

Principles of European Law: on the form of judgments and judicial reasoning

Oslo Conference on 19 September 2014

This conference on the form of judgments and judicial reasoning focus on the interaction of courts, and the impact on international and European law. International and European courts, and national supreme and constitutional courts, are at the centre, as is the impact on internationalisation, also at the horizontal level in the relationship between courts at different levels, including the national.

The conference is one in a series of events on principles of European law with European and domestic supreme and constitutional court judges and academics, to which President Bernard Stirn took the initiative. For the first, in Paris, the Conseil d'état and the Conseil Constitutionnel were the hosts, for the second, in London, the Supreme Court of the United Kingdom, the third was at villa Finaly in Florence belonging to the Université de Paris (Sorbonne), the fourth at Pembroke College, University of Cambridge, and for the fifth and most recent one in May 2014, in Strasbourg, the European Court of Human Rights was the host. The Oslo conference on 19 September 2014 will have as its focus working methods and forms of judgment. The sixth and seventh conferences will be at the Bundesverfassungsgericht in Karlsruhe and at the Université de Aix-en-Provence.

The topic of the Oslo conference on 19 September 2014 goes beyond the original focus of the conference series, and takes the format even further towards the informal seminar. In the discussions at the different conferences the judges and academics have often brought up the consequences of the working methods and forms of judgments in the different countries and their consequences for the development and application of principles of European law. Courts are developing their working methods and reviewing the forms of judgment in all the jurisdictions represented, with the discussion in the newly established UK Supreme Court and the review in the French Conseil d'état as prominent examples. The aim is two-fold: first, to inform the participants about the forms of judgment and working methods in the different jurisdictions and reform issues, and, second, to contribute to the discussions about reform.

The host for the seminar is the Institute of Private Law and the Faculty of Law at the University of Oslo. The hosts have provided financial support and are grateful to the law firms BA-HR and AdeB for their support for the event.

Form of judgments and judicial reasoning

[Høyesteretts møtesal](#), [Høyesterett/Supreme Court](#), [Høyesteretts plass 1](#).

Proceedings begin at 9.00 am.

Welcome, [Justice Arnfinn Bardsen](#), [Dr juris](#), [Hoyesterett](#).

Introduction, President Bernard Stirn, Conseil d'état.

1. Style and Form of judgment.

Unitary, dissents. Judgