a selection of Norwegian doctors' choice of action in decisions about whether life-prolonging treatment should or should not be given to seriously ill and dying patients.” The primary focus of the thesis was the legal and medical ethical issues in relation to consent-competent patients, adult patients who lack the competence to give informed consent on their own behalf and minors where the parents consent on behalf of the child. Based on the doctors' answers, Bahus concluded that the emphasis on consent-competent patients' right to self-determination is included as part of the doctors' overall assessment. For adult patients who lack consent competence, there does not seem to be sufficient emphasis on the patient's personal preferences, and relatives seem to have a more dominant role than there is a legal basis for if they express a clear desire or requirement. When the patient is a child, the parents' wishes seem to have a stronger impact than the consideration of the child's best interests. In her dissertation, Bahus concludes that doctors tend not to focus on ensuring a valid legal basis for decisions on whether life-prolonging treatment should be given or not given to seriously ill and dying patients.

In the period since Bahus defended her PhD thesis she has held several oral presentations in Health Law at international conferences (ICCEC 2019 and ESPMH 2019) and she has been a participant and speaker at debates (philosophy talks, etc.) and academic events for practitioners (fagdager). She has also published articles in peer-reviewed journals about patient autonomy and the role of clinical ethics committees in end-of-life decisions.

3. References to the research (indicative maximum of six references)

1. **Bahus, Marianne K.**
   "Beslutningsprosessen ved liv/død-avgjørelser: en empirisk studie av et utvalg av norske legers handlingsvalg ved beslutninger om livsforlengende behandling skal gis eller ikke gis til alvorlig syke og døende pasienter", Ph.D. dissertation, 2014, University of Oslo

2. **Bahus, Marianne; Friis, Pål; Mesel, Terje.**
   Pasientautonomi – en rettighet med moralske implikasjoner. *Kritisk juss* 2018; Volum 56. (2) p. 56-78 (peer-reviewed article that was also nominated «journal article of the year» by Universitetsforlaget)

3. **Bahus, Marianne Klungland; Førde, Reidun.**
   Discussing End-of-Life Decisions in a Clinical Ethics Committee: An Interview Study of Norwegian Doctors' Experience. *HEC Forum* 2016 p. 1-12

4. **Bahus, Marianne.**
   Balansen mellom helsepersonells inngrepsplikt og pasientenes selvbestemmelsesrett. I: *NOU 2017:16: På liv og død: Palliasjon til alvorlig syke og døende: utredning fra utvalg oppnevnt ved kongelig resolusjon 11. mai 2016. Avgitt til Helse- og omsorgsdepartementet 20. desember 2017*: Departementenes servicesenter, Informasjonsforvaltning 2017 ISBN 978-82-583-1343-1. p. 141-154

5. **Bahus, Marianne Klungland.**
   Legers rettsanvendelse ved liv/død-beslutninger: *Retfærd. Nordisk Juridisk Tidsskrift* 2013; Volume 36. (1 = 140) p. 46-68

6. **Bahus, Marianne Klungland; Steen, Petter Andreas; Førde, Reidun.**
   Law, ethics and clinical judgement in end-of-life decisions - How do Norwegian doctors think? *Resuscitation* 2012; Volume 83. (11) p. 1369-1373

4. Details of the impact

Through her research and ensuing contributions to the public discourse, Bahus has promoted the development of society. In addition, through the publication of peer-reviewed articles, presentations at international conferences and other dissemination activities, she has contributed significantly to scientific development in this field.

The results of her PhD dissertation have contributed to proposed changes in the Patient and User Rights Act, as well as to an improvement of doctors' legal knowledge, competence to communicate, and to meet and handle conflicts more directly.

Since 2012, Bahus has been subject editor for the topic "health law" for the online encyclopedia Store Norske Leksikon (snl.no). The articles Bahus is responsible for were read 67,000 times in 2019. See: https://www.uia.no/nyheter/leses-5500-ganger-hver-dag.

The theme of the trial lecture Bahus held as part of her PhD defence in 2014 was: "GPs right to conscientious objection against treatment or referral: How should the issue be regulated legally in light of ethical considerations, general legal rules and international conventions?"

("Reservasjonsmulighet for fastleger mot å behandle eller henvise av samvittighets-overbevisning: Hvordan bør spørsmålet reguleres juridisk ut fra etiske hensyn, alminnelige rettsregler og internasjonale konvensjoner?») After the lecture, the Ministry of Health and Care Services requested her notes.

In 2014, she was engaged by the Knowledge Centre for Health Services to co-author a report with the title: "End-of-life care – how to find the appropriate level and intensity of medical treatment of seriously ill and dying patients." In the report, she included findings from the legal analysis she carried out in her doctoral dissertation.

In 2014, Bahus wrote an opinion about patients' rights to deny blood transfusion which resulted in a debate in Tidsskrift for norsk legeforening (https://tidsskriftet.no/2014/04/kronikk/nar-pasienten-nekter-blodoverforing).

In 2015, Bahus was invited by the law department of the Ministry of Health and Care Services to present her PhD research about the autonomy in life/death decisions of patients with decision-making capacity. She discussed the topic in light of the European Convention of Human Rights article 8.

In 2015, Bahus was invited to the medical conference "Alarmen går" at the University of Agder to speak about "Decisions on life and death - ethical and legal reflections" based on her PhD work.

Since 2015 Bahus has held a part-time post as a member of the Clinical Ethics Committee at Sørlandet Hospital. In several of the cases presented to the committee, she applies her legal expertise on patient autonomy and life/death decisions. The committee meets once a month regularly, and ad hoc when urgent matters arise.

Bahus was a member of the Norwegian Bar Association's law committee for welfare law from 2015 until 2017. The Norwegian Bar Association's law committees consist of members with special knowledge within the individual committee's field. The committees monitor legislative work, provide advice and respond to press inquiries within their subject area. See: https://www.advokatforeningen.no/om/org/organer/lovutvalgene/

In May 2016, Bahus became a government-appointed member of the Palliative Care Committee. The Committee´s work resulted in an Official Norwegian Report NOU 2017: 16 and was followed up by Meld. St. 24 (2019–2020) and Innst. 73 S (2020-2021) and opinions and debates in national and regional newspapers.

See:
NOU 2017: 16 https://www.regjeringen.no/no/dokumenter/nou-2017-16/id2582548/

Meld. St. 24 (2019–2020)
https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2020-2021/inns-202021-073s.pdf

Since 2017, Bahus has been a member of the Regional Committee for Medical and Health Research Ethics. The committee reviews research applications according to the Act on Health Research.

Since the autumn of 2018, Bahus has been associated with the UiA Centre for eHealth as a representative from the UiA School of Business and Law. By working with stakeholders and end users, the Centre for eHealth aims to make Agder the best region for eHealth both nationally

and internationally. The Centre for eHealth facilitates co-creation between academia, businesses, health actors, municipalities, patients, next of kin, and volunteers. The needs of the end-users direct the aims of the centre's research. See: https://www.uia.no/en/research/priority-research-centres/centre-for-ehealth.

Bahus is a member1 of The Norwegian Biotechnology Advisory Board which is an independent body consisting of 15 members appointed by the Norwegian Government. Each member has a background and/or education which makes him/her competent to discuss questions regarding modern biotechnology. The main tasks of the Norwegian Biotechnology Advisory Board are to evaluate the social and ethical consequences of modern biotechnology and to discuss usage which promotes sustainable development. The Norwegian Biotechnology Advisory Board has approximately ten regular board meetings and organises several public conferences annually. Bahus has written an opinion about egg donations which resulted in a debate, and along with colleagues an opinion about ultrasound early in pregnancy in a national newspaper as a part of an ongoing public debate. She has also been interviewed about assisted reproduction for singles and the importance of the biological principle vs adoption.

5. Sources to corroborate the impact

1) Om balansen mellom helsepersonells inngrepsplikt og pasientenes selvbestemmelsesrett: (On the balance between health personnel's obligation to act and the pasient's right to decide)
NOU 2017:16 : På liv og død : Palliasjon til alvorlig syke og døende : utredning fra utvalg oppnevnt ved kongelig resolusjon 11. mai 2016. Avgitt til Helse- og omsorgsdepartementet 20. desember 2017. : Departementenes servicesenter, Informasjonsforvaltning 2017 ISBN 978-82-583-1343-1. p. 141-154

2) Stortingsmelding nr. 24 (2019-20, dated 7 May 2020) based on the NOU.

3) Innstilling til Stortinget fra helse- og omsorgskomiteen (Position paper delivered to the Parliament by the health and welfare committee), Innst. 73 S (2020–2021).

4) **Bahus, Marianne; Andersen, Sigve; Broen, Peder; Farsund, Helge; Flovik, Anne Marie; Hagerup, Søren Vincent; Husby, Bodil; Kaasa, Stein; Schjødt, Borrik; Slaaen, Joran.** Organisering av det palliative tilbudet Faglig begrunnet eller et udemokratisk politisk spill?. *Fædrelandsvennen* 2020

5) **Kaasa, Stein; Bahus, Marianne; Andersen, Sigve; Broen, Peder; Farsund, Helge; Flovik, Anne Marie; Hagerup, Søren Vincent; Husby, Bodil; Schjødt, Borrik; Slaaen, Joran.** De er døende. Gi dem lindring. *Dagbladet* 2020

6) **Bahus, Marianne Klungland; Førde, Reidun.** Parents As Decision-makers - Do the Attitudes of Norwegian Doctors Conform to Law?. *European Journal of Health Law* 2011 ;Volume 18. p. 531-547

7. **Bahus, Marianne.** Incorporation of the principle of the child's best interest in end of life-decisions for infants. Philosophy & Ethics at the Edge of Medicine; 2019-08-07 - 2019-08-10

[1] Bahus is first deputy board member and is required to prepare for and participate in all meetings. Deputy board members have the right to speak in all cases.

8. **Bahus, Marianne; Friis, Pål; Mesel, Terje.**
   Patient Autonomy - A Human Right with Moral Implications. International Conference on Clinical Ethics Consultations; 2019-05-23 - 2019-05-25

9. **Bahus, Marianne Klungland.**
   Retten til å bestemme over egen kropp. Etiske og rettslige utfordringer. Filosofikafé; 2016-11-30 - 2016-11-30

10. **Bahus, Marianne.**
    Aktiv dødshjelp?. Filosofikafé; 2015-02-18 - 2015-02-18
    https://www.youtube.com/watch?v=UJDGHyh94GI

3.4 Constitutional limits for the Deployment of Norwegian Armed Forces

Institution: University of Agder

Name of unit of assessment: Department of Law

Title of case: Constitutional limits for the Deployment of Norwegian Armed Forces

Period when the underpinning research was undertaken: Autumn 2017

Details of staff conducting the underpinning research from the submitting unit

Name(s):	**Role(s) (e.g. job title):**	**Period(s) employed by submitting institution:**
Tor-Inge Harbo	Professor	2015 -

Period when the impact occurred:

2017-18

1. Summary of the impact

As the Norwegian Government in Autumn 2017 established a committee to assess the Norwegian participation in the Libya war in 2011, Harbo first published a newspaper article and thereafter an academic article where he argued that the war was unconstitutional. The committee mandate did not foresee this legal aspect of the Libya war, and thus Harbo was invited to the committee to elaborate on his view. This led the committee to add an annex to the initial report, applying the constitutional norm formulated by Harbo to the Libya war. Unlike Harbo, the committee found the deployment of Norwegian forces to Libya to be constitutional, but agreed with Harbo's interpretation of the constitutional norm.

2. Underpinning research

English summary of the article:
https://www.idunn.no/nnt/2018/02/grunnlovens_grense_for_anvendelse_avden_norske_forsvarsmakt:
"The Norwegian military forces have been deployed in a number of extraterritorial military operations over the last twenty-five years. According to the Norwegian Constitution article 26, the military force may be deployed for defensive purposes only. However, the article has been interpreted beyond a natural understanding of its wording in order to secure compatibility between the constitutional norm and the norm applied in international law. The recent normative turn in public international law, which made the operation in Libya possible, makes this alignment problematic because it cannot possibly be covered by any reasonable interpretation of the mentioned article. The author argues in favour of an understanding of article 26 that is closer to its wording and proposes a new norm regulating the application of Norwegian military forces abroad."

3. References to the research (indicative maximum of six references)

Scientific publication:

- Grunnlovens grense for anvendelse av den norske forsvarsmakten. Nytt Norsk Tidsskrift 2018; Volume 35.(2) p. 151-164

Dissemination activities:

- "En grunnlovsstridig krig". Klassekampen [Newspaper] 2017-11-07 (https://arkiv.klassekampen.no/article/20171107/PLUSS/171109920; Cristin-resultat-ID: 1569617)
- "Grunnlovmessigheten av Libyakrigen". Academic seminar; 2017-11-15 (Cristin-resultat-ID: 1569563)
- "Grenser for anvendelse av den norske forsvarsmakten etter Grunnlovens § 26 første ledd". Expert testimony to a public committee; 2018-02-27 (Cristin-resultat-ID: 1569947)

4. Details of the impact

Norwegian armed forces participated in the Libyan war in 2011 as part of the allied forces and in order to fulfil UN Resolution 2011/1973. The war has been severely criticised in the aftermath because it failed to achieve its humanitarian objective and the allied forces went beyond their mandate when they toppled the Gaddafi-regime. Therefore, in 2017 the Norwegian Government established a committee to evaluate the Norwegian engagement, including whether it was in accordance with international law.

The day after the Libya committee started their work, Harbo wrote a two-page article in a nationwide newspaper where he argued that the Norwegian participation in the Libya war was in breach of the Norwegian Constitution. The mandate of the committee did not foresee this legal aspect; thus, Harbo was invited to the committee to explain his view. Shortly thereafter Harbo published an extensive article in an academic journal, where he elaborated on his position. This article was carefully examined by the Libya committee and the committee added a separate annex to its report in which it elaborated on the constitutionality of the Libya war, accepting the legal norm which Harbo had established in his article. Harbo's article thus influenced the interpretation of the Norwegian Constitution on this point, meaning that the norm will be applied to all decisions concerning the deployment of Norwegian armed forces in "out of area" operations.

5. Sources to corroborate the impact

Professor Harbo was consulted by the Libya Committee in connection with their investigations in 2018; his article was cited in their final report: https://www.regjeringen.no/globalassets/departementene/fd/dokumenter/rapporter-og-regelverk/libya-rapporten.pdf

4 University of Bergen, Faculty of Law

4.1 Liability of public authorities for breach of EU/EEA procurement law

Institution: University of Bergen		
Name of unit of assessment: The Faculty of Law		
Title of case: Liability of public authorities for breach of EU/EEA procurement law		
Period when the underpinning research was undertaken: 2010-2013, 2017-2018		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Halvard Haukeland Fredriksen	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2005-
Period when the impact occurred: 2017-2019		

1. Summary of the impact

The EFTA Court's pleading for strict liability for breach of EU/EEA public procurement law in Case E-16/16 Fosen-Linjen I of 2017 would have had far-reaching consequences in Norway had it been adopted by Norwegian courts. Fredriksen facilitated the Supreme Court's refinement of the conditions for the liability of public authorities for violations of EU/EEA procurement law, by providing Norwegian courts with the arguments needed to rebuff a misguided interpretation of underlying EU/EEA law obligations from the EFTA Court.

2. Underpinning research

The groundwork was laid in a PhD dissertation on State liability for breach of obligations governed in the Agreement on the European Economic Area, analysing in depth the EU and EEA law principles of State liability and their implementation into domestic law. Haukeland Fredriksen followed up with further research into the specific matter of the threshold for public authorities' liability in damages for an economic operator's loss of profit in case of violations of EU/EEA procurement law, in the wake of the EFTA Court's ill-fated pleading for strict liability in Case E-16/16 Fosen-Linjen I of 2017.

The books and articles mentioned below are central contributions to the research front within the field of EU/EEA Commercial Law. However, impact on legal developments in Norway require publishing results in the Norwegian language, because hardly any Norwegian judges read English language articles about Norwegian law. Another general tendency within Law, of which this case exemplifies, is the combination of in-depth research and the ability to react quickly when a legal question is brought before the courts or otherwise put on the agenda.

3. References to the research

By Halvard Haukeland Fredriksen:

1. Offentligrettslig erstatningsansvar ved brudd på EØS-avtalen. Fagbokforlaget, 2013 (ISBN 978-82-450-1546-1)
2. EFTA-domstolens uttalelse om erstatningsansvar for brudd på anskaffelsesreglene – hvor står vi nå? Anbud365.no, 2017 (with Professor

Finn Arnesen, UiO)

3. Erstatningsansvar ved brudd på anskaffelsesreglene - etter EFTA-domstolens tolkningsuttalelse i Fosen-Linjen, Tidsskrift for forretningsjus, 2017 pp. 169-195 (with Professor Finn Arnesen, UiO)
4. Årsaksspørsmål ved krav om erstatning for tapt fortjeneste i anskaffelsessaker, Tidsskrift for Rettsvitenskap, 2018, pp. 141-205 (with Professor Magne Strandberg, UiB)
5. Høyesteretts dom i Fosen-Linjen: Stor ståhei om staus quo? Tidsskrift for Rettsvitenskap, 2020 pp. 306-336

4. Details of the impact

The EFTA Court's pleading for strict liability for breach of EU/EEA public procurement law in Case E-16/16 Fosen-Linjen I of 2017 would have had far-reaching consequences in Norway had it been adopted by Norwegian courts. Apart from the potentially severe economic consequences for e.g. Norwegian municipalities, a main concern is that strict liability would force procurement authorities to be even more legalistic than they already are. The existing fear of liability for even the smallest mistake threatens to overshadow the object and purpose of procurement law: cost-efficient procurement, tailored to the needs of society.

The EFTA Court's misguided push in Fosen-Linjen I called for a swift reply before the Court of Appeal adopted the same approach. This was achieved with a blogpost, written together with Professor Finn Arnesen (UiO) on the specialist blog www.anbud365.no, which was then picked up by the specialist online newspaper www.Rett24.no. The blogpost was cited by the Court of Appeal as it refused to follow the EFTA Court's lead.

The blogpost was followed up by an academic paper (again with Professor Finn Arnesen), setting the criticism out in greater detail and with further references to the underpinning research mentioned above. The paper was brought to the attention of the Supreme Court which then for the very first time decided to refer a case back to the EFTA Court for reconsideration. The arguments of the Supreme Court closely followed those set out in the paper.

In Case E-7/18 *Fosen-Linjen II*, the EFTA Court reconsidered several aspects of *Fosen-Linjen I*, following the approach suggested in the paper of 2017. The final judgment in the saga, the Supreme Court's judgment of 2019, does not cite the paper of 2017, but rather, when refining the conditions for the liability, to the PhD-dissertation of 2013. Certain matters left open by the Supreme Court, especially concerning causation, are now being litigated in other cases. Two further academic papers, no. 4 and 5 listed above, are very much a part of the discussion.

5. Sources to corroborate the impact

1. Judgment of the Court of Appeal in the Fosen-Linjen case (2017)
2. Judgment of the Supreme Court in the Fosen-Linjen case (2019)

4.2 Criminal insanity and the law's understanding of mental disorders

Institution: University of Bergen		
Name of unit of assessment: The Faculty of Law		
Title of case: Criminal insanity and the law's understanding of mental disorders		
Period when the underpinning research was undertaken: 2013-2020		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Linda Gröning	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2009-
Period when the impact occurred: 2014-		

1. Summary of the impact

Criminal insanity is a fundamental legal doctrine found in most legal systems that limits criminal capacity for mentally disordered offenders. This doctrine is subject to significant challenges regarding its proper understanding and legal regulation. Criminal insanity is typically related to mental disorders, but this relation is unclear and contested. Rules and judgments about criminal insanity often rely on underdeveloped or invalid assumptions about mental disorders. Moreover, the topic involves a certain tension between political and scientific perspectives and is regularly subject to attempts for legal reform. Through a body of work and several lectures for different target groups, I have increased the awareness of these matters in legal policy and practice, and in education. Importantly, my research influenced the major legal reform post 22 July 2011 in Norway, including the national education of forensic experts.

2. Underpinning research

I have, since 2011, written many articles on different topics concerning criminal capacity and insanity, published in both national and international fora. To a certain extent, this work is based on my previous investigations (2007 – 2011) into foundational issues relating to criminal responsibility and punishment, including the legitimacy of state power in this area that I explored in my PhD. My new perspectives and fusion of theoretical and empirical knowledge has led to me being internationally well-recognized in the field.

My article about *concepts of sanity and insanity as constructed in criminal law, and their relations to the legal rules*, was first published as an attachment to the Royal Law Commissions report NOU 2014:10. At the time, it was in a slightly revisited version in the leading Nordic journal for criminal law, *Nordisk Tidsskrift for Kriminalvitenskap*, which has been a foundational work for my later publications.

Between 2013-2016, I elaborated the matters about the law's conceptualization of insanity/incapacity and mental disorder in different areas, such as regarding children's criminal capacity and insanity, intoxication and self-induced criminal incapacity, risk and psychopathy. I have increasingly expanded my work into interdisciplinary and comparative domains. This engagement is for instance visible in my co-authorship in the systematic review and critical

discussion of the MRI literature, published in *Frontiers in Psychiatry* and in my forthcoming chapter on Norwegian Insanity Law in an anthology from *Oxford University Press* (see below).

This body of work has in common an emphasis on the importance of knowledge-based legal reforms which takes into account both demands of justice and of science. A particular objective is also to reduce mental health-related public stigma, bearing in mind that mental illness is one of the most significant public health challenges. In all countries, mental disorders tend to be most prevalent among the most deprived. By fusing insights from especially philosophy, legal research, and mental health research, my research has aimed at contributing to advancing legal rules and practices.

3. References to the research

By Linda Gröning:

Tilregnelighet og utilregnelighet: begreper og regler, attachment to the Official report NOU 2014:10. A revised version of this article was also published in *Nordisk Tidsskrift for Kriminalvidenskab* 2/2015, pp.112-148.

Psykopati i retten: straffansvar, straff og tvungen behandling, with Liselotte Pedersen and Knut Rypdal, in *Psykopati*, Fagbokforlaget 2016 (ISBN 978-82-450-2003-8), pp. 161-18. This article discusses psychopathy in the intersection between law and forensic psychiatry. Translated and published in Swedish and Danish.

Criminal insanity, psychosis and impaired reality testing in Norwegian law, with Unn K. Haukvik and Karl Heinrik Melle, *Bergen Journal of Criminal Law & Criminal Justice* 1/2019, pp. 27-59.

Imaging violence in schizophrenia: A systematic review and critical discussion of the MRI literature, with Maria Fjellvang and Unn K. Haukvik, *Frontiers in Psychiatry* 2018, pp. 1-10.

Constructing criminal insanity: The roles of legislators, judges and experts in Norway, Sweden and the Netherlands, with Unn K. Haukvik, Gerben Meynen & Susanna Radovic, New Journal of European Criminal Law 2020. Link.

Norwegian Insanity Law in *The Insanity Defence: International and Comparative Perspectives*, Ronnie Mackay & Warren Brookbanks, eds., *Oxford University Press*, forthcoming 2021.

4. Details of the impact

My research has had extensive impact partly due to its compliance with central societal challenges. The atrocious acts in Oslo and on Utøya in Norway on the 22nd of July 2011, and the following trial, triggered a wide-ranging debate about the understanding of criminal insanity and the legal relevance of mental disorders. In the aftermath of this case, in 2013, I was appointed by the government as a member of a Royal Law Commission to review the rules about criminal insanity and related matters because of my specific research competence. Parallel with my work in the law commission, I wrote the article mentioned above, that discusses the *concepts of sanity and insanity as constructed in criminal law, and their relations to the legal rules*.

With my specific research competence, I contributed significantly to the work in the law commission, which is also manifested by the fact that my article is attached to the Official report from the commission, NOU 2014:10. This article is explicitly referred to in the report (see on p. 44). My work has also left a mark on the bill from the Ministry of Justice, and eventually on the amendments in the Penal code that entered into force on 1 October 2020. This is clear as the Ministry's bill was based on my dissent in the Law commission, which was the case concerning change in section 62 (see p. 147 in Prop. 154 L (2016-2017) and concerning the abolishment of

previous section 5-2 in the Mental Health Act (p. 161-166 in Prop. 154 L (2016-2017)). In this context, it should also be noted that I was part of a reference committee that has been involved in the work of the Highest Prosecution Authority, with guidelines relating to the new rules about criminal insanity (see See Circular from The Director of Public Prosecutions 2/2020). Moreover, because of my research expertise demonstrated in the law commission, I was appointed by the government to lead the prestigious permanent expert committee on criminal law reforms in Norway in 2019 (Straffelovrådet).

My research has also *influenced the development of forensic psychiatry* and in particular the development of the national education for forensic experts, in order to increase the quality of forensic evaluations and practices. Through several presentations and keynotes at national, Nordic and international legal and psychiatric conferences, many of these with key representatives for mental health organizations and criminal justice institutions, I have reached a broad audience. I have been a leader for the committee proving the education for forensic experts since 2018. I have also been recognized as an expert in other countries. On appointment by the Swedish government, I was, as the only lawyer, the member of an expert group for the Swedish Research Council, with the mandate of mapping research in forensic psychiatry. This report has *influenced public policies* and was also acknowledge at Research Europe in 2017.

Finally, my research *has impacted teaching*, in the general criminal law course, where I teach about criminal insanity and related matters, in the PhD course 'Empirical perspectives in legal research', for which I have developed the curriculum and in my supervising of post docs, PhD-students (including co-supervising a PhD student in psychiatry) and master students (including U.S Fulbright Grant and Erasmus students).

5. Sources to corroborate the impact

The Official Norwegian Report 'NOU 2014:10 Skyldevne, sakkyndighet og samfunnsvern', 219-220 (Ministry of Justice and Public Security, 2020)

The bill from the Ministry of Justice, Prp. 154 L (2016-2017).
https://www.regjeringen.no/no/dokumenter/prop.-154-l-20162017/id2557006/

Preparatory work from the Standing Committee on Justice regarding amendments in The Penal Code and act of Criminal proceedings 'Innst. 296 L (2018-2019).
https://www.stortinget.no/no/Saker-ogpublikasjoner/Publikasjoner/Innstillinger/Stortinget/2018-2019/inns-201819-296l/

Legislative decision no. 60 (2018-2019) regarding amendments in the Penal Code and act of Criminal proceedings concerning the ability to guilt, social protection and expertise.
https://www.stortinget.no/no/Saker-og-publikasjoner/Vedtak/Beslutninger/Lovvedtak/2018-2019/vedtak-201819-060/?all=true

Amendments to the Act of The Penal code and the Act of Criminal proceedings (LOV-2019-06-21-48) section 20. Available at <https://lovdata.no/dokument/LTI/lov/2019-06-21-48> accessed 19 October 2020.

Circular from The Director of Public Prosecutions 2/2020
https://www.riksadvokaten.no/document/nytt-rundskriv-om-utilregnelighetsregler/

Mandate for Straffelovrådet, available at https://nettsteder.regjeringen.no/straffelovradet/

Invited presentations at conferences directed at legal, clinical and forensic impact

2019	Invited speaker 'Criminal insanity in Norway post 22 July: Controversies and legal reforms', Institute for Evidence-Based Law Reform, Leicester De Montfort Law School/England
2019	Invited Keynote speaker 'Mental disorder and violence: A criminal law perspective,11th European congress on violence in clinical psychiatry, Lillestrøm/Norway
2014	Invited Keynote speaker 'The rules on legal insanity', the 3rd Bergen International Conference on Forensic Psychiatry: Treatment and management of psychosis, Bergen/Norway

4.3 How a meta-study of empirical research on the use of lay judges influenced the repealing of the jury system in criminal cases

Institution: University of Bergen		
Name of unit of assessment: The Faculty of Law		
Title of case: How a meta-study of empirical research on the use of lay judges influenced the repealing of the jury system in criminal cases		
Period when the underpinning research was undertaken: 2011		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Magne Strandberg	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2005-
Period when the impact occurred: 2011-2017		

1. Summary of the impact

After an expert committee (the Jury Committee) in May 2010 was given the mandate to prepare suggestions for new legislation on the role of lay judges in criminal cases, Strandberg was asked to provide an overview of existing empirical research on the use of lay judges as such, the use of lay judges in the form of a jury, and the use of lay judges deciding cases in a mixed tribunal with both lay judges and professional judges (meddomsrett). Previous political and academic discussions on pros and cons of a jury system versus a mixed system emphasized certain alleged effects on the chosen system: an argument in favour of a mixed system has been that lay judges tend to misunderstand nuances of the material law, while an argument in favour of a jury system has been that professional judges in a mixed tribunal seem to have too much influence on the decisions of lay judges.

Strandberg found that very few of the arguments in favour of a jury system or a mixed system had any form of support in previous empirical research. The Norwegian Parliament (Stortinget) ended the jury system by law 2017 no 58, in force from 1st January 2018.

2. Underpinning research

The purpose of the research report delivered to the expert committee on the use of lay judges was to consider whether the alleged arguments used in the Norwegian discussions on the choice between a jury system or a mixed system were supported by empirical research. The study delivered by Strandberg was not supposed to produce new empirical data but rather intended to examine whether the arguments had support in existing empirical investigations. Hence, the study included empirical research from multiple disciplines (psychology, sociology, cultural studies, and others) applying quantitative methods, qualitative methods, and many variations within these categories.

In general, Strandberg's study showed that the arguments put forward in the debate on the role of lay judges had little empirical support. Many of the arguments did not have support in existing empirical studies.

The research report to the expert panel is one of several scientific publications by Strandberg concerning decision-making mechanisms in civil and criminal procedural law. The report was based on concepts and theories discussed and to some degree developed in Strandberg's doctoral thesis from 2010 (published in 2012). Both the empirical study and Strandberg's doctoral thesis are based on a wide international discourse on theories of evidence, such as the story model for evaluation of evidence and theories of the best explanations of bodies of evidence. The report was also part of a web of research by colleagues at the Faculty of Law at UiB, for instance on the relationship between empirical-descriptive theories of evidence and normative-prescriptive theories. Of special importance was the research conducted by Professor Eivind Kolflaath, both his analysis of theories of evidence in general and his empirical projects on the evaluation of evidence in Norwegian courts.

3. References to the research

Strandberg, Magne, 2011. «Oversikt over empirisk forskning om lekdommere», appendix to official report NOU 2011:13 *Når sant skal skrives* s. 235–265 (Vedlegg 1, Research report delivered to the Expert Committee on the use of lay judges (the Jury Committee).

Strandberg, Magne, 2012. *Beviskrav i sivile saker. En bevisteoretisk studie av den norske beviskravslærens forutsetninger.* Fagbokforlaget 2012. (doctoral thesis).

Strandberg, Magne, 2019. "The-more-probable-than-not Standard: A Critical Approach" in Tichy ed. *Standard of Proof in Europe.* Mohr Siebeck. pp. 65–92.

Strandberg, Magne 2019. "Standards of Evidence in Scandinavia" in Tichy ed. *Standard of Proof in Europe,* Mohr Siebeck, pp. 135–160.

Kolflaath, Eivind & Magne Strandberg, 2013. "Utviklingslinjer i norsk bevisteori – før og etter årtusenskiftet» i *Undring og erkjennelse. Festskrift til Jan Fridthjof Bernt 70 år,* Fagbokforlaget, pp. 319–330

4. Details of the impact

The jury system for criminal cases, established in 1887, was a consequence of a massive political clash between the old regime dominated by state officials (embetsmannsstaten) and the emerging bourgeois Norwegian state. The jury became something of a political symbol which was upheld for many decades despite numerous critiques of the central role such a system would put on non-professional judges. When the Department of Justice in May 2010 established a committee with the mandate to prepare suggestions for new legislation on the role of lay judges in criminal cases, the time had come to consider whether the jury system should be maintained or be replaced by a mixed system.

Both supporters and critics of the jury system relied on arguments based on the effects a jury or a mixed system would produce. The committee therefore saw a need for a critical examination of these arguments. Strandberg concluded that most of the arguments did not have clear support in empirical research.

The committee explicitly based its views on Strandberg's findings and even emphasized how pleased they were with the research report (NOU 2011:13 p. 15 and 66). Strandberg's study displayed how most of the assumptions on the use of lay judges lacked empirical support. As such, valid arguments had to be of a moral or normative nature. Consequently, some of the frequently used arguments in favour of a jury system was effectively set aside. Strandberg's study also examines the rebuttal where professional judges within a mixed system could have an illegitimate influence on lay judges. His empirical review suggested that such influence was more frequent within a jury system where a more experienced lay judge could take advantage of his or her position by influencing less experienced lay judges.

The members of the committee were divided in their views on whether to maintain the jury system or not (NOU 2011: 13 p. 11). One fraction suggested to maintain the jury system, but only for the most severe cases. They also suggested a modification of the jury system by requiring the jury to provide reasons for its judgment, and that such a reasoning should be produced with guidance from a professional judge preceding before the jury's chamber discussions. The other fraction suggested to replace the jury system by a mixed system (meddomsrett) containing two professional judges and five lay judges.

After the Parliament (Stortinget) in 2015-2016 took a so-called "anmodningsvedtak" on the abolishment of the jury system and the implementation of the core parts of NOU 2011: 13, the Department of Justice delivered a proposition containing the legal changes that were necessary in order to replace the jury system by a mixed system comprising of two professional judges and five lay judges. The proposal passed Parliament in 2017 with the amendment act of 2017 no 58, in force from 1st January 2018.

The last Norwegian jury declared its verdict 28th January 2019 when a former police officer was declared guilty of severe corruption but was declared not guilty of cooperation to the import of narcotics. The verdict was set aside by the professional judges.

5. Sources to corroborate the impact

NOU 2011:13 *Når sant skal skrives* https://lovdata.no/pro/#document/NOU/forarbeid/nou-2011-13?searchResultContext=1233&rowNumber=1&totalHits=34

Stortinget's «anmodningsvedtak» nr. 621 (2014-2015)

Prop. 70 L (2016-1017) Endringer i straffeprosessloven mv. (oppheving av juryordningen): https://www.regjeringen.no/contentassets/2ed72017e62243d6ae23956efee89b05/no/pdfs/prp201620170070000dddpdfs.pdf

4.4 The introduction of a capacity-based model in the Mental Health Care Act, i.e. the lack of decision-making capacity as a prerequisite for the use of coercion

Institution: University of Bergen		
Name of unit of assessment: The Faculty of Law		
Title of case: The introduction of a capacity-based model in the Mental Health Care Act, i.e. the lack of decision-making capacity as a prerequisite for the use of coercion		
Period when the underpinning research was undertaken: 2005-2011		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Bjørn Henning Østenstad	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2001-
Period when the impact occurred: 2010-2017		

1. Summary of the impact

Having focused his doctoral dissertation on, among other things, the issue of lack of decision-making capacity as a prerequisite for the use of coercion (a capacity-based model), Østenstad was appointed member of the law committee revising the Mental Health Care Act (NOU 2011: 9). He also authored a report for the committee, which was added as an appendix to the committee report. Østenstad's analyses and arguments advocating for a capacity-based model were supported in the committee's report and draft bill. In 2016, the government proposed a bill based on the committee's recommendation, which was approved by the Storting. These amendments came into force on September 1st, 2017.

2. Underpinning research

Østenstad's impact on the passage of the above-mentioned bill was a result of long-term basic research, wherein the main work is the doctoral dissertation *Issues of legal authority in treatment and care for the intellectually disabled and elderly with dementia* (published as a book in 2011). The question of when a person may legitimately be subjected to involuntary treatment and care poses difficult ethical and legal problems. There has been a tendency – in Norway as well as in Europe at large – to see these issues largely as a matter of medical judgement. The doctoral dissertation develops a model for navigating the value conflict between autonomy and paternalism, placing the value of human dignity as a basic point of reference. The implications of this model for legislation are concretized in various ways. The dissertation argues for a capacity-based model: lack of decision-making capacity should be a prerequisite for the use of coercion.

Although mental health care is not the primary focus of Østenstad's dissertation, the issue of a capacity-based model was regarded as pertaining to this field. In his appendix, *Lack of decision-making capacity as a possible prerequisite for involuntary mental health care and involuntary*

treatment etc., in the NOU 2011: 9, these lines of reasoning are elaborated upon, particularly with regard to mental health care. The appendix is considered equal to an academic publication, and it was a part of the basis of assessment for the appointment of professorship.

3. References to the research

Østenstad, Bjørn Henning 2009. *Heimelsspørsmål i behandling og omsorg overfor psykisk utviklingshemma og aldersdemente : rettslege og etiske problemstillingar ved bruk av tvang og inngrep utan gyldig samtykke.* [*Issues of legal authority in treatment and care for the intellectually disabled and elderly with dementia: legal and ethical problems concerning the use of coercion and intervention without valid consent*] Bergen: Universitetet i Bergen (ISBN: 978-82-308-0905-1, h.)

Østenstad, Bjørn Henning 2011. *Heimelsspørsmål i behandling og omsorg overfor psykisk utviklingshemma og aldersdemente. Rettslege og etiske problemstillingar ved bruk av tvang og inngrep utan gyldig samtykke.* [*Issues of legal authority in treatment and care for the intellectually disabled and elderly with dementia: legal and ethical problems concerning the use of coercion and intervention without valid consent*] Oslo: Fagbokforlaget. (ISBN 978-82-450-1053-4)

Østenstad, Bjørn Henning, *Fråvær av avgjerdskompetanse som mogleg vilkår for tvunge psykisk helsevern og tvangsbehandling m.m.* [*Lack of decision-making capacity as a possible prerequisite for involuntary mental health care and involuntary treatment etc*.] pp. 290-354, supplement to The Official Norwegian Report NOU 2011: 9 Økt selvbestemmelse og rettsikkerhet' [Increased autonomy and legal protection] (Ministry of Health and Care Services, 2011)

4. Details of the impact

The introduction of a capacity-based model in 2017 represented a major shift in thinking within the field of mental health care. It moved the focus from the patient's diagnosis to concrete assessment of capacity. This shift in focus from groups to individuals was met with great scepticism, not least because it limited the power of medical doctors and increased the possibility for legal control. The fact that we do not find traces of a capacity-based model in mental health care legislation in any of our neighbouring countries, gives momentum to the question of how this could come about in Norway.

The rationale behind the appointment of a member to a law committee is not public. Yet, it appears as obvious that the appointment of Østenstad to the Paulsrud-committee (NOU 2011: 9) revising the Mental Health Care Act, was informed by his research, including his recent doctoral dissertation. It is not common practice for a member to write an individual report adding to the official committee report. Notwithstanding, Østenstad was asked to, and agreed to do this. The appendix discussed and assessed questions posed by the committee about a capacity-based model. These reasonings and assessments largely founded the basis for the majority of the committee's position. The committee report refers to the appendix on several occasions; elsewhere, core arguments are relayed with endorsement without explicit reference. But no one who reads NOU 2011: 9 will have any doubts as to whether it is informed by Østenstad's appendix which in turn builds on his doctoral dissertation.

Some years passed before the Ministry of Health and Care Services took action on NOU 2011: 9. While not all of the suggestions in the committee report were acted upon, the capacity-based model was proposed as a bill to the Storting. Accordingly, the Storting approved the prerequisite

for the use of coercion in mental health care that the person in question lacks decision-making capability (see psykisk helsevernloven [the Mental Health Care Act] § 3-2 nr. 3, § 3-3 nr. 4 and § 4-4 first paragraph). The amendment was carried out into effect September 1st, 2017. Since then, this amendment has continued to spur debate due to the broader fundamental problems illuminated by this issue.

The central role occupied by Østenstad in the legislation process outlined above is further substantiated by his appointment in 2016 to head of yet another law committee – this time with the purpose of revising and coordinating the general legislation on coercion in the health care sector. Although this work took on a much broader perspective, the issue of a capacity-based model held a strong focus here as well; the committee suggested making it a general principle, i.e. applying for all groups of patients and users. The draft bill for a common legislation was presented in 2019 (NOU 2019: 14). It has been through a general hearing and is currently being further pursued in the Ministry of Health and Care Services. This means that the legislation process has not currently been finalized, but it has been announced that a bill will be put in place "as soon as possible" (Prop. 1 S (2020-2021) s. 113)

5. Sources to corroborate the impact

NOU 2011: 9 Økt selvbestemmelse og rettssikkerhet. Balansegangen mellom selvbestemmelsesrett og omsorgsansvar i psykisk helsevern. [Increased autonomy and legal protection. The balance between the right to autonomy and the right to health protection in mental health care.]

Prop. 147 L (2015 –2016) Endringer i psykisk helsevernloven mv. (økt selvbestemmelse og rettssikkerhet) [Prop. 147 L (2015-2016) Amendments to the Mental Health Care Act etc. (increased autonomy and legal protection)]

Innst. 147 L (2016-2017) Innstilling fra helse- og omsorgskomiteen om Endringer i psykisk helsevernloven mv. (økt selvbestemmelse og rettssikkerhet) [Recommendation 147 L (2016-2017) [Recommendation from the Health and Care Law Committee on Amendments to the Mental Health Care Act etc. (increased autonomy and legal protection)]

Lovvedtak 50 (2016-2017) Vedtak til lov om endringer i psykisk helsevernloven mv. (økt selvbestemmelse og rettssikkerhet) [Enactment 50 (2016-2017) Enactment of amendment to the Mental Health Care Act etc. (increased autonomy and legal protection)]

NOU 2019: 14. Tvangsbegrensningsloven. Forslag til felles regler om tvang og inngrep uten samtykke i helse- og omsorgstjenesten. [NOU 2019: 14. The Limitation of Coercion Act. Draft for common rules on non-consensual intervention in health and care services.]

Prop. 1 S (2020-2021) Forslag til statsbudsjett for 2021, Helse- og omsorgsdepartementet. [Prop. 1 S (2020-2021) State budget draft for 2021, Ministry of Health and Care Services]

4.5 Compulsory confinement of alcoholics and drug addicts

Institution: University of Bergen		
Name of unit of assessment: Faculty of law		
Title of case: Compulsory confinement of alcoholics and drug addicts		
Period when the underpinning research was undertaken: 2000-2014		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Karl Harald Søvig	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 2000-
Period when the impact occurred: 2010-2017		

1. Summary of the impact

Søvig's doctoral dissertation, published in 2007, disclosed weaknesses both in the regulations and the practice of compulsory confinement of drug addicts. The findings were noted by national authorities and contributed to the Norwegian Directorate of Health of a call for proposals evaluating the regulations. Søvig was a member of the interdisciplinary project group that won the commission. The evaluation documented several of the weaknesses previously illuminated by the dissertation, but with a more comprehensive material, while also addressing other aspects. As a result, national authorities revised the regulations. The evaluation is also frequently referred to in the practice field.

2. Underpinning research

In 2007, Søvig published the book *Tvang overfor rusmiddelmisbrukere,* based on the doctoral dissertation by the same name. The topic of the book is the extent to which society may legitimately incarcerate persons addicted to alcohol and/or drugs, and the three relevant statutes are:

- Compulsory admission to institutions for a period not exceeding three months for a person who might jeopardise his/her physical or mental health by extensive and persistent alcohol or drug abuse.
- Incarceration of pregnant alcoholics or drug addicts for the remaining time of the pregnancy if the abuse most certainly will damage the child.
- Detention of alcoholics/drug addicts for up to three weeks after voluntary admission to an institution.

Confinement occurs in specialized institutions appointed by the regional health enterprises. The listed statutes have been placed under various legal categories during the last fifteen years, but the contents have remained more or less identical. The provision on pregnant alcoholics/drug addicts is particular to the Norwegian context, and none of the European countries have corresponding regulations.

The book contained de lege lata analysis of the regulations, a Sociology of Law section on the use of the regulations and a critical discussion. Among the findings was the observation that women were overrepresented in the statistics on compulsory admission (not including the distinctly Norwegian regulations for pregnant women), and

the observation that the majority of those admitted are drug-users, in spite of alcohol being a more widespread substance. The book also emphasized the need for a more extensive evaluation of the regulations.

In 2010, the Uni Stein Rokkan Centre for Social Studies published an evaluation of the regulation for coercion in treatment of alcoholics/drug addicts commissioned by the Norwegian Directorate of Health. The evaluation was conducted by an interdisciplinary research group (social scientists and legal scholars) and examined the role of the Social Services, the characteristics of the decisions, and the extent to which regional health enterprises fulfilled their responsibility for ensuring sufficient institution capacity, a case study of four institutions, and alcoholics/drug abusers experiences. Based on the evaluation, a handful of the researchers behind the report published a book in 2014 titled *Tvang i rusfeltet - regelverk, praksis og erfaringer med tvang*.

3. References to the research

Karl Harald Søvig 2007, *Tvang overfor rusmiddelavhengige: sosialtjenesteloven §§ 6-2 til 6-3*, [Detention of alcoholics or drug addicts – The Norwegian Social Services Act sections 6-2 to 6-3] Fagbokforlaget , ISBN: 9788245003543 (includes summary in English)

Ingrid Lundeberg, Kristian Mjåland, Karl Harald Søvig, Even Nilssen og Bodil Ravneberg 2010, *Tvang overfor rusmiddelavhengige: Evaluering av Lov om sosiale tjenester §§ 6-2, 6-2a og 6-3,* [Detention of alcoholics or drug addicts Evaluation of The Norwegian Social Services Act sections 6-2, 6-2a and 6-3] Uni Stein Rokkan Centre for Social Studies, Uni Research Bergen, Report 2 – 2010. https://www.researchgate.net/publication/279537104_Tvang_overfor_rusmiddelavhengige_Evaluering_av_Lov_om_sosiale_tjenester_6-2_6-2a_og_6-3

Karl Harald Søvig 2012, "Detention of Pregnant Woman to Protect the Foetus - Nordic Perspectives", in Elisabeth Rynning and Mette Hartlev (eds.), *Nordic Health law in a European Context*, Brill/Nijhoff, p. 158-180

Ingrid Lundeberg, Kristian Mjåland, Karl Harald Søvig 2014, *Tvang i rusfeltet: Regelverk, praksis og erfaringer med tvang*, [Coersion in treatment of addiction: Regulations, practice, and experiences] Gyldendal 2014, ISBN: 9788205450738

4. Details of the impact

In 2008, the Norwegian Directorate of Health issued a call for proposals for the evaluation of social services section 6-2, 6-2a, and 6-3 (competition with negotiations). The call emphasizes the need for a legal examination of the issue. Søvig was approached by the UNI Rokkan Centre, research institute for social sciences (now a part of the research institution Norce), with a request to participate in the group submitting a proposal. The institution did not have legal competence in their portfolio. The Uni Rokkan Centre won the commission.

The project included one preliminary report (2008) and one final report (2010). The faculty provided a buyout from Søvig's university duties in order to prioritize this contribution. The evaluation pointed out several weaknesses in the regulations and in the practice.

A main finding showed significant variation between municipalities, the Norwegian Labour and Welfare Administration, and social workers in the application of the law. A second important finding showed that the way in which the compulsory confinement is carried out and the way in which the individual is treated in the different stages of the process are of great importance for the experience and results of coercion. The case study of the four institutions offering compulsory admission showed that the collaboration between institutions and social service before admission is of great consequence, but that it does not always work optimally. Furthermore, the evaluation showed that detention under voluntary admission (Ulysses coercion) is rarely used, and that there is a lack of research and documentation of the results of such practice. Additionally, the statistical outline of decisions on compulsory confinement was supplemented with more recent numbers and showed the same tendency as the findings in Søvig's dissertation: Women are overrepresented, and the majority of those who are under compulsory confinement have drug-related issues.

In the wake of the evaluation report, national authorities carried out the following initiatives:

In 2011, the Storting amended the regulations on compulsory confinement as a part of a greater legislation effort. The ministry did not have the capacity to engage with the specific rules on alcoholics/drug addicts at the time, but the proposition where the ministry presents the main findings (section 37.4) devotes an individual paragraph to the evaluation report from the Rokkan Centre.

In 2012, the government published a white paper setting the agenda for dealing with addiction in society. The white paper devotes sections 7.4.1. and s 7.4.2. to the main findings of the evaluation report. Based on these findings, the government here state that they will contribute to better application of the legislation on coercion, e.g. by updating the guidelines for treatment and documents of reference, which will be elaborated upon directly below. In addition, the white paper states the intention to ensure more research and documentation of the use of coercion, particularly with regard to pregnant women. In retrospect, it is clear that these intentions have not been fulfilled.

One of the findings in the evaluation report from the Uni Rokkan Centre was the need for a revision of the guidelines in the field of addiction issues. The Norwegian Directorate of Health provided updated guidelines in 2016. Søvig was a member of the working group working out these guidelines, and several of the included measures builds on the findings of the evaluation report.

Another finding from the evaluation report was the need for new regulations. This was put in place in 2016 (see https://lovdata.no/forskrift/2016-08-26-1003). The regulations were prepared by the Norwegian Directorate of Health, and the Directorate states that they have based their draft on the evaluation report (IS-2056 pkt 1.3). Søvig also contributed input to these regulations.

A law committee chaired by Bjørn Henning Østenstad has recently submitted a draft for a new legislation on coercion (NOU 2019: 14.). It includes several references to the evaluation report (see section 6.4.) as well as citations of Søvig's dissertation.

Subsequently to the report, Ingrid Lundeberg, Kristian Mjåland and Karl Harald Søvig published the book *Tvang i rusfeltet*, which is frequently cited by the field as work of reference. The court of first instance on decisions on compulsory confinement is the County Social Welfare Boards, and only a few of these cases are ever re-examined in court. Lovdata.no publishes a selection of these decisions. In cases concerning compulsory confinement of alcoholics/drug addicts, these county

boards often refer to Søvig's work (searching the keyword "Søvig" in this section at Lovdata.no gives 72 results).

5. Sources to corroborate the impact

Kunngjøring av Helsedirektoratet om Evaluering av lov om sosiale tjenester §§ 6-2, 6-2a og 6-3. [The Norwegian Health Directory's call for proposals for Evaluation of The Norwegian Social Services Act sections 6-2, 6-2a and 6-3] at Doffin (Database for public purchases) https://doffin.no/Notice/Details/2008-166198

Proposition from the government to the Storting (draft bill)): Prop. 91 L (2010–2011), Act relating to municipal Health and care services, etc. [Health and Care Services Act] particularly section 37.4. https://www.regjeringen.no/no/dokumenter/prop-91-l-20102011/id638731/

White paper from the government to the Storting, Meld. St. 30 (2011–2012), Se meg! — alkohol – narkotika – doping, [See me! – alcohol – drugs – doping] particularly section 7.4.1., but also elsewhere. https://www.regjeringen.no/no/dokumenter/meld-st-30-20112012/id686014/ (see in particular section 7.4.1 and 7.4.2)

Helsedirektoratets veileder om tvangstiltak overfor personer med rusmiddelproblemer etter helse- og omsorgstjenesteloven kapittel 10 [The Norwegian Health Directorate's guidelines on treatment in treatment of addiction according to the Health and Care Services Act] (IS-2355) https://www.helsedirektoratet.no/veiledere/tvang-overfor-personer-med-rusmiddelproblemer/Tvangstiltak%20overfor%20personer%20med%20rusmiddelproblemer%20–%20Veileder.pdf/_/attachment/inline/c399c1b7-d0ef-44a9-af9a-80c018385021:2e78c8bfe086d5bf644ee8fcc7e2990c048b6787/Tvangstiltak%20overfor%20personer%20med%20rusmiddelproblemer%20–%20Veileder.pdf

Helsedirektoratets utkast til forskrift om rettigheter og bruk av tvang under opphold i institusjon for behandling, omsorg og rehabilitering av personer med rusmiddelproblemer [The Norwegian Directorate of Health's draft for regulations on rights and coercion under admission to institutions for treatment, care and rehabilitation of persons with addiction issues] (IS-2056), see e.g. section . 1.3 available in Norwegian at https://www.regjeringen.no/contentassets/5ffd0371a8ce4fa68ca4a2487a33573e/helsedirektoratets_rapport.pdf

Draft from an expert committee for amended legislation in the field: NOU 2019: 14 Tvangsbegrensningsloven — Forslag til felles regler om tvang og inngrep uten samtykke i helse- og omsorgstjenesten, [NOU 2019: 14. The Limitation of Coercion Act. Draft for common rules on non-consensual intervention in health and care services.] see e.g. in section 6.4: https://www.regjeringen.no/no/dokumenter/nou-2019-14/id2654803/

Aslak Syse, review of av Ingrid Rindal Lundeberg, Kristian Mjåland, Karl Harald Søvig: Tvang i rusfeltet. Regelverk, praksis og erfaringer med tvang [Coersion in treatment of addiction: Regulations, practice, and experiences] Gyldendal Juridisk, Oslo 2014, Tidsskrift for rettsvitenskap [Journal of Legal Studies] 2015 pp. 117–121

4.6 Sustainable Exploration for Mineral Resources in Norway

Institution: University of Bergen		
Name of unit of assessment: Faculty of Law		
Title of case: Sustainable Exploration for Mineral Resources in Norway		
Period when the underpinning research was undertaken: 1990-2020		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Ernst Nordtveit	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 1981-
Period when the impact occurred: 2018-		

1. Summary of the impact

In 2018, I was hired by the Ministry of Trade, Industry and Fisheries as chairman of a committee to evaluate the Mineral Act and surrounding legislation to identify weaknesses and points for improvement. The report made a thorough analysis based on research in property law, international protection of indigenous peoples, environmental and planning law and economic analysis of law. Based on the report, the Government has decided to propose several changes in the Mineral Act. It has appointed me as chairman of a committee to prepare a proposal for a general revision of the Mineral Act.

2. Underpinning research

I have since the 1980s worked on natural resource regulation and governance, environmental and energy law, from a private law (property law) as well as from a public law perspective. This also includes an international law perspective, including economic analysis of law (law & economics) and institutional theory. The goal has been to identify legal models and instruments for sustainable exploitation of natural resources. Of more recent works I would emphasize an article on concession rights as regulation of access to natural resources (2012) as relevant for the regulation of mineral rights. My work on this issue goes further back to my doctoral thesis on joint ventures concerning the petroleum industry (1990) (published as a book in 1992). An article on the relationship between public and private ownership to natural resources (1998), discussed the division of the State and private persons` rights to mineral resources, which is a complex issue, of high relevance concerning the work with the new mineral legislation. The committee that prepared the current Mineral Act was not able to solve this issue, and the Evaluation Committee suggested a rather radical reform in this regard. This is an important issue in the mandate for The Mineral Act Committee (see under 4 below).

At the center of the discussion in the work with the new Mineral Act is the issue of whether a more active State interference in the governance of the mineral industry, based on the models from the hydropower and the petroleum sector, can lay the ground for sustainable exploration for mineral resources.

A core legal issue in Norwegian mineral activity is the traditional command and control regulation and the fragmented character of the public environmental and land-use law. My article on institutional change for sustainable development (2016) discusses modern models, instruments and new strategies for sustainable development. I argue that rules, based on incentives and benefit-sharing, would be more effective and should substitute or at least supplement the

traditional command and control legislation. The conventional form of regulation seems to have reached the limit of its ability to combine value creation and economic development and environmental protection. The concept of sustainability in its ecological, economic, and social forms might embody possible solutions. In my research and teaching in energy law, I have followed the development, or rather a transformation from an active State interference and participation to liberalization, environmental protection and security of supply within the energy and in particular the petroleum sector. The development from conventional regulation to deregulation and use of market-based instruments is discussed in my recent publication on the relationship between national and international energy law (2020), a discussion which is informed by my teaching and conference papers spanning over 20 years.

The Government, as well as the industrial community in Norway, have high expectations of the role of the mineral industry as a basis for value and job creation in Norway. Development of the mineral industry is significant as petroleum activites are declining. As such, developing a well-functioning legal and institutional framework for mineral activity is high on the agenda. My long experience within the field, as a researcher, lecturer and policy developer, has led to the assignment as chairman for the revision of the Mineral Act.

3. References to the research

By Ernst Nordtveit:

“Legal Character of Petroleum Licenses under Norwegian law”, in T S Hunter, J Ø Sunde, and E Nordtveit (eds.) *The Nature of Petroleum Licenses*, Edward Elgar Publishing Ltd. 2020.

"International energy law in perspective: the relationship between national and international energy law", in T Hunter, I Herrera, P Crossley and G Alvarez (eds.), *Routledge Handbook of Energy Law*, 2020, chapter 3.

"Commentary to the EEA Agreement article 73-75" in Finn Arnesen et al. (ed.) *Agreement on the European Economic Area: a Commentary*, Nomos Verlag, 2018 (co-authored with Sigrid Eskeland Schütz) P. 713-739.

Institusjonelle grep for berekraftig utvikling. I: *Lov, liv og lære*. Universitetsforlaget 2016 ISBN 978-82-15-02446-2. s. 382-394 [Eng.: Institutional design for Sustainable development.]

Regulation of the Norwegian Upstream Petroleum Sector: in Tina Hunter (ed.), Regulation of the Upstream Petroleum Sector. A Comparative Study of Licensing and Concession Systems. Edward Elgar Publishing Ltd, 2015, chapter 5, P. 132-158.

Konsesjonsordningar og kvotesystem som regulering av tilgang til opne ressursar – privatisering eller regulering? Pro Natura, Festskrift til Hans Christian Bugge, Oslo 2012 P 362-384. (Concession systems and quotas as instrument for regulating access to natural resources).

4 Details of the impact

The most visible impact of the research on mineral resource governance and on the development of the legal regime for mineral activity thus far is the report evaluating the mineral law (2016) – (hereafter the report), the subsequent mandate for the revision of the Mineral Act, and the proposals made by the Ministry of Trade, Industry and Fisheries for changes in the current Mineral Act, based on the report.

The report was submitted on the 20th of December 2018 and presented to the Deputy Minister in the Ministry of Trade, Industry and Fisheries and two civil servants in a meeting in the Ministry in February 2019. The evaluation report is influenced by the results of economic analysis of law on the understanding of legal mechanisms and institutional structure, and their influence on economic and social development (Nordtveit 2016). Norwegian mineral law is currently based on the assumption that free access to resources is the best way to facilitate exploration for minerals. The State plays a vital role in granting access and setting the compensation to landowners at a low rate for the State-owned minerals. This approach does not take into consideration the risk of conflicts with environmental legislation and more substantial rights for local communities and residents and especially the right of indigenous people (the Saami people) as a result of national and international law. The report emphasizes the need to develop more effective procedural rules, better protection of environmental and land-use interests and a fair benefit-sharing in order to facilitate cooperation.

The feedback from the Ministry showed that the report went more into basic questions than they had expected. The Ministry was interested in knowing whether a revision of the Mineral Act was needed or advisable. The representatives for the Ministry concluded that it would follow up the report with the preparation of a mandate for a total revision of the Mineral Act.

Also, the leading organization for Industry in Norway (Norges industry), in cooperation with the central trade organization (LO), asked me to present the report at a seminar with the industry, with the Minister for Trade, Industry and Fisheries present. At the seminar, we discussed the need to develop the Norwegian mineral industry in order to secure supply of raw materials necessary for non-fossil energy use.

The King in Counsil appointed the Committee to prepare the proposals for revision of the Mineral Act (hereafter The Committee) on the 23rd of June 2020, with me as the appointed chairman. The mandate for the Committee refers to the evaluation report. It brings up central questions like, e.g. the scope of the Act, the relationship between State and private ownership to mineral resources, harmonization of the rules, the relationship to indigenous people and the safeguarding of clean-up and securing an area used for mineral extraction after the cessation of the activity.

As part of the Parliament's (Stortinget's) consideration of the National budget for 2021, the Parliament made a separate decision to ask the Government to follow up on the proposal from the Mineral Act Committee and among other things to secure a more precise delimitation of the scope of the law.

The Ministry had sent a Consultation note containing a proposal for certain changes in the Mineral Act to interested parties for comment on the 23rd of June 2020. The proposal follows up on the Evaluation report on several issues like a better definition of the concepts of "sustainability" and "socially profitable" as used in the Mineral Act, prequalification of applicants for mineral concession, and the right to transfer of concessions for mineral activity. These changes were seen as essential to carry out fast and also relatively uncontroversial. The Mineral Act Committee shall also evaluate these questions from a broader perspective in the general proposal for reform of the Mineral Act.

The total impact will not be evident until The Committee has presented its proposal at the end of 2021 and when the legislative process based on the proposal has been brought to an end.

However, the ambition of the Committee is to transform the current fragmented regulation to an integrated and holistic regulation where the interests of the different stakeholders are seen in context of each other, and on the basis of modern principles. An example is the regulation of the responsibility for clean-up and security after a mineral activity has ceased to exist, which under the current regime is very weak, and leaving landowners with a substantial risk of being made responsible for the consequences for activity over which they have very little influence. The new regulation will have to be based on modern principles of sustainable natural resource governance, ecosystem-based environmental regulation and transparent processes involving local communities, landowners and indigenous people.

5. Sources to corroborate the impact

The evaluation report from 20 December 2018:
https://www.regjeringen.no/no/aktuelt/evalueringen-av-mineralloven-er-klar/id2623390/

https://www.regjeringen.no/contentassets/e9aea8a3cf974c1995dd1665e1ac0b12/innstillingevalueringminerallovsisteversjon.pdf

https://www.norskbergindustri.no/nyheter2/2018/rastoffet-til-det-gronne-skiftet---mineralnaringens-betydning-for-a-lose-klimakrisen/

https://www.regjeringen.no/no/aktuelt/vil-ha-lonnsom-og-barekraftig-mineralvirksomhet/id2715431/

https://www.regjeringen.no/globalassets/departementene/nfd/dokumenter/mandat/200618-mandat-uten-utvalgssammensetning_endelig.pdf

https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Referater/Stortinget/2020-2021/refs-202021-12-03?m=

Kommentar til lov om petroleumsvirksomhet 29. november 1996 nr. 72 i Norsk lovkommentar, Rettsdata Gyldendal Norsk forlag AS, revidert utgåve 2018. [Commentary to the Norwegian Petroleum Act].

4.7 The impact of research on concrete decisions by the court of appeal

Institution: University of Bergen		
Name of unit of assessment: The Faculty of Law		
Title of case: The impact of research on concrete decisions by the court of appeal		
Period when the underpinning research was undertaken: 2001–2020		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Tore Lunde	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 1994–
Period when the impact occurred: 2013, 2019		

1. Summary of the impact

The book *God forretningsskikk næringsdrivande imellom* (Good business practice between businesses), is the only Norwegian scholarly legal analysis of the limits on lawful competition between businesses in Norway based on the legal standard of 'good business practice', and has therefore become the foremost reference work for lawyers and courts of law when deciding concrete cases. There are few relevant decisions from the Supreme Court in the area of law in question, and my academic work building on the above mentioned standard work is therefore an important tool that provides guidance for legal practitioners when clarifying the content of the standard and applying it in concrete cases. In the judgment from Borgarting Court of Appeal of 31 October 2019 (LB-2019-142586), the research is used to clarify the legal limits of the case, the concrete content of the legal standard and what factors can be emphasised as legally relevant in the assessment. A similar example of the use of my research is an appeal court decision by the same court in 2013 (LB-2013-111738).

2. Underpinning research

In 2001, Fagbokforlaget published my doctoral thesis '*God forretningsskikk næringsdrivande imellom*' (Good business practice between businesses). This is the only monograph in Norway that provides an extensive, in-depth analysis of the limits on lawful competition between businesses based on the legal standard of 'good business practice'. The book contains a comprehensive analysis of the principles underlying the legal standards that form the basis for statutory regulation, the principles based on good practice, and the content of the specific legal standard 'good business practice' as set out in the Norwegian Marketing Control Act of 16 June 1972 Section 1, which is retained in the current Act of 9 January 2009, cf. Section 25. The book also aims to make a contribution to clarifying and developing practice as regards the good business practice standard.

The breadth of the research has later been developed in several scholarly articles, which has formed the basis for further research that has been published in the standard work *Markedsføringsloven med kommentarer* (The Marketing Control Act, annotated) co-authored with Terje Lundby Michaelsen and Ingvild Mestad, Gyldendal 2010, 2015 and 2019.

The courts of law have used the above mentioned research based on the doctoral thesis, and which has been further developed in the annotated edition, often in connection with the same decision, in order to clarify the legal issues and the framework for legal assessments in cases concerning unlawful competition between businesses. The books have also been used to identify

relevant factors that can be emphasised in a case, and how much weight should be given to the relevant factors in concrete cases. The research has been used by the court in that it has quoted extensive passages from the book, which is the published version of my doctoral thesis. The court gives its unqualified support to the content and uses it as a guide in the rest of its argumentation. Through references to my texts in the annotated version, frequent reference is also made to my research on concrete points in the content of the standard.

3. References to the research

Lunde, Tore 2001, *God forretningsskikk næringsdrivande imellom*' (Good business practice between businesses), Fagbokforlaget.

Lunde, Tore 2010, 2015 and 2019. *Markedsføringsloven med kommentarer* (The Marketing Control Act, annotated) co-authored with Terje Lundby Michaelsen and Ingvild Mestad, Gyldendal.

Lunde, Tore 2012. Urimeleg handelspraksis utan grenser. *Lov og Rett*,(1) s. 23-44.

4. Details of the impact

In the judgment from Borgarting Court of Appeal of 31 October 2019 (LB-2019-142586), my research is used to clarify the legal limits of the case, the concrete content of the legal standard and what factors can be emphasised as legally relevant in the assessment. The case concerned a claim from a company for a prohibition to be imposed on business activity initiated by former employees, because it was argued that the business activity was in violation of the standard of good business practice set out in Section 25 of the Marketing Control Act. The petition for an interim injunction was not granted. The Court bases its judgement on the research in the following way: 'Out of consideration for free competition, the standard provides relatively weak protection against competing business from former employees or other collaborating parties, cf. Tore Lunde, *Markedsføringsloven: Kommentarutgave*, Section 25 note 109, revised 30 January 2018, and Tore Lunde, *God forretningsskikk næringsdrivande imellom* (2001) p. 385. The Court of Appeal's point of departure is therefore that a great deal is required to confirm that a violation of Section 25 of the Marketing Control Act has taken place in a case of this kind.' The Court continues: 'Competing business activity by former employees is not in principle in breach of good business practice, see Lunde page 377. Marketing targeting a former employer's clients will as a rule be permitted. In exceptional cases, when special knowledge is used, marketing may be in breach of good business practice.' The Court of Appeal refers to page 385 of my book, from which the following is quoted:

> 'In summary, the above discussions indicate that the good business practice standard represents a relatively small obstacle to marketing oneself to a former employer's circle of clients. Based on the good business practice standard, restrictions on the freedom to compete after the termination of an employment relationship must be practised with caution. As a rule, for it to be deemed to be a breach of good business practice, very reprehensible acts under the circumstances must be proven over and above the competition itself and the unrest that normally arises in a market when one or more key personnel start a competing business. Under all circumstances, the restrictions on the freedom to compete in this context must be limited to a relatively short period, which must be significantly shorter than what follows from normal non-competition clauses. Restricting this freedom for more than two to three months would appear to be disproportionate.'

The Court then discusses the concrete circumstances of the case and emphasises concrete arguments that stem from my analyses quoted in the above paragraph: 'It is not in breach of good business practice for these employees, who do not have client or non-competition clauses, to

make use of their personal network of contacts to engage in marketing targeting (the former employer's) clients, see Lunde pages 381–382.'
Based on an assessment of the other factors discussed on page 385 of the book *God forretningsskikk næringsdrivande imellom*, the Court concludes that the plaintiff (the former employer) has not substantiated that the business of the former employees has breached the requirements for good business practice pursuant to Section 25 of the Marketing Control Act.

A similar example of the use of my research is an appeal court decision by the same court in 2013 (LB-2013-111738). https://lovdata.no/pro/#document/LBSIV/avgjorelse/lb-2013-111738?searchResultContext=3772&rowNumber=20&totalHits=55

My impact on the development of the law in practice is also strengthened by the fact that I am chair of the Market Council (2009–2021). The Market Council is an administrative 'court of law' that carries out supervision of the Marketing Control Act (9 January 2009). The Council decides cases concerning consumers' rights pursuant to the Marketing Control Act. The Council is a subordinate body under the Ministry of Children and Families. The Council handles complaints from consumers and traders. The Market Council is the second step in a two-step procedure. The Market Council has the authority to issue decisions banning unlawful marketing and contractual terms and conditions in standard contracts when deemed necessary in the interest of consumers. Decisions by the Market Council cannot be appealed to a superior administrative body but can be brought before the ordinary courts.

5. Sources to corroborate the impact

See section 4

5 University of Oslo, Faculty of Law

5.1 Standard Contracts for Offshore and Onshore Construction Projects

Institution: University of Oslo		
Name of unit of assessment: Faculty of Law		
Title of case: Standard Contracts for Offshore and Onshore Construction Projects		
Period when the underpinning research was undertaken: 1980 – (ongoing)		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Knut Kaasen	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** 1975-1976, 1981-1984, 1989-2021
Period when the impact occurred: Starting in 1990 and later increasing, dominance in the related industries after 2005		

1. Summary of the impact

Professor Knut Kaasen has in his different roles as academic author, speaker, negotiator, "sounding board", mediator and arbitrator taken the central position in developing the several standard contracts that are now being used by nearly all construction projects offshore and onshore in Norway. This work has reduced transaction costs, made project completion more efficient, reduced the volume of contract disputes and established functioning appropriate dispute resolution methods for the oil and gas industry and the onshore construction industry. This has been achieved through analysing complex construction contract issues and participating in and leading negotiations establishing new and continuously revising older standard contracts.

2. Underpinning research

The early research was undertaken by several researchers at the Scandinavian Institute of Maritime Law since the early 1980s. As an example, one central early publication is Lars Olav Askheim, Marius Gisvold and Jan Kaare Tapper, *Kontrakter i petroleumsvirksomheten*, Sjørettsfondet (1983) with its 616 pages.

Two principles underlie this research: 1) the study of a vast material of the diverse contracts actually used in the oil and gas industry, 2) identification of the common problems that the contracts intended to solve and the different ways in which it was done. This included extensive studies of common law and industry specific practices since the industry and the involved companies were new to Norway. Typically, standard contracts were developed within each oil company only. This also applied to the then new entrants from Norway, Norsk Hydro, Saga and Statoil (now Equinor).

Knut Kaasen worked with oil and gas contracts within Norsk Hydro during the years 1984-1989 before returning to the UiO. Since then he has been the key person working with construction contracts for the oil and gas industry. He had already been involved in negotiations between the oil companies and the service and construction industry and has now for many years been the leader of the negotiations on different standard contracts, engaged by both sides. See section 4 below for more details.

All these revisions and new contracts are distinguished by Professor Kaasen's main approach to contracts as

tools to achieve results instead of the traditional contract law approach on contract formation and breach of contract. This is what has made the success of his involvement in the standardization work of the industry.

His analyses have focused on how to achieve a balanced contract while maintaining progress of the work no matter what sort of disputes that occur between the contract parties. This has resulted in mechanisms that seek to solve issues as soon as possible, not waiting for traditional large disputes several years after (delayed) contract completion. It involves early formal establishment of content and consequences of disputes, use of expert procedures, mediation during the progress of the work as well as different limitations of liability.

In one sense, Kaasen's approach has been systematic and formalistic. This is demonstrated through his analysis of the different impacts that may occur during a large construction project. That may be the company ordering changes to the contract object or the performance of the work, force majeure events delaying progress or pure breaches of contract. One of Kaasen's main points is that all these types of events may be managed through one system of Variation Orders. Such orders were well known in the industry but Kaasen expanded the coverage of the variation system also to cover other events that were not changes to the work but that often necessitated similar consequences. He developed a system that could be used to identify and manage practically all types of disturbances as long as the parties respected this more formal system.

3. References to the research (indicative maximum of six references)

- Kaasen, Knut (2020). Decommissioning contracts: Risk issues, In *The Regulation of Decommissioning, Abandonment and Reuse Initiatives in the Oil and Gas Industry: From Obligation to Opportunities.*. Wolters Kluwer. ISBN 9789403506937. Chapter 7. s 135 - 150
- Kaasen, Knut (2018). *Tilvirkningskontrakter: med kommentarer til NTK15 og NF15*. Universitetsforlaget. ISBN 978-82-15-02701-2. 941 s.
- Kaasen, Knut (2012). Project integrated mediation (PRIME). Marlus. ISSN 0332-7868. *414*, s 67- 92
- Kaasen, Knut (2010). Formalism in complex onshore and offshore construction contracts. Marlus. ISSN 0332-7868. (394), s 103- 137
- Kaasen, Knut (2006). Petroleumskontrakter : med kommentarer til NF 05 og NTK 05. Universitetsforlaget. 910 s

4. Details of the impact

The impact with respect to oil and gas construction contracts has lasted over thirty years. Knut Kaasen worked with oil and gas contracts within Norsk Hydro 1984-1989 before returning to the UiO. Since then he has been the key person working with construction contracts for the oil and gas industry. When he returned he had already at Norsk Hydro been involved in negotiations between the oil companies and the service and construction industry.

The impact has been made through different roles of Professor Kaasen. Most important are his roles over nearly thirty years as first an umpire and later as a leader of the many and long lasting negotiations on the establishment of a Norwegian oil and gas standard construction contract, the first one in 1992 (NF92). NF92

was followed by several generations of new standards, revised and further expanded into different types of contracts. Kaasen led all these negotiations. Later revisions include Norwegian Fabrication Contract 2005 (NF05) and Norwegian Total Contract 2005 (NTK05), Norwegian Subsea Contract 2005 (NSC05) and the newest generation from the year 2015 with NF15 and four different version of NTK15.

For many years now, nearly all projects in Norway and many abroad are undertaken based on these standard contracts. Both Equinor and earlier Norsk Hydro (before it merged with Statoil) brought their Norwegian standard contracts with them into different other markets, sometimes without changes and on other occasions with some amendments.

Another early type of impact was the construction of the Gardermoen Airport and the Airport Express Train where the newly developed NF 92 offshore contract was used for much of the onshore construction work in the years 1993-1999 due to its ability to manage large projects.

For *onshore* construction contracts in general, there is a long tradition of standardization. In Norway, the contracts have, over the last 20 years, been heavily influenced by the new mechanisms developed and applied in offshore contracts The Norwegian Standardization Institution, Standard Norge, engaged Professor Kaasen as leader of the revision negotiations for onshore construction contracts, leading up to *Alminnelige kontraktsbestemmelser for totalentrepriser, Norsk Standard* (NS8407) of 2013 and later revisions of other standards for onshore construction work. These standards are used in practically all Norwegian construction projects on land, illustrating clearly the impact of Professor Kaasen's work.

The impact of Kaasen's academic work has taken place through his books and articles, presentations to industry, and his roles as negotiator, "sounding board", mediator and arbitrator. This type of academic service to Norway's largest industry and to the construction industry in general has had a severe and lasting impact.

5. Sources to corroborate the impact

The existence of all the standard contracts mentioned above are themselves evidence of the impact both on the offshore and onshore construction contracts.

A short presentation of Knut Kaasen as an academic author:

https://juridika.no/forfattere/knut-kaasen

As an example from the work in Standard Norge:
https://www.standard.no/standardisering/komiteer/sn/snk-534/

As a brand new example of work by Professor Kaasen relating to corona risk in contracts:

https://www.vegvesen.no/om+statens+vegvesen/presse/nyheter/nasjonalt/bransjen-og-offentlige-byggherrer-enige-om-prinsipper-for-handtering-av-koronarisiko

5.2 Children's rights, UN Committee on the Rights of the Child

Institution: University of Oslo		
Name of unit of assessment: Faculty of Law		
Title of case: Children's rights, UN Committee on the Rights of the Child		
Period when the underpinning research was undertaken: 2000-2019		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Kirsten Sandberg	**Role(s) (e.g. job title):** Professor	**Period(s) employed by submitting institution:** since 1985 and still
Period when the impact occurred: 2011-2019		

1. Summary of the impact

1) Through her membership in the UN Committee on the Rights of the Child 2011-2019 and being the Committee's chairperson 2013-205, her academic work on children's rights influenced the work of that Committee in its review of States' implementation of children's rights.
2) In its turn, the Committee's work has an impact on the way States implement these rights, thus contributing to improving the situation of children in countries around the world.

2. Underpinning research

Nature of insights: Prof. Sandberg has done research on child law and children's rights throughout her career, thus laying the foundation for being nominated and elected as member of the UN Committee on the Rights of the Child and also providing the knowledge and understanding that she brought into the Committee, particularly on children's right to be heard and the child's best interests.

Underpinning research: Sandberg was the project manager of "Barns rettigheter: Barnekonvensjonens betydning for forvaltnings- og rettspraksis [Children's rights: The significance of the Convention on the Rights of the Child in administrative and court practice], funded by the Research Council of Norway, 2006-2011. The focus was on children's right to participate in decision-making and their right to freedom of religion.

She has also done research on asylum seeking children's rights, children's rights in an educational setting, in child protection, in health care, the right to freedom from physical punishment, protection from intersectional discrimination, the vulnerability of children, and the rights of LGBTI children.

The overall insight from the research is the importance of viewing the child as a subject of rights, implying that the child's voice needs to be heard and taken seriously, at the level of society as well as in individual cases. This understanding needs to be crosscutting, but also adapted to the field of examination and the situation of the children in question. The research discusses what particular measures are needed for children's rights to be implemented in the various fields.

Her work in the Committee inspired her further research, the results of which she was able to take back to the Committee, e.g. on intersex children.

3. References to the research (indicative maximum of six references)

Selected references. Publications after 2018 are left out as she left the Committee in 2019.

Edited book:

a. Høstmælingen, N., Sandberg, K. and Kjørholt, E.S. (eds), *Barnekonvensjonen. Barns rettigheter i Norge* [The Convention on the Rights of the Child. Children's Rights in Norway], 1st edition 2008, 4th edition 2020. ISBN 9788215025186. 464 p

Articles in peer reviewed journals:

b. Sandberg, Kirsten (2015). The Rights of LGBTI Children under the Convention on the Rights of the Child. Nordic Journal of Human Rights. ISSN 1891-8131. 33(4), p 337- 352 . doi: 10.1080/18918131.2015.1128701
c. Sandberg, Kirsten (2015). The convention on the rights of the child and the vulnerability of children. Nordic Journal of International Law. ISSN 0902-7351. 84(2), p 221- 247 . doi: 10.1163/15718107-08402004
d. Sandberg, Kirsten (2014). The role of national courts in promoting children's rights: The case of Norway. The International Journal of Children's Rights. ISSN 0927-5568. 22(1), p 1- 20 . doi: 10.1163/15718182-02201005

Book chapters:

- Sandberg, Kirsten (2018). Intersex Children and the UN Convention on the Rights of the Child, in Jens M. Scherpe, Anatol Dutta and Tobias Helms (eds.), The Legal Status of Intersex Persons, Intersentia, pp. 515-535
- Sandberg, Kirsten (2016). Barnets beste i skolen [The best interests of the child in schools], I: Kristian Andenæs & Jorunn Møller (red.), Retten i skolen - mellom pedagogikk, juss og politikk. Universitetsforlaget. ISBN 9788215026671. Kapittel 2. s 40 - 53
- Sandberg, Kirsten (2016). Barnets beste som rettighet [The best interests of the child as a right], I: Ingunn Ikdahl & Vibeke Blaker Strand (red.), Rettigheter i velferdsstaten. Begreper, trender, teorier. Gyldendal Juridisk. ISBN 978-82-05-48452-8. Kapittel 3.
- Sandberg, Kirsten (2014). Barnekonvensjonens vern mot sammensatt diskriminering [The protection from intersectional discrimination under the Convention the Rights of the Child], I: Anne Hellum & Julia Köhler-Olsen (red.), Like rettigheter - ulike liv: Rettslig kompleksitet i kvinne-, barne- og innvandrerperspektiv. Gyldendal Juridisk. ISBN 9788205459281. Kapittel 3. s 69 - 89
- Sandberg, Kirsten (2012). Rettsforholdet mellom barn og foreldre i utdanningssammenheng - hvem har rett til informasjon, og hvem bestemmer hva, [The legal relationship between children and parents in the educational context], I: Henning Jakhelln & Trond-Erik Welstad (red.), Utdanningsrettslige emner. Cappelen Damm AS. ISBN 9788202358822. Kapittel 26. s 539 - 557
- Sandberg, Kirsten (2011). Norway: The Long and Winding Road Towards Prohibiting Physical Punishment, In Joan E. Durrant & Anne B. Smith (ed.), Global Pathways to Abolishing Physical Punishment. Realizing Children's Rights. Routledge. ISBN 978-0-415-87920-0. Kapittel 15. s 197 - 209

- Sandberg, Kirsten (2010). Barns rett til medvirkning - et juridisk perspektiv [Children's right to participation – a legal perspective], I: Anne Trine Kjørholt (red.), Barn som samfunnsborgere - til barnets beste?. Universitetsforlaget. ISBN 978-82-15-01638-2. Kapittel 3. s 47 - 70
- Sandberg, Kirsten (2009). Barns rettsstilling i likekjønnede parforhold [The legal status of children of same sex couples], I: Helga Aune; Ole Kristian Fauchald; Kåre Lilleholt & Dag Michalsen (red.), Arbeid og rett. Festskrift til Henning Jakhellns 70-årsdag. Cappelen Damm Akademisk. ISBN 978-82-02-30235-1. Bidrag. s 547 - 566
- Sandberg, Kirsten (2009). Children's right to participate in health care decisions, In Henriette Sinding Aasen; Rune Halvorsen & António Barbosa da Silva (ed.), Human rights, dignity and autonomy in health care and social services: Nordic perspectives. Intersentia. ISBN 978-90-5095-877-6. chapter 3

4 Details of the impact

Process:

As a member and chairperson of the UN Committee Sandberg was able to draw on her research to influence the way the Committee dealt with various questions, not only in its review of reports from States on their implementation of children's rights, but also at the general level, such as several General Comments where she was member of the working group, including No. 14 on the Best Interests of the Child, No. 20 on adolescents and No. 22-23 on migration. For some years she coordinated the Committee's working group on children's participation in the Committee's work, and she headed the working group for the 2016 Day of General Discussion on children's rights and the environment.

Beneficiaries and nature of impact:

1) The Committee as described above, whose main work is to review States' reports on their implementation of children's rights through dialogues with delegations, based also on additional reports from other sources.
2) States, who are advised on how to improve their implementation of children's rights.
3) UNICEF and NGOs in their work for children's rights. The Committee's recommendations are used by UNICEF and NGOs to push governments in the right direction. There is a continuous exchange between the Committee or its individual members and national and international NGOs, in relation both to reviews of State reports and to general issues.
4) Children. In spite of setbacks, the implementation of their rights is slowly but gradually improved around the world. Of course, this is not the work of the Committee alone, but of various actors pulling in the same direction. These include organisations as mentioned above and other UN bodies and processes. However, the recommendations from the Committee form a central point in the understanding and implementation of children's rights.

Time span:

The impact primarily occurred 2011 – 2019 when she was a member of the Committee. Her research in this area continues to be used by NGOs and others.

5. Sources to corroborate the impact

Sandberg was awarded the Danish UNICEF prize 2018 for her work on children's rights. She was made Honorary Doctor at Lund University 2016 for her combined academic and UN work on children's rights.

5.3 Investigative interviewing ("KREATIV")

Institution: University of Oslo, Faculty of Law		
Name of unit of assessment: Faculty of Law		
Title of case: Investigative interviewing ("KREATIV")		
Period when the underpinning research was undertaken: 2005 - 2020		
Details of staff conducting the underpinning research from the submitting unit		
Name(s):	**Role(s) (e.g. job title):**	**Period(s) employed by submitting institution:**
Asbjørn Rachlew	Guest researcher, NCHR, UiO	PhD 2005-2009, IKRS, UiO, Guest researcher NCHR, UiO, 2015-2016 and associated researcher NCHR 2016-2021
Ivar Fahsing	Expert Consultant, NCHR	2019-2021
Period when the impact occurred: 2009 - 2021		

1. Summary of the impact

Investigative interviewing has become a Norwegian export product which is gaining ground in an increasing number of states and receives regional and international attention. Police officers in countries such as Indonesia, Vietnam, China, Brazil, Lebanon and Thailand have been trained in the methodology. In cooperation with Norwegian Police, international organisation and academic partners, NCHR has created a global campaign to develop universal guidelines for police interviews. As part of this endeavour, NCHR has developed a manual for UN Police in cooperation with UNPOL and OHCHR, and is currently developing e-learning modules together with the UN Office on Drugs and Crime.

2.Underpinning research

Until the turn of the century, little training in interviewing was provided, and the training was either based on experience or observational learning (Fahsing & Jakobsen 2017: 213) or on confession seeking methods, such as the Reid technique (Inbau, Reid & Buckley 2013). In the 1990s Baldwin (1992) identified serious weaknesses in the interviewing process in the UK. The yardstick of a good interviewer was whether they obtained a confession or damaging admission from the suspect (e.g., Plimmer, 1997), and there was no formal system for developing their interviewing skills. The interview process was not tape-recorded, and the system was open to abuse with suggestions that confessions was fabricated and embellished. Together with pressure emanating from the widely politicised miscarriages of justice cases, the PEACE interviewing model was born. PEACE is a mnemonic outlining the structure to be applied to all interviews. In Norway similar practices were identified following the acquittal in the so-called Birgitte case in 1999 (Fahsing & Rachlew, 2009), resulting in the Norwegian police radically altering its method for questioning suspects, victims, and witnesses in criminal cases. The method is known as KREATIV or investigative interviewing. KREATIV is an acronym for a staged process representing a scientifically based approach to police interviews developed by the Norwegian police (Fahsing & Rachlew, 2009). Investigative interviewing is a non-coercive method for questioning victims, witnesses and suspects of crimes, putting evidence gathering

at the fore, while seeking to mitigate the adverse effects of cognitive biases. KREATIV draws on the legal, practical and political changes done in the UK in the 1990's and strong, humanistic tradition in Norwegian criminal policy and ideas of criminal law and criminology as represented by e.g., Prof. Johs. Andenæs and Nils Christie (Faculty of Law). It also relies on research on the questioning of children and other vulnerable groups at the Department of Psychology (UiO), as well as Prof. Svein Magnussen's work on psychology and law/witness psychology.

NCHR's International Department primarily conducts applied human rights work in partner countries around the world, particularly in Asia. While seeking to engage practitioners into this educational work, as a university-based institution NCHR also seek to ensure that the work is research based. This made it possible for NCHR to engage Dr. Rachlew as guest researcher in 2015-2016. He has since been associated with the Centre on a part time basis. This offered an academic pillar and space to delve into human rights issues, such as studying case law from the ECtHR. It also provided a platform for reaching the international anti-torture movement, and engage directly with the UN, first through the Office of the Hight Commissioner in Geneva, and later at high-level panels in relation to the UN General Assembly in New York. In addition to research, NCHR combines educational efforts, such as courses in Investigative Interviewing for national police forces around the world, and networking and information work with international NGOs and multilateral organisations including the UN and the Council of Europe.

3. References to the research (indicative maximum of six references)

Rachlew, A. (2009). Justisfeil ved politiets etterforskning: noen eksempler og forskningsbaserte mottiltak.

Fahsing, I. A., & Rachlew, A. (2009). Investigative interviewing in the Nordic region. International developments in investigative interviewing, 39-65.

Rachlew, A., & Fahsing, I. (2015). Politiavhøret [The investigative interview]. Bevis i straffesaker [Evidence in criminal proceedings]. Oslo: Gyldendal Akademisk, 225-254.

Griffiths, A., & Rachlew, A. (2018). From interrogation to investigative interviewing: The application of psychology. In The Psychology of Criminal Investigation (pp. 154-178). Routledge.

Bull, R., & Rachlew, A. (2019). Investigative interviewing: From England to Norway and beyond. In Interrogation and Torture (pp. 171-196). Oxford University Press.

Rachlew, A., Brøste, I. L., Melinder, A., & Magnussen, S. (2020). Recruiting Eyewitness Science in Criminal Investigations: The Pocket Man Case. Journal of Forensic Psychology Research and Practice, 20(3), 205-213.

4.Details of the impact

The Norwegian National Police University College officially committed itself to Investigative Interviewing around the turn of the millennium. A national training course was developed in close cooperation with scholars and colleagues from the UK and was subsequently delivered to new recruits and detectives in all regions of Norway. Although experienced as both painful and dramatic, the general feedback from police officers was very positive. Today, 20 years later the Norwegian Police Service have advanced ethical interviewing into a holistic philosophy of how to think as a detective. Since 2010 The Norwegian police service, the Norwegian ministry of foreign affairs and NCHR have been cooperating on implementing investigative interviewing within law enforcement, military and intelligence in Vietnam, Indonesia, China, Thailand and Brazil. Investigative interviewing has proved invaluable as a practical approach to change.

What started as an experiment in Vietnam has grown into global partnerships for universal standards for interviewing undertaken by law enforcement and security services.

In 2015, NCHR advised the United Nations (UN) special rapporteur on torture, Juan Mendez' on his final report to the UN General Assembly. In the report, Mendez advocates a universal protocol for non-coercive interviewing in accordance with investigative interviewing. In 2018, a coalition of UN agencies, NGOs, academics, law enforcement, military and intelligence experts joined forces and launched a global initiative for universal standards for non-coercive investigative interviewing. NCHR is also cooperating with UNPOL and UNODC to develop a manual on investigative interviewing. The initiative is pursued in the context of the Police Division's ongoing work on the Strategic Guidance Framework for International Police Peacekeeping (SGF). As part of the SGF, pillar four on "Police Operations", UNPOL has requested assistance from NCHR to develop a manual on police investigations and questioning of victims, witnesses and suspects. The manual is also intended for supporting and training host-State police and other law enforcement counterparts. The Office of the High Commissioner for Human Rights (OHCHR) cooperates actively with UNPOL in this effort. Every day, more than 11,000 United Nations police officers from 88 countries foster international peace and security by supporting countries in conflict, post-conflict and crisis situations. The SGF will provide comprehensive training materials, tools and resources as the basis for training thousands of new UNPOL recruits for years to come.

In cooperation with UNODC, NCHR is also developing e-learning modules on investigative interviewing. Within its mandates to support Member States in preventing and responding to crime and violence, including organised crime and terrorism, as well as reforming their criminal justice systems to ensure efficiency and human-rights compliance, UNODC has a long-standing experience in providing technical assistance to Member States in the area of policing, through its global, regional and country programmes. UNODC provides training, through workshops and online courses, to law enforcement officials in all regions of the world. Despite the promotion of non-coercive interviewing methods in its training tools (such as the PEACE model), there is yet no UNODC standardized guidance material on investigative interviewing. The e-learning modules, along with the universal standards, are intended to offer such guidance.

At courses in different countries, pre-and post- tests have been conducted. Results show that the participants (who are primarily criminal investigators) are able to counter tunnel vision in fictitious criminal cases used during tests by applying the counter-measures provided at the courses. In Brazil one officer reported an increase of 100 per cent in the prosecution rate (from an alarmingly low level: only about 15 per cent of all murder cases in Brazil end up in court) in his district after participating in NCHR's course in 2018. At one course in Indonesia, also in 2018, a female officer stood up during a course and told the participants about the use of the investigative interviewing methodology in a high-level criminal case in the country. She had been introduced to the method from a former participant at a previous course – a leading anti-corruption investigator who have been part of NCHR's network since 2014.

5.Sources to corroborate the impact

- https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20722&LangID=E
- https://blogs.fcdo.gov.uk/tag/investigative-interviewing/
- https://www.nrk.no/norge/norsk-avhoyrsekspert-skal-laere-fn-politimetodar-1.12997419
- https://www.wcl.american.edu/impact/initiatives-programs/center/ati/themes/interviewing/

- https://www.riksadvokaten.no/wp-content/uploads/2017/10/Avh%C3%B8rsmetodikk-i-Politiet-med-vedlegg.pdf
- https://www.uniforum.uio.no/nyheter/2016/10/politiavhoyr-utvikla-i-noreg-kan-bli-global-standa.html
- https://cti2024.org/content/docs/CTI-Training_Tool_1-Final.pdf
- The report to the Norwegian Government on the visit to Norway by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2018. (p. 17): https://rm.coe.int/1680909713
- https://forskning.no/kriminalitet/politiavhoyr-utvikla-i-noreg-kan-bli-global-standard/390256
- http://www.torturepreventionch/en/universal-protocol-on-non-coercive-interviews/

5.4 Immigation judgment in the Norwegian Courts: Maria Judgment in the Norwegian Supreme Court (2015) and Trandum judgment in Borgarting Court of Appeal (2016)

Institution: University of Oslo

Name of unit of assessment: Faculty of Law

Title of case: Immigation judgment in the Norwegian Courts: Maria Judgment in the Norwegian Supreme Court (2015) and Trandum judgment in Borgarting Court of Appeal (2016)

Period when the underpinning research was undertaken: ***2010-2015***

Details of staff conducting the underpinning research from the submitting unit

Name(s):	**Role(s) (e.g. job title):**	**Period(s) employed by submitting institution:**
Mads Andenæs	Professor	From 2008

Period when the impact occurred: 2010 – 2016

1. Summary of the impact

Research on rights of immigrants, applied in advocacy before the courts and succeeded in judgments in the higher courts. Strengthened individual rights and remedies. Deportation of a Kenyan mother and five year old daughter and detention of an Afghani family with children in a closed immigration camp by the airport were both held unlawful. The courts developed the best interest of the child and the right to family life in the Norwegian Constitution, UN Conventions and European Human Rights Convention. They introduced a fuller proportionality test, declarations of breach of the Constitution and the human rights conventions, and compensation for non-pecuniary damages.

2. Underpinning research

The research addressed the relationship between international and European human rights law and Norwegian implementation. It constitutes a body of work produced over a five-year period, and has continued in different forms. Most of the publications are from the period leading up to the adoption of an extended and modernized bill of rights in the Norwegian Constitution in 2014.

The content and impact of international and European human rights treaties, including the jurisprudence of international courts and UN bodies, were disputed in Norwegian law. The rights of the child, the best interests of the child and the right to family life were contested both in the legislative process and before the courts.

The relationship between Norwegian law, the Norwegian Constitution, the UN Conventions and the European Human Rights Convention required clarification on many levels.

Among the pressing problems at a general level were the extent of the proportionality requirement and the scope for the national margin of appreciation. The consequences of the refugees/migrants being found to have had their rights breached, in terms of remedies for the refugees/migrants, were also contested.

In earlier cases before the courts, the government lawyers had much sway, not the least because they developed expertise though the cases they handled. They would defend the government in the majority of cases about breaches of human rights and developed and supported the legal arguments that underpinned the government interest in this context. They would generally succeed in convincing the courts in applying the law, also the ECHR and UN conventions, in a way that gave the fullest effect to the then current Norwegian policy. The limited Norwegian research would tend to support the Government's position. The relationship between Norwegian law, the Norwegian Constitution, the UN Conventions and the European Human Rights Convention would be resolved so that administrative practice could continue without much interference. The rights of migrants and asylum-seekers could be restricted in the way in which the administrative authorities had done in administrative practice and in the cases that came before the courts.

For instance, the proportionality requirement did not in practice require actual weighing and balancing or finding any fair balance. No discussion of the legal tests of proportionality in the reasons for the decisions were required. The public interest in restricting immigration would beat the individual rights. The scope for a national margin of appreciation would in case of doubt prevail in the last instance. In the few cases of acknowledged breach, the remedies would not be effective.

The research and the involvement in the two cases pulled the other way in the sense that it brought out the arguments in favour of the individuals subjected to rights violations. The systematic analysis and research on European and international law and the Norwegian Constitution, and the impact on Norwegian administrative law, redressed this balance to some extent. The two judgments were breakthroughs in that respect. They have largely been followed in later case law and administrative practice.

3. References to the research

1. Andenæs, Mads & Kravik, Andreas Motzfeldt 'Norske verdier og EMK', Lov og Rett. ISSN 0024-6980. 2010 49(10), p 579- 599.
2. Andenæs, Mads & Bjørge, Eirik, Norske domstoler og utviklingen av menneskerettene. (2011) Jussens venner. ISSN 0022-6971. *46*(5), p 251- 286
3. Andenæs, Mads & Bjørge, Eirik (2012). *Menneskerettene og oss*. Universitetsforlaget. ISBN 9788215019512. 316 p.
4. Andenæs, Mads & Bjørge, Eirik, 'National Implementation of ECHR Rights', in Andreas Føllesdal; Birgit Peters & Geir Ulfstein (ed.), *Constituting Europe: The European Court of Human Rights in a National, European and Global Context*. Cambridge University Press, 2013. ISBN 978-1-107-02444-1. chapter number 6, p 181 – 262.
5. Andenæs, Mads & Bjørge, Eirik, 'The Norwegian Court Applies the ECHR by Building upon Its Underlying Principles', 2013 European Public Law. ISSN 1354-3725. 19(2), p 214- 246.
6. Andenæs, Mads, Kravik, Andreas Motzfeldt & Bjørge, Eirik, 'Høyesterett og EMD: samspill, subsidiaritet og skjønnsmargin' Lov og Rett. ISSN 0024-6980. 2015 54(05), p 261- 278.
7. Andenæs, Mads, Kravik, Andreas Motzfeldt & Bjørge, Eirik, 'Menneskerettsspørsmål for Høyesterett som EMD ikke har tatt stilling til', Lov og Rett. ISSN 0024-6980. 2015 54(05), p 323-343.

The 2012 book covers most of the issues, and tests the Norwegian case law. The critical analysis concludes with answers to a series of the pressing legal questions. They are further developed in the articles and book chapters. The methodological challenges were many. At one level the method is that of international or European human rights law. At another level it is to show how Norwegian courts and authorities may apply this in a Norwegian legal process and align it with the legal method generally applied. In general, scholarly or scientific legal work is not limited to convincing the courts in a way an advocate's argument would. But it may be a parallel process, and may interact. It certainly did in this instance.

Professor Andenas co-authored most of the articles and his book with his PhD student (now Professor) Eirik Bjorge (articles 2, 3 and 5 in the list in box 3. 'References to the research') or with his graduate student Andreas Kravik, now Deputy Director General of the Legal Service of the Royal Norwegian Ministry of Foreign Affairs (article 1 in the list). Professor Bjorge's PhD dissertation was published as *The Evolutionary Interpretation of Treaties*, Oxford University Press 2014 (for which he was awarded the 2015 Gold Medal of the King of Norway) and his second book *Domestic Application of the ECHR. Courts as Faithful Trustees,* Oxford University Press 2015.

Two core articles from 2015 were written by all three, Andenæs, Kravik and Bjørge (articles 6 and 7 in the list).

4. Details of the impact

Strengthening of rights of immigrants through judgments in the higher courts, most importantly *Maria*, HR-2015-206-A and *Trandum*, LB-2016-8370.

The research, mainly from 2010-2015, also developed and disseminated through teaching, was the foundation for two strategic court cases. The publications were outcomes of a wider research effort with the participation of students and research fellows. Both the court cases were identified by student run legal clinics and supported by NGOs that also intervened on the side of the immigrants that Andenæs represented in the two court cases. This contributed both to the research and the advocacy before the courts, and also in the dissemination of the research outputs.

The judgments themselves have had an impact in different ways. At a critical juncture in the application of restrictive policies on immigration, the research and the court cases strengthened the rights of asylum seekers and immigrants. This includes: The way in which they developed the best interest of the child and the right to family life in the Norwegian Constitution, the UN Conventions and the European Human Rights Convention. The way in which they introduced a fuller proportionality test, gave declarations of breach of the Constitution and the human rights conventions, and in the second case also awarded compensation for non-pecuniary damages, have largely been followed.

Professor Andenas, supported by law students, selected and brought the first case on behalf of a Kenyan mother and her five year old daughter who was born in Norway. The father was a Norwegian citizen, and this allowed the Supreme Court (where another advocate took over as counsel) to give a judgment that developed the rights of the mother and child through the daughter's rights as a Norwegian citizen.

The second case was also supported by law students, and brought on behalf an Afghani family with children detained in a closed immigration camp by the airport. The Court of Appeal in the judgment held that the detention of the family, the two parents and four of their five children, violated their

rights under the Norwegian Constitution Article 93(2), *torture* , Article 94(1), *arbitrary detention*;

the European Convention on Human Rights Article 3, *torture* , Article 5(1), *arbitrary detention;* and Article 8, *family life*; and the UN Convention on the Rights of the Child. This was explicitly included in the operative part of the judgment as a declaration of the weight that this gives.

The family members were awarded compensation for non-material injury. The awards were for 'violations of rights contained in human rights conventions and/or the Constitution'.

The state did not appeal.

The practice of interning children the closed immigration camp by the airport or anywhere else in immigration cases ended. The Court of Appeal has recently in another case of egregious human rights violations awarded compensation for non-material injury, 19-027055ASD-BORG/01.

The research underpinned and made a distinct and material contribution to the impact in the way in which the publications provided an analysis that the courts could build upon. The conclusions of the research when published was relied upon in court. Beyond that, it prepared the legal argument in the way in which went further, both in making legal sources and other materials available.

As advocate in the case, Professor Andenæs could present the research outputs directly to the court. In addition other advocates and scholars/scientists have made use of the publications and materials in their research and cases.

The publications included here are from 2010 to 2015, and the judgments from 2015 and 2016. The impact continues in subsequent case law and scholarship. The participant NGOs, and other human rights NGOs, have played a major role in making use of the research and judgments. The Trandum judgment has been published as *HUSEINI v. MINISTRY OF JUSTICE AND PUBLIC SECURITY* 181 ILR 419 in *The International Law Reports* published by Cambridge University Press.

The Norwegian Bar Association intervened or appeared as *amicus curia* in *Trandum* in 2016. Also the UN President Rapporteur on Arbitrary Detention and the UN Special Rapporteur on Torture did so.

5. Sources to corroborate the impact

First the two judgments themselves:

Maria-dommen, HR-2015-206-A og. *Trandum-dommen*, LB-2016-8370. The latter is published as HUSEINI v. MINISTRY OF JUSTICE AND PUBLIC SECURITY 181 ILR 419 in International Law Reports (Cambridge University Press). https://www.jus.uio.no/ifp/english/people/aca/msandena/huseini-v-minister-of-justice-%282017%29-181-ilr-419.pdf

Here is a list of news stories and comments om *Maria* on the web site of the Norwegian Broadcasting Corporation NRK:

https://www.nrk.no/emne/maria-saken-1.11384856

The judgments have been followed by Norwegian courts (including the Supreme Court in chamber and plenary chamber judgments) in many cases.

Two human rights NGOs have followed the cases and disseminated the research and the judgments.

That also applies to the Norwegian Bar Association that intervened or appeared as *amicus curia* in *Trandum* in 2016. Also the UN President Rapporteur on Arbitrary Detention and the UN Special Rapporteur on Torture did so and have contributed to the use and further dissemination of the outcomes.

Both the judgments and the research is widely cited, see for instance Henriette Sinding Aasen, 'Grunnloven § 104 og barnets beste: Høyesterett viser vei', Tidsskrift for familierett, arverett og barnevernrettslige spørsmål 03 / 2015 (Volume 13).

Mads Andenæs har disseminated the research and judgments in his writing, including here: Mads Andenæs, "Menneskerettene", §§ 12-13 in *Knophs Oversikt over Norges rett*, 14 ed, Universitetsforlaget 2014, ISBN 9788215019925; see also 15 ed, Universitetsforlaget 2019 ISBN 9788215031934.

He and his co-autors have brought the research out to a wider research community, see for instance

Andenæs, Mads, & Bjørge, Eirik 'The External Effects of National ECHR Judgments'. (2013) *NYU Jean Monnet Working Paper*. ISSN 1087-2221.

5.5 Research in the field of equality and anti-discrimination law: Impact on legislation, case law and administrative practice, civil society's advocacy and legal education

Institution: University of Oslo

Name of unit of assessment: Faculty of Law

Title of case: Research in the field of equality and anti-discrimination law: Impact on legislation, case law and administrative practice, civil society's advocacy and legal education

Period when the underpinning research was undertaken:

Details of staff conducting the underpinning research from the submitting unit

Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting institution:
Anne Hellum	Professor	1987-dd
Vibeke Blaker Strand	Professor (former PhD)	2005-dd
Tone Linn Wærstad	Professor (former PhD)	2007-dd
Helga Aune	Førsteamanuensis II (former PhD)	2000-2014, 2019-dd

Period when the impact occurred: 2009-2019

The research which is referred to in this impact study was carried out through several research projects funded by the Norwegian research council, CASS and PhD scholarship and research time granted by the Faculty of Law.

1. Summary of the impact

PhDs, academic articles, hearing statements, newspaper articles and information meetings based on research on international legal obligations in the field of equality and anti- discrimination law, has in the period 2009-2019 had impact on:

Legislation.

Research in the field of equality and anti-discrimination law has contributed to the incorporation of the UN Women's Convention into the Human Rights Act in 2009, and the lifting in 2010 of the exemption granted to religious communities, which was established in the Gender Equality Act when the act was adopted in 1978. This research made imprtant contributions to the unified Equality and Anti-Discrimination Act adopted from 2017 it particularly contributed to :

- Strengthen the aim of the unified act in relation to women, minorities, and people with disabilities; the act's protection against pregnancy discrimination;

- Broaden the scope for lawful direct differential treatment;

- Establish an obligation to respect the principle of equality and non-discrimination in curriculum development and teaching;

-Uphold the duty of private and public employers' to report on measures taken to prevent discrimination and promote equality in the workplace.

In relation to the Anti-Discrimination Ombud and Tribunal Act from 2017, this research contributed to strengthen the act's enforcement system, particularly the Anti-Discrimination Tribunal's power to grant economic compensation to victims of individual discrimination.

Case law and administrative practice.

Research in this field has had an impact on the Equality and Anti-Discrimination Tribunal's interpretation of the act, particularly the relationship between the right to equality and the right to religion. It has also impacted on court practice and administrative practice.

Civil society's capacity to conduct equal rights advocacy concerning the need for stronger protection against individual and structural discrimination has been strengthened through systematic research dissemination

Legal education. The research in this field has given rise to special courses in national and international discrimination law and contributed to the Faculty's aim to integrate a gender equality perspective in all compulsory courses .

2.Underpinning research

Research on the UN Women's Convention's non-discrimination principle (CEDAW), particularly its relationship to Norwegian law, has produced legal knowledge that influenced the political decision to incorporate the Convention in the Human Rights Act in 2009. The research demonstrated the added value of the CEDAW which, unlike other international treaties that cover discrimination on the basis of sex, takes a gender specific approach. The research also identified gaps between Norwegian legislation and the CEDAW. The research in this field has continued and has, over the years, made its mark on law reform in the field of equality and anti-discrimination law (Hellum 2013).

Non-discrimination and religious practice. Research that integrates human rights standards and EU/EEA-law in the analysis of the relationship between the non-discrimination principle and religious practice in Norwegian law has led to new understanding of how to balance conflicting rights. A key contribution was Vibeke Blaker Strand's PhD thesis (Blaker Strad 2013). It offers critical perspectives to issues relating to discrimination on the basis of gender, sexual orientation, ethnicity and religious practices. The research has had impact on legislation, particularly the lifting of the exemption from the equality principle granted to religious communities. It has also led to a provision in the Equality and Anti-Discrimination Act that explicitly states that all educational institutions shall respect the principle of equality and non-discrimination in curriculum development and in teaching. The research has had impact on case law, for example the Anti-Discrimination Tribunal application of the legal standard that offers the strongest protection for minority women in cases that involve differential treatment due to the wearing of religious clothing (such as the hijab).

Research on the content and enforcement of equality and anti-discrimination legislation that focuses on the relationship between Norwegian legislation, international human rights obligations and EU/EEA law, has made its mark on the unified Equality and Anti-Discrimination Act and the Discrimination Ombud Act from 2017 with revisions in 2019. This research draws attention to conflicts and tensions between the aim to adopt unified and simplified legal standards across the four non-discrimination laws that were in place in 2013 and the specific interests and needs of different groups of women (Blaker Strand 2015). A related contribution is research on how to provide protection against discrimination caused by a combination of discrimination grounds, such as gender, race, ethnicity, political exclusion, and social economic class (Hellum 2016). Through analysis of the concept structural discrimination, knowledge that was relevant to set out a legislative framework and enforcement system that strengthened the duty of public authorities and private actors to take measures to prevent discrimination and promote equality, was worked out (Hellum og Blaker Strand 2016). Finally, research on the principle of effective enforcement and sanctions set out legal knowledge that was taken into consideration in the design of the new enforcement system where the

Discrimination Tribunal was granted power to grant compensation to victims of discrimination.

Research addressing specific areas of anti-discrimination law has produced legal knowledge that:

-Contributed to stronger protection against direct discrimination of pregnant women (Blaker Strand 2015) ;

- Led to stronger protection against indirect discrimination of women working part time (Aune 2013);

- Led to change in administrative practice and guidelins in divorce cases concerning talaq divorce of muslim women (Wærstad 2020).

3. References to the research (indicative maximum of six references)

-Aune, Helga (2013). *Deltidsarbeid. Vern mot diskriminering på strukturelt og individuelt grunnlag*. Cappelen Damm Akademisk. (PhD)

- Hellum, Anne & Aasen, Henriette Sinding (ed.) (2013). *Women's Human Rights: CEDAW in International, Regional and National Law*. Anne Hellum "CEDAW in Norwegian Law". Cambridge University Press.

- Hellum, Anne & Strand, Vibeke Blaker (2017). Solberg-regjeringens forslag til reformer på diskrimineringsfeltet: Uniformering, individualisering, privatisering og avrettsliggjøring. *Kritisk juss*. ISSN 0804-7375. *53*(1), s 4- 34

- Strand, Vibeke Blaker (2012). *Diskrimineringsvern og religionsutøvelse. Hvor langt rekker individvernet?*. Gyldendal Juridisk (PhD)

- Strand, Vibeke Blaker (2015). Forenklingsjuss – en trussel mot individers vern mot kjønnsdiskriminering?. *Lov og Rett*. *54*(8), s 449- 470

-Wærstad, Tone Linn: "Harmonising Human Rights Law and Private International Law through the Ordre Public Reservation: the example of the Norwegian Regulation of the Recognition of Foreign Divorces", Oslo Law Review, 2016, Issue 1, 51-71.

4.Details of the impact

Impact on legislation.

The research on **CEDAW's status in national law got an impact through** dissemination of academic articles, hearing statements to the Ministry of justice, newspaper articles and public seminar targeting women's organizations, civil society organizations, gender researchers, the Gender Equality Ombud, relevant ministries and lawmakers. Information about these events are found here:

- Information meeting for the women's rights organizations on incoropration of CEDAW in Norwegian law was arranged by the Institute of Women's law and the Norwegian WOmen's Rights Organization: https://kvinnesak.no/2008/12/norge-i-uttakt-med-fns-kvinnekonvensjon/

- Hearing statement from Avdeling for kvinnerett ved professor Anne Hellum, 7 januar 2008 til Justisdepartementes forslag til lov om endringar i menneskerettsloven mv. (inkorporering av kvinnediskrimineringskonvensjonen https://www.jus.uio.no/ior/forskning/omrader/kvinnerett/evalueringer_utredninger_horingsuttalelser/dokumenter/H%C3%B8ringsutt_AFK_070108.pdf

The research on **non-discrimination and religious practice** was used to provide expert advice to lawmakers, hearing statements to law proposals, newspaper articles and seminars where research results were disseminated to civil society, gender researchers, relevant ministries. Key initiatives:

- Hellum, Anne; Strand, Vibeke Blaker: "Høringsuttalelse fra Avdeling for kvinnerett til NOU 2008:1 Kvinner og homofile i trossamfunn" Tidsskrift for kjønnsforskning s. 40-48, 2008 (2)

- Vibeke Blaker Strand, Unntaksbestemmelse for religion i likestillingsloven. Utrednings oppdrag for Avdeling for kvinnerett, Skrevet på oppdrag av Barne- og likestillingsdepartementet, 22. januar 2009. Kvinnerettslig skriftserie nr. 82, https://www.jus.uio.no/ior/forskning/omrader/kvinnerett/publikasjoner/skriftserien/80_Strand.htm

- Tone Linn Wærstad was, in the light of her work, invited to several meetings with authorities where the research was presented and ways to improve procedures in divorce cases concerning muslim women undergoing tallaq divorce were discussed. In 2020 a new circular, Rundskriv Q-19/2020 that provides updated guidelines that better ensure women's equal rights in the procedure of recognition of foreign divorces in Norway

The impact of research on **equality and anti-discrimination legislation** was achieved through systematic dissemination of research results by channels like public seminars, interviews and articles in newspapers and hearing statements to the different actors participating in the law-making process. Some important initiatives were:

- Hearing statement to NOU 2009:14 –A unified discrimination act, from the Institute of Women's Law by Anne Hellum and Vibeke Blaker Strand

- Input to Stortingets Family and Culture Committe from Anne Hellum og professor Vibeke Blaker Strand, on Prop. 81 L (2016-2017) Likestillings- og diskrimineringsloven

- Hearing statement on the White Paper «Styrking av aktivitets- og redegjørelsesplikten på likestillingsområdet» of 4 July 2019 from Anne Hellum and Vibeke Blaker Strand.

Impact on civils society advocacy

Hellum and Blaker Strands research (2016) was key in communication with civil society about the ongoing discrimination law reform.

-The article was presented at KILDEN: http://kjonnsforskning.no/nb/2017/05/jussprofessor-kritiserer-forslag

- The article was launched at a seminar arranged by Rettspolitisk forening 22. mars 2017: Debatt om reform av diskrimineringslovgivningen og medlemsmøte | Facebook

- The article constituted the basis for information and debates meetings arranged by Norges kvinnelobby 31. mai 2017 https://www.jus.uio.no/forskning/omrader/verdi/arrangementer/2017/likestillings-og-diskrimineringslov.html

- The article was also starting point for information kvinnelobby om effective enforement of the equality act, particularly case concerning sexual harassment 6 mars 2018. https://www.jus.uio.no/forskning/omrader/verdi/arrangementer/2018/20180306-forbud-seksuell-trakassering.html

Impact on legal education

The research on equality and anti-discrimination law has been used to build up and update special coursers and to mainstream gender and equality perspective in mandatory legal course at the Faculty of law. This use of the research is documentet in the Faculty web page on Kjønn og rett I juss- studiet

(gender and law in legal education), particualrly in Anne Hellum and Ingunn Ikdahl's guidance https://www.jus.uio.no/om/kjonnsperspektiver/forslag.html

5.Sources to corroborate the impact

Impact on legislation

-Incorporation of CEDAW in the Human Rights Act, references to høringsuttalelse fra Avdeling for kvinnerett ved Anne Hellum **in** 2008–2009 Ot.prp. nr. 93 21 Om lov om endringar i menneskerettsloven mv. (inkorporering av kvinnediskrimineringskonvensjonen) s.20,21.

-Equality and anti-discrimination law

- In Prop. 81 L (2016-2017) Likestillings og diskrimineringsloven:

***Blaker Strand (2015)* is quoted in** punkt 14.9.3 s. 128 and Punkt 16.9.1 s. 156-157.

Hearing statement from the Institute of Women's Law by Hellum and Blaker Strand is quoted in punkt 7 (unified act) p. 7; punkt 8 (aim of the act) p.55; punk 9 (scope of the act). P.65; punkt 16 (pregnancy at p.155; 22 (proactive duties)p.238.

Hearingstatsment from the Institute of Women's Law by Hellu and Blaker Strand is quoted

- In Prop. 81 L (2016-2017) diskrimineringsombudsloven:

Hearing statement from the Institute of Women's Law by Hellum and Blaker Strand is quoted in punkt 6 (a new ombud) p.25; punkt 7 (a new enforcement system) p. 39, 50, 53

- In Prop. 63 L (2018) Endringer I diskrimineringsombudsloven og likestillings- og diskrimineringsloven.

Hearing statement from the Institute of Women's Law by Hellum and Blaker

Punkt 3 (proactive duties) p.77, 85

Impact on case law and administrative practice

-Blaker Strand's book on non-discrimination and religious practice (2013) is quoted by the Discrimination Tribunal in settlement of a series on cases concerning discrimination of persons wearing religious headscarves. These are LND-2012-30, LDN-2014-2, LDN-2014-35, LDN-2014-35 and LDN-2017-2.

-Helga Aune's book on Part time work (2013), laid the foundation for expert statement by Helge Aune and Henning Jakhelln, which was referred in the Labor Court's judgement 21. juni 2013, concerning the lower treshold for protection against discrimination of part time workers.

Impact on civil society advocacy

Civil society's use of (Hellum and Blaker Strand 2016) in the advocacy for stronger protection against discrimination is documented in *the speech from the National Union's (LO) representative in the open hearing of* Prop 80 L (2016–2017), in Stortingets Family and Culture Committee 09.05.2017 . Hellum and Blaker Strand are referred to as the national lead experts in the field followed by reference to their article in Dagbladet the same day. https://www.stortinget.no/no/Hva-skjer-pa-Stortinget/Videoarkiv/Arkiv-TV-sendinger/?mbid=%2F2017%2FH264-full%2FHoeringssal1%2F05%2F09%2FHoeringssal1-20170509-101032.mp4&msid=268&dateid=10004053

5.6 Consumer Protection in Financial Contract Law

Institution: University of Oslo

Name of unit of assessment: Faculty of Law

Title of case: Consumer Protection in Financial Contract Law

Period when the underpinning research was undertaken: 2009 -

Details of staff conducting the underpinning research from the submitting unit

Name(s):	**Role(s) (e.g. job title):**	**Period(s) employed by submitting institution:**
Marte Kjørven	Doctoral Research Fellow, Legal Advisor, Associate Professor, Professor	2009-2016 and 2017-

Period when the impact occurred: 2014-

1. Summary of the impact

Marte Kjørven's research on consumer protection in financial contract law has had a remarkable impact on this field of law in Norway. Her doctoral thesis on mis-selling of investment products to consumers, played an important role in the legal reasoning of the Supreme Court (Rt-2013-388 and HR-2020-475-A) and her research on consumer protection related to the misuse of digital identities has lead the Supreme Court to deviate from previous case-law in such cases (HR-2020-2021). Her research has also been an important source for the revised Norwegian Securities Trading Act in 2020.

2.Underpinning research

e. The nature of the scientific insights or findings which relate to the impact in the case.

Kjørven's research has focused on the role of EU finance regulation law and EU consumer protection law in Norwegian financial contract law. This has led to an increased consumer protection in both legislation and case law. The revised Securities Trading Act balances the rights and duties between the provider of financial services and the consumer. The rights of the consumer are made clearer, and so is the duties of the service provider. Kjørven could use her insights from her doctoral degree into her work as an advisor to the Ministry of Justice. Her reasoning in both her thesis, various articles and contributions to the media has resonated to the courts in their rulings on these matters even before the new legislation has entered into force.

f. An outline of what the underpinning research produced by the submitted unit was (this may relate to one or more research outputs, projects or programmes).

The Ph.D. thesis: "Ytelse av investeringstjenester til forbruker – verdipapirrettslige, kontraktsrettslige og erstatningsrettslige krav til atferd» (the (Mis)selling of Investment Products to Consumers). The articles referred in section 5 below are also results of the research. To some extent, so is the preparatory work for the revised financial contracts act (Prop. 92 LS (2019-2020)

g. Any relevant key contextual information about this area of research.

Protection of consumers in financial contracts is very important for the public. Every citizen is dependent on lending, saving and using remedies as digital identification that are provided by the finance sector.

3. References to the research (indicative maximum of six references)

h. Kjørven, Marte Eidsand (2020). Who Pays When Things Go Wrong? Online Financial Fraud and Consumer Protection in Scandinavia and Europe. European Business Law Review. ISSN 0959-6941. 31(1), s 77- 110

i. Kjørven, Marte Eidsand (2019). Closet Index Funds and Retail Investor Protection – A Scandinavian Perspective. Tilburg Law Review. ISSN 2211-0046. 24(1), s 125- 138 . doi: https://tilburglawreview.com/articles/10.5334/tilr.141/ Full text in Research Archive.

j. Kjørven, Marte Eidsand.

k. Ytelse av investeringstjenester til forbruker: verdipapirrettslige, kontraktsrettslige og erstatningsrettslige krav til atferd. Universitetsforlaget 2017 (ISBN 978-82-15-02833-0) 300 p.

l. Kjørven, Marte Eidsand (2012). Anvendelse av avtaleloven § 36 ved salg av finansielle instrumenter til forbruker - kommentar til Rt. 2012 s. 355 (Lognvik-saken). Lov og Rett. ISSN 0024-6980. (7), s 387- 406

m. Kjørven, Marte Eidsand.

n. Det privatrettslige forbrukervernet på finansområdet. 40. Nordiske Juristmøte; 2014-08-21 - 2014-08-22

4.Details of the impact

Marte Kjørven's research on consumer protection in financial contract law has had an impact both during her research period and after. There has been an interesting interaction between research, partaking in the debate in the media and legislative work in the Ministry of Justice.

The research on mis-selling on investment products to consumers had impact on case law both during the research period and after the research was carried out. Her thoughts were given considerable weight both in the Supreme Court judgment referred in Rt-2013-388, and in the later Supreme Court judgment referred to as HR-2020-475-A (see links below in 5). Kjørven takes part in the international discussion on these issues, as is shown by the references to her article below in 5). The consumer protection aspects and the stricter liabilities for providers of financial services are shown in the revised financial contracts act. There are several references to Kjørven's works in the preparatory works (Prop. 92 LS (2019–2020).

Kjørven's main focus during the last years of research is on misuse of digital identities. She has written several opinions in newspapers related to this question. Previous case-law has been very strict towards consumers whose digital identities has been misused. The have often been held liable to pay back loans that is the result of misuse of their digital identities. Recent case-law has taken on Kjørven's approach. The Norwegian Supreme Court's judgment on March 22. 2020 took a more consumer friendly approach, in line with the guidelines suggested by Kjørven. In 2020 Kjørven, in collaboration with other colleagues from the University of Oslo, NTNU and the University of Tartu (Estland) was rewarded a large amount from the Norwegian Research Council to a project on societal security and digital identities.

5.Sources to corroborate the impact

Prop. 92 LS (2019-2020) Lov om finansavtaler (finansavtaleloven) og samtykke til godkjennelse av EØS-komiteens beslutninger nr. 125/2019 og 130/2019 av 8. mai 2019 om innlemmelse i EØS-avtalen av direktiv 2014/17/EU om kredittavtaler for forbrukere i forbindelse med fast eiendom til boligformål (boliglåndirektivet) og delegert kommisjonsforordning (EU) nr. 1125/2014: https://www.regjeringen.no/no/dokumenter/prop.-92-ls-20192020/id2700119/

Marte Kjørven, "Closet Index Funds and Retail Investor Protection – A Scandinavian Perspective", Tilburg Law Review: https://tilburglawreview.com/articles/10.5334/tilr.141/

Marte Kjørven: "Who Pays When Things Go Wrong? Online Financial Fraud and Consumer Protection in Scandinavia and Europe", European Business Law Review https://kluwerlawonline.com/journalarticle/European+Business+Law+Review/31.1/EULR2020004

Høyesteretts dom 22. October 2020 HR-2020-2021-A: https://www.domstol.no/Enkelt-domstol/hoyesterett/avgjorelser/2020/hoyesterett-sivil/hr-2020-2021-a/

Høyesteretts dom 22. March 2013 HR-2013-00642-S: https://www.domstol.no/Enkelt-domstol/hoyesterett/avgjorelser/2013/hoyesterett-sivil/Gyldigherten-av-avtaler-om-kjop-av-sakalte-strukturerte-spareprodukter/

Marte Kjørven, «Hvis fondsforvaltning hadde vært en pølse», Aftenposten, 5. februar 2018 https://www.aftenposten.no/meninger/debatt/i/yv4R9a/hvis-fondsforvaltning-hadde-vaert-en-poelse-marte-eidsand-kjoerven

Høyesteretts dom 27. February 2020 HR-2020-474-A: https://www.domstol.no/Enkelt-domstol/hoyesterett/avgjorelser/2020/hoyesterett-sivil/hr-2020-475-a/

5.7 Personalized medicine and legal regulation

Institution: University of Oslo

Name of unit of assessment: Faculty of Law

Title of case: Personalized medicine and legal regulation

Period when the underpinning research was undertaken: 2014-2019

Details of staff conducting the underpinning research from the submitting unit

Name(s):	**Role(s) (e.g. job title):**	**Period(s) employed by submitting institution:**
Anne Kjersti Befring	Associate professor	1. Oktober 2014- (as PhD student and frome decesmber 2019, associate professor)

Period when the impact occurred:

2014-2020.

1. Summary of the impact

Befring defended a PhD dissertation on Personalized medicine and legal regulation, in 2019, published as a book later that year. The book is an original contribution to health law in analyzing the legal implications and consequences of the possibilities of personalized medicine applying big data and genetic testing. The book has contributed to several legislative changes, by Stortinget in 2019, which have reduced the barriers of offering personalized medicine to a larger number of persons, cfr ch.6 -8 in the book. The definition of predictive genetic testing was changed to adapt to the new possibilities for more effective medical treatment. Medical authorities have started an evaluation of new medical methods, as analyzed in ch. 11. This publication is an example of comprehensive cooperation between medical and legal research.

2. **Underpinning research**

Befring has led a work group under two large interdisciplinary (medical/legal/ethical) research projects: IKTPluss and BigMed, on the legal and ethical themes. She has proven new approaches to a complex judicial source situation, new content in key legal concepts, and how duties and rights can be derived when modern medical methods are used in the health service. The medical researchers and PIs of these projects have heavily emphasized the importance of the legal parts of these projects. Befring has through the mentioned publications, «Persontilpasset medisin» and articles in «Kunstig intelligens og Big data», contributed to identifying new legal problems and dynamics related to the implementation of new technology and knowledge. The potentials of genetic mapping and artificial intelligence have been described as a revolution of medical treatment. Befring has shown how new technologies have led to paradigmatic changes in law. In the two publications central concepts in health law and legislation are discussed on the background of the new possibilities and risks which result from new technologies. The factual descriptions of the new technologies, the historical evolution of medical technologies, values and conflicts is an important background for the analysis of new forms and concepts of health law. In «Persontilpasset medisin» there is a systematic analysis of the new problems of health law based on the problems which emerge in a patient-based case. Crucial here is the overlapping between medical research projects and their experiments and regular medical treatment. An increasing number of patients are also part of research projects with new medical treatment. The result is a large number of new legal questions concerning the protection of the integrity of patients and the legal responsibility for the treatment and the need for ongoing information to patients. Genetic mapping and testing can be both a great opportunity for more effective treatment and a considerable risk of breach in

patient and health data integrity. Such mapping may involve more persons than the patient which is actually treated due to common genetics. There are implications in this for when the right to health treatment incurs, the right to information and to protect yourself against information, and how genetic material and data may be applied in various situations.

Seminars have been organized every half-year with health lawyers in public agencies, academic institutions, health industry, university hospitals, patient organisations, law firms and others to discuss the many new legal questions arising on the background of new medical technologies and their applications through contributions by medical researchers. At the final conference of the Big Med project organized in collaboration with the Norwegian Research Council, the legal research was presented as one of the most innovative and vital results from the project. The legal research has led to changes in the implementation of complex medical technologies through nuanced discussions on the combinations of medical ethics, rights of patient integrity, the right to health and knowledge of the medical technologies. The work in Big Med has led to a greater understanding by the medical research environments of the importance of legal research contributions and to increased interaction among legal and medical research environments and medical authorities. The work has also led to several amendments to existing health legislation. Befring initiated a new Nordic network of researchers on the background of the two conferences held by the Big Med project in 2018 and 2019. An anthology on "Artificial intelligence and Big Data in the health sector" has been published on the basis of the two conferences and is used by both lawyers and medical personnel.

3. References to the research

1. Befring: Persontilpasset medisin som helsehjelp etter pasient- og brukerrettighetsloven. *Lov og Rett* 2020. Volum 59.(10) s. 583-601.

2. Befring: Kunstig intelligens og rettslige perspektiver p. 50-176. I: Befring og Sand (red) *Kunstig intelligens og big data i helsesektoren, rettslige perspektiver*. Gyldendal Norsk Forlag A/S 2020 ISBN 9788205531963.

3. Befring: Samtykkets faktiske og rettslige begrensninger. I: *Kunstig intelligens og big data i helsesektoren, rettslige perspektiver*. Gyldendal Norsk Forlag A/S 2020 ISBN 9788205531963. s. 475-538

4. Befring: Norwegian Biobanks: Increased Complexity with GDPR and National Law. I: *GDPR and Biobanking Book Subtitle Individual Rights, Public Interest and Research Regulation across Europe*. Sveits: Springer International Publishing 2020 ISBN 978-3-030-49387-.

5. Befring/Bakken: Overgangen fra personopplysninger til genetisk kunnskap. I: *Kunstig intelligens og big data i helsesektoren, rettslige perspektiver*. Gyldendal Norsk Forlag A/S 2020 ISBN 9788205531963. s. 303-341

4. Details of the impact

The research has resulted in new legislation relevant for the use of personalized medicine and a new understanding of the advantages and the risks of the application of new technologies.

Changes to the Biotechnology Act, LOV-2020-06-19-78.Prop.34 L (2019–2020), Innst.296 L (2019–2020), Lovvedtak 104 (2019–2020).

Changes to the Health Workers Act, LOV-2020-12-04-134, Prop.59 L (2019–2020), Innst.75 L (2020–2021), Lovvedtak 18 (2020–2021).

Consultation proposal for amendments to the Health Workers Act and Patientjournal Act: https://www.regjeringen.no/no/dokumenter/bruk-av-helseopplysninger-for-a-lette-samarbeid-laring-og-bruk-av-kunstig-intelligens/id2740599/ Høring: Bruk av helseopplysninger for å lette samarbeid, læring og bruk av kunstig intelligens i helse- og omsorgstjenesten. Etablering av behandlingsrettet helseregister med tolkede genetiske varianter.

The need for new legislation is discussed in several chapters in the monography. The most important is the proposal for changes in the law on biotechnology (chapters 6-8). Legislative changes were enacted in 2019-2020 on the law on biotechnologyv §§ 5-1 flw., including changes in the definition of predictive genetic analysis, changes in the requirements for information, and in regulations concerning research. The changes referred to meant that vital barriers to the use of personalized medicine in the treatment of cancer and rare diseases, were removed. There is now also a proposal for a new form of registration of health data and diagnostics.

The system for accepting new forms of medical treatment has been complex and has led to unequal access to medical treatment. This is described in ch.11 in the book. A new system of registration of «new medical treatments» has been started in 2019, with a reference in the law on specialized health treatment.

There have been several seminars analyzing the consequences of GDPR in connection with the biomedical convention, patients rights directive and national legislation. This is also discussed in "Persontilpasset medisin», but without a final assessment. Several students' master theses have been written on related themes, with Befring as supervisor. Among these themes is the right and the duty to publish research results from clinical trials. This theme is mentioned in chap. 2 of the book.

The research is now continued in a new project on personalized medicine in cancer treatment (Impress/Insight) and where the Faculty of Law and Befring are participating in close collaboration with medical research environments.

The anthology referred to above is a result of interdisciplinary cooperation in the research groups referred to above, IKTpluss (2015-2018) and BigMed (2017-2020), where Befring led workinggroups on law and ethics.

Befring has organized six seminars (2016-2020) and two Nordic conferences. The anthology «Kunstig intelligens og Big data i helsesektoren» is a result of the Nordic Conference in 2018. In 2019 another Nordic conference on personalized medicine and AI was organized. Through this cooperation close contacts and networks were established among different research environments and between academia, health authorities and several other actors.

Befring initiated a new legal research network: Nordic PerMed Law. This was established in May 2020. https://www.nordicpermedlaw.org/ Befring is the chair of the board. The goal is to develop Nordic research cooperation and arenas for discussion.

5. Sources to corroborate the impact

5.8 Covid-19 emergency law

Institution: University of Oslo

Name of unit of assessment: Faculty of Law

Title of case: Covid-19 emergency law

Period when the underpinning research was undertaken: 2014-2020

Details of staff conducting the underpinning research from the submitting unit

Name(s):	**Role(s) (e.g. job title):**	**Period(s) employed by submitting institution:**
Hans Petter Graver	Professor	1993 to present

Period when the impact occurred: 2020

1. Summary of the impact

The research contributed to strengthening the rule of law aspect of the proposed Covid 19 emergency law by underlining the nature of emergency legislation, the dangers to Democracy and the Rule of law and the importance of parliamentary and judicial control. Presentation of the concerns contributed to a turn in the parliamentary processing of the bill, and Graver was invited to contribute comments to parliament.

2. Underpinning research

The research examines how rulers seek judicial compliance with authoritarian measures, how judges react to such measures, and the conditions under which an independent judiciary breaks down. It explores how the conditions of an independent judiciary differ in countries with different legal traditions by surveying differences in the fascist and communist approaches to law. Based on a historical comparison of different European countries, it explores whether variances between different countries can be can be explained by differences in the long historical traditions of their legal institutions. The project is multidisciplinary in the intersection between law, legal theory, legal history and sociology of law.

It has been undertaken by Hans Petter Graver through extensive studies on the judicial institutions in Western Europe and Western legal systems in the twentieth century. From 2019 it has been financed by FRIPRO-funding from the Research Council of Norway and the University of Oslo as a "Toppforsk" project under the title Judges under Stress JuS - the Breaking Point of Judicial Institutions, and has involved a larger group of researchers.

3. References to the research (indicative maximum of six references)

Hans Petter Graver (2019). Law and the Russian Revolution: A Comparison with the Nazi Approach to Law, In Alla Pozdnakova (ed.), Russian Revolutions of 1917: Scandinavian Perspectives. Wildy, Simmons and Hill Publishing. ISBN 9780854902750. kapittel. s 90 – 108

Hans Petter Graver (2019). National Socialism and the Law in Norway Under German Occupation, 1940 – 1945, In stephen skinner (ed.), Ideology and Criminal Law Fascist, National Socialist and Authoritarian Regimes. Hart Publishing Ltd. ISBN 9781509910823. Kapittel 9. s 187 – 205

Graver, Hans Petter (2019). Der Krieg der Richter Die Deutsche Besetzung 1940-1945 und der norwegische Rechtsstaat. Nomos (ISBN 978-3-8487-5475-5) 338 s.

Hans Petter Graver (2018). Judicial Independence Under Authoritarian Rule: An Institutional Approach to the Legal Tradition of the West. Hague Journal on the Rule of Law. ISSN 1876-4045. 10, s 317- 339 DOI: 10.1007/s40803-018-0071-8

Hans Petter Graver (2018). Why Adolf Hitler Spared the Judges: Judicial Opposition Against the Nazi State. German Law Journal. ISSN 2071-8322. 19, s 845- 877 DOI: 10.1017/s2071832200022896

Graver, Hans Petter (2015) Judges Against Justice On Judges When the Rule of Law is Under Attack. Springer (ISBN 978-3-662-44292-0) 301 s.

4. Details of the impact

The research on judicial institutions under authoritarian attack has given unique insight into dangers and vulnerabilities of institutions of democracy and law and a credibility to the researcher in voicing concerns. This has enabled Graver to have a strong and principled voice during the pandemic, and has resulted in the book Pandemi og unntakstilstand Hva Covid-19 sier om den norske rettsstaten, Dreyer 2020, which explicitly draws the connections between the results of the research and the present challenges.

The nature of the impact can be seen directly in the revised bill and the Covid 19 emergency law and in other proposals made by the government, among others in the bill on quarantine restrictions. The beneficiaries have been the Parliament, the government and the Norwegian society at large. The impacts occurred from March 2020 until the present.

5. Sources to corroborate the impact

Hans Petter Graver er årets vinner av Akademikerprisen - Akademikerne

UiOs formidlingspris til Hans Petter Graver - Det juridiske fakultet

5.9 The H2020-funded project Sustainable Market Actors for Responsible Trade (SMART)

Institution: University of Oslo		
Name of unit of assessment: Faculty of Law		
Title of case: The H2020-funded project Sustainable Market Actors for Responsible Trade (SMART)		
Period when the underpinning research was undertaken: The project period of 1 March 2016 to 29 February 2020, with follow-up further into 2020		
Details of staff conducting the underpinning research from the submitting unit		
Name(s): Beate Sjåfjell (and SMART team, including several colleagues at the Department of Private Law)	**Role(s) (e.g. job title):** Professor and coordinator of the SMART Project	**Period(s) employed by submitting institution:** whole period
Period when the impact occurred: In the SMART Project period, especially from the autumn of 2018 onwards and reflected further in SMART legacy plans (2020 onwards).		

1. Summary of the impact

SMART has produced innovative results showing how a research-based concept of sustainability can be integrated in business and finance, in law and in practice, in governance, management, sustainability assessment and sustainability due diligence. SMART's concrete reform proposals on company law and corporate governance, on circular economy and product regulation, and on sustainable finance, have had and are still having impact on regulatory processes in the EU. Circular economy research is also having direct impact through collaboration with Oslo municipality. SMART's concrete proposals on how to integrate sustainability better into governance of business and finance have direct impact on processes in business, including in a SMART legacy pilot project with a major Norwegian bank.

2. Underpinning research

The SMART Project had at its aim to secure market actors' contribution to achieving the SDGs and more broadly sustainability. Through the interdisciplinary research to which the broad SMART research team of over 70 researchers contribute, we developed further the concept of sustainability, defined as securing social foundations for humanity now and for the future within planetary boundaries (the limits of our planet).

With this backdrop, a first important step in SMART was to undertake a comprehensive analysis of the state of art on market actors' contribution to sustainability. Concentrating on the global value chains of products sold in Europe, our analysis bring together the results of research done on the level of international law and policy, on the EU level, and the level of selected Member States. We complemented our regulatory analysis with bottom-up studies of the life cycles of textiles and mobiles, identifying a variety of factors that keep production and consumption of products on a linear and unsustainable course.

We identified the barriers, gap and incoherencies in the regulatory frameworks that keep market actors form making more sustainable decisions. We also identified possibilities that need to be enhanced if we collectively are to move towards sustainability.

Drawing on our comprehensive and multilevel analysis, we translated this concept of sustainability into innovative proposals for legal and policy reforms, to realise the potential of European business for creating sustainable value. SMART results engage with EU policies concerning sustainability, including the EU Green Deal, with proposals for how to strengthen and improve the

EU's initiatives. We show how the EU's Sustainable Finance Initiative can be broadened and strengthened, to shift finance to sustainable projects and businesses. We support the Circular Economy Action Plan through providing further direction for how sustainability can be fully integrated into the production and consumption of products in Europe.

3. References to the research (indicative maximum of six references)

A small selection amongst the around 100 publications, research reports and working papers from the SMART project:

Sjåfjell, Beate, 'How Company Law has Failed Human Rights – and What to Do About It', *Business and Human Rights Journal*, Volume 5 , Issue 2 , July 2020 , pp. 179 - 199, https://doi.org/10.1017/bhj.2020.9.

Hanna Ahlström (2019): Policy Hotspots for Sustainability: Changes in the EU Regulation of Sustainable Business and Finance. Sustainability, volume 11, issue 2. Available online (open access).

Clair Gammage and Tonia Novitz (eds.) (2019): Sustainable Trade, Investment and Finance : Toward Responsible and Coherent Regulatory Frameworks. Edward Elgar Publishing.

Sjåfjell, Beate and Christopher M. Bruner (eds), *Cambridge Handbook of Corporate Law, Corporate Governance and Sustainability* (Cambridge University Press, 2019)

Mark B. Taylor and Maja van der Velden (2019): Resistance to Regulation: Failing Sustainability in Product Lifecycles, Sustainability 2019, 11(22), Special Issue *Corporate Sustainability Reforms: Securing Market Actors' Contribution to Global Sustainability*

María Jesús Muñoz-Torres, María Ángeles Fernández-Izquierdo, Juana M. Rivera-Lirio, Idoya Ferrero-Ferrero, Elena Escrig-Olmedo, José Vicente Gisbert-Navarro and María Chiara Marullo (2018): 'An Assessment Tool to Integrate Sustainability Principles into the Global Supply Chain', Sustainability, Volume 10, issue 2, pp. 535 - 555. Available online (open access).

4. Details of the impact

This section outlines SMART's impacts across the project period and notably in the last phases of the project, from the autumn of 2018 onwards and reflected further in SMART legacy plans (2020 onwards).

SMART'S CONCRETE IMPACT ACHIEVEMENTS:

a. **A broad set of reform proposals**, engaging with crucial aspects of the regulation of market actors. Through our dialogue with policy-makers in the EU and nationally, we see that we are influencing policy processes in a number of areas. Our work is significant for Commission Directorates-General and members of the European Parliament and in the policy work of our other stakeholders, as the letters of support indicate.
b. **Concrete proposals for how business can integrate sustainability** into their operations and activities, including sustainability assessments across their global value chains. As several letters show, our results are being taken up by industry.
c. **Providing avenues for stakeholders**: our results are influencing the strategies also of other stakeholders, as e.g. the letters from the European Trade Union Confederation and Future in Our Hands show.
d. **New research projects**, e.g. Futuring Sustainable Nordic Business Models (University of Oslo), implementing and developing SMART results, facilitating further collaboration with stakeholders as called for by several support letters.

e. The women leaders of the gender-balanced SMART Project team, **showcase leading women scholars** in traditionally male-dominated areas.

SMART SOCIETAL IMPACTS:

a. **Identifying necessary changes to integrate sustainability into the regulatory framework of the market actors.** Based on a comprehensive, multilevel and interdisciplinary analysis of this regulatory framework, SMART has identified what the transition to sustainability requires in regulation and in practice, for business, finance, consumers, and the public sector in its roles as market actor.
b. **Improving governance, management and assessment for sustainability in business and finance.** SMART has produced innovative results showing how our evidence-based concept of sustainability can be integrated in business and finance, in law and in practice, in governance, management, sustainability assessment and sustainability due diligence.
c. **Facilitating coherence in research and practice.** Through our comprehensive, multilevel and interdisciplinary research, we have demonstrated how sustainability, properly defined, can provide the basis for evidence-based approaches to research, policy development and business practice.
d. **Contributing to the societal transition to sustainability.** We have contributed to the European discourse of what sustainability entails for society and thereby to the building blocks of society's transition to sustainability.

STAKEHOLDER ENGAGEMENT AND REFLECTION OF IMPACT:

a. Policy engagement: SMART has throughout the project maintained a constructive dialogue with end-users in the European Commission, in the European Parliament, as well as with policy-makers in Member States. This has been combined with an active industry dialogue and broader stakeholder engagement. Through communication involving social media, publications, events and consultations, we have discussed the reform proposals in draft form in various rounds with policy-makers and the industry, and other interested stakeholders including NGOs and trade unions. This engagement facilitates the uptake of the results through a perception of ownership to the results, with policy-makers, businesses and relevant organisations seeing the relevance for their own work, as several of the support letters illustrate.

b. Industry engagement: SMART has had a very active engagement with industry through its Business and Investor Forums, and by organising, presenting and participating in various other events and forums. SMART events included workshops with co-production of knowledge, identifying what needs to be in place for academic results to be taken up and implemented by industry. Together, we have identified obstacles and possibilities, creating concrete avenues for implementation of sustainability in business and finance. Creating trust between scholars and users in industry has facilitated the uptake of our results by practitioners, as is evidenced by the several industry letters of support.

c. Bridging academia and practice: Through over 70 events throughout our project period, we have consolidated the position of the research group in Oslo, hosting SMART, as a hub for sustainability-oriented research. Our activities have stimulated new projects and directions in research, and contributed to bridging the gap between academia and practice, as illustrated by letters e.g. from Accountancy Europe, Share Action, Finance Norway, NovoNordisk, and Houdini.

d. Broad stakeholder engagement: Through our active outreach and engagement with a broad range of stakeholders, we have communicated our evidence-based concept of sustainability, highlighting the significance of integration of sustainability throughout society. Through social media, open events, and participating in discussions in various public forums, we have reached trade unions, NGOs and individuals, and given them a better basis for understanding what sustainability entails and how they can contribute to achieving sustainability. This is illustrated e.g. by the letter from Future in Our Hands.

5. Sources to corroborate the impact

SMART work is referenced in, for example, EU and UN reports. We also include around 30 letters of support for the impact of the SMART project, submitted for a Horizon Impact Award of the European Commission. The proposal was unsuccessful but the letters nevertheless speak strongly to the impact of SMART.

5.10 Data Protection Law and Competition Law

Institution: University of Oslo

Name of unit of assessment: Faculty of Law

Title of case: Data Protection Law and Competition Law

Period when the underpinning research was undertaken: 2017

Details of staff conducting the underpinning research from the submitting unit

Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting institution:
Samson Esayas	Doctoral Research Fellow	2013-2019

Period when the impact occurred:
2017-2018

1. Summary of the impact

The described research has had an impact on public policy, in particular it has provided a better understanding of the challenges for data protection law resulting from technological developments associated with "Big Data" and the potential solutions to address such challenges. An article addressing these issues was voted as one of the top ten papers in the 2017 Annual Privacy Papers for Policymakers Award that recognizes "leading privacy scholarship that is relevant to policymakers in the U.S. Congress, at U.S. federal agencies, and for data protection authorities abroad." The author was invited to the U.S. Senate in connection with the award.

2. Underpinning research (indicative maximum 500 words)

Samson Esayas conducted the research as part of his Ph.D. project on the interface between data protection law and competition law resulting from the commercialization of personal data and Big Data practices. His research was supervised by Lee A. Bygrave and Inger Berg Ørstavik. The impact is linked to a journal article addressing the challenges for the application of data privacy rules resulting from the increasing monetization of personal information. The article looks into the business models of companies such as Google and Facebook, particularly the tendencies to collect data through a multitude of services and to aggregate such data, and the difficulties of applying the current EU data protection rules to the data-processing practices of such firms.

While legal academic discourse on data protection has generated considerable scholarly literature, it tends to have a micro-level focus, primarily highlighting the challenges of Big Data in light of specific data protection principles, the effectiveness of consent and notice and the rights of individuals against automated decisions. As opposed to such an approach the article adopts a macro-level view that focuses on identifying the changes in data processing that result from commercialization of personal data and Big Data practices and analysing how these changes impact the underlining assumptions behind EU data protection rules. In this regard, the work identifies two changes which stem from the commercialisation of personal data—namely, the tendency to process personal data for a panoply of purposes and, secondly, to aggregate data across these processing activities. The changes give rise to two macro-level challenges in the application of data protection rules. The first is institutional and relates to the challenge in applying the current EU rules as companies start to collect and combine data across a multitude of services – i.e. a scaling problem. This institutional challenge gives rise to another and more substantive challenge related with emergent behaviour (risks). This relates to the inadequacy of the current rules to address privacy risks that emerge when entities collect data through a multitude of services and aggregate data across such services. Both challenges are attributable to the atomised approach to the application of the rules, namely the reliance on

identifying and isolating the individual processing operation based on a specific purpose and distinct legal basis and attributing the data to the individual processing operation. In light of these challenges, the work underscores the need for a holistic approach that looks at imposing enhanced responsibilities on certain entities, considering the totality of their processing activities and data-aggregation practices. The holistic approach is akin to the regulation under competition law where companies with a monopoly or dominant position are subject to special responsibilities.

3. References to the research (indicative maximum of six references)

o. author(s): Samson Esayas

p. title: "The Idea of 'Emergent Properties' in Data Privacy: Towards a Holistic Approach".

q. year of publication: 2017

r. journal: *International Journal of Law and Information Technology,* Vol. 25(2) https://doi.org/10.1093/ijlit/eaw015

4. Details of the impact

The author was invited to attend a meeting in the U.S. Senate with policymakers, academics, and industry privacy professionals, on 27 February 2018. The invitation was based on the above-mentioned article "The Idea of Emergent Properties in Data Privacy: Towards a Holistic Approach". The article was ranked by the Future of Privacy Forum (FPF), a U.S.-based non-profit think-tank working on privacy and data protection issues, as one of the top ten privacy papers of 2017 that are relevant for policy makers. The FPF organizes the Annual Privacy Papers for Policymakers Award that recognizes "leading privacy scholarship that is relevant to policymakers in the U.S. Congress, at U.S. federal agencies, and for data protection authorities abroad." Papers were chosen by a team of academics, advocates, and industry professionals for demonstrating "thoughtful analysis of emerging issues" and "proposing new means of analysis that could influence real-world policy". The article by Esayas received an "honorable mention" and was included in a brief on "must read" privacy scholarship for policy makers. Although the brief is directed primarily at U.S. policy makers, it typically receives attention from policy entrepreneurs around the globe. More generally, Esayas' Ph.D. research has addressed issues that are amongst the most pressing and central for regulation of the 'internet economy'. This is reflected in the recently initiated antitrust lawsuit filed by the U.S. Justice Department and 11 American states against Google – the biggest such lawsuit since the lawsuit filed against Microsoft in 1998. It is also reflected in the recent EU legislative initiatives directed at curbing "platform power" (e.g. the proposed Digital Services Act). Especially noteworthy is that some of the ideas developed by Esayas in his Ph.D. project are reflected in the antitrust litigation against Google, although his work is not directly referenced. For example, Google is accused of conspiring with competitors such as Facebook to fix the level of privacy: see https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/20201216_1%20Complaint%20(Redacted).pdf, especially para. 143). In chapter 7 of his Ph.D. thesis, Esayas presaged this line of argument by addressing the notion of privacy cartels (fixing). The idea of a cartel is traditionally intertwined with fixing prices. Yet Esayas argued that as many of the digital services are provided without monetary payment but in exchange for personal data, users' privacy could become the new arena for cartel or anticompetitive agreements. Using concrete and hypothetical examples, he showed the incentives and structural links that make it possible for companies to enter into such arrangements.

5. Sources to corroborate the impact

- https://fpf.org/blog/privacy-papers-2017-spotlight-on-the-winning-authors/

6 Appendices

6.1 Appendix A - Overview of the submitted impact cases

Institution	*Name of impact case*
BI Norwegian Business School	Financial Regulation
	Regulering av selskapers avtaler med nærstående (Related Parties Transactions)
	Hindre uønsket norsk og internasjonal skatteplanlegging
	Copyright for performing artists
	Internasjonalisering og forenkling av regnskapsretten
UiT The Arctic University of Norway	Modifying the Local Government Act
	Child law research reforming legislation, practice and education in Norway
	ECHR Protection of Property and the Norwegian Ground Lease Act
	Arctic Shipping research projects
	Distribution issues in the seafood industry
	Reform of appellate proceedings in civil cases
	Survey and recognition of land rights in the Sámi area of Finnmark – the legal clarification process
University of Agder	Review of administrative decisions
	Educational Law
	Research on Health Law
	Constitutional limits for the Deployment of Norwegian Armed Forces
University of Bergen	Liability of public authorities for breach of EU/EEA procurement law
	Criminal insanity and the law's understanding of mental disorders

	How a meta-study of empirical research on the use of lay judges influenced the repealing of the jury system in criminal cases
	The introduction of a capacity-based model in the Mental Health Care Act, i.e. the lack of decision-making capacity as a prerequisite for the use of coercion
	Compulsory confinement of alcoholics and drug addicts
	Sustainable Exploration for Mineral Resources in Norway
	The impact of research on concrete decisions by the court of appeal
University of Oslo	Standard Contracts for Offshore and Onshore Construction Projects
	Children's rights, UN Committee on the Rights of the Child
	Investigative interviewing ("KREATIV")
	Immigation judgment in the Norwegian Courts: Maria Judgment in the Norwegian Supreme Court (2015) and Trandum judgment in Borgarting Court of Appeal (2016)
	Research in the field of equality and anti-discrimination law: Impact on legislation, case law and administrative practice, civil society's advocacy and legal education
	Consumer Protection in Financial Contract Law
	Personalized medicine and legal regulation
	Covid-19 emergency law
	The H2020-funded project Sustainable Market Actors for Responsible Trade (SMART)
	Data Protection Law and Competition Law

6.2 Appendix B - Template

The societal impact of the research – impact cases

The Research Council of Norway, September 2020

Societal impact

The institution is invited to submit impact cases documenting societal impact according to the definition below:

Definition of Societal impact: an effect on, change or benefit to the economy, society, culture, public policy or services, health, the environment or quality of life, beyond academia.

Impact includes the reduction or prevention of harm, risk, cost or other negative effects.

Academic impacts on research or the advancement of academic knowledge are excluded. Impacts on students, teaching or other activities both within and/or beyond the submitting institution are included.

Impact includes, but is not limited to, an effect on, change or benefit to:

- the activity, attitude, awareness, behaviour, capacity, opportunity, performance, policy, practice, process or understanding
- of an audience, beneficiary, community, constituency, organisation or individuals
- in any geographic location whether locally, regionally, nationally or internationally.

How to report impact-cases?

Use the template on the next page to report the impact. Please copy the form for the submission of more than one impact case, so that only one case is reported per form. Each completed case study template will be limited to **five pages** in length. Each case-study should be clearly named (name of institution, name of case), and submitted as a Word document.

Each case study should include sufficiently clear and detailed information to enable the committee to make judgements exclusively based on the information in the template. References to other sources of information will be used for verification purposes only, not as a means for the committee to gather further information to inform judgements.

The impact cases will be published in the form they are submitted to the evaluation by the participating institutions, with two exceptions: 1) Supporting materials of a private character, such as the inclusion of personal statements, will be omitted. 2) Names and contact information for external references will be left out.

Template for Impact case

Institution:		
Name of unit of assessment:		
Title of case:		
Period when the underpinning research was undertaken:		
Details of staff conducting the underpinning research from the submitting unit		
Name(s):	**Role(s) (e.g. job title):**	**Period(s) employed by submitting institution:**
Period when the impact occurred:		

1. Summary of the impact (indicative maximum 100 words)

This section should briefly state what specific impact is being described in the case study

2. Underpinning research (indicative maximum 500 words)

This section should outline the key scientific insights or findings that underpinned the impact, and provide details of what research was undertaken, when, and by whom. This research may be a body of work produced over a number of years or may be the output(s) of a particular project. References to specific research outputs that embody the research described in this section, and evidence of its quality, should be provided in the next section (section 3).

Details of the following should be provided in this section:

- The nature of the scientific insights or findings which relate to the impact in the case.
- An outline of what the underpinning research produced by the submitted unit was (this may relate to one or more research outputs, projects or programmes).
- Any relevant key contextual information about this area of research.

3. References to the research (indicative maximum of six references)

This section should provide references to key outputs from the research described in the previous section, and evidence about the quality of the research. Underpinning research outputs may include publications that are reported, or could have been reported, as scientific publication according to the definition in the Norwegian Publication Indicator (CRIStin).

Include the following details for each cited output:

- author(s)
- title
- year of publication
- type of output and other relevant details required to identify the output (for example, DOI, journal title and issue)

4. Details of the impact (indicative maximum 750 words).

This section should provide a narrative, with supporting evidence, to explain:

- how the research underpinned (made a distinct and material contribution to) the impact;
- the nature and extent of the impact.

The following should be provided:

- An explanation of the process or means through which the research led to, underpinned or made a contribution to the impact (for example, how it was disseminated, how it came to influence users or beneficiaries, or how it came to be exploited, taken up or applied).
- Where the submitted unit's research was part of a wider body of research that contributed to the impact (for example, where there has been research collaboration with other institutions), the case study should specify the particular contribution of the submitted unit's research and acknowledge other key research contributions.
- Details of the beneficiaries – who or what community, constituency or organisation, civil society, has benefitted, been affected or impacted on.
- Details of the nature of the impact – how they have benefitted, been affected or impacted on.
- Evidence or indicators of the extent of the impact described, as appropriate to the case being made.
- Timespan of when these impacts occurred.

5. Sources to corroborate the impact (indicative maximum of ten references)

This section should list sources that could corroborate key claims made about the impact of the unit's research (reports, reviews, web links or other documented sources of information in the public domain, users/beneficiaries who could be contacted to corroborate claims, etc.)

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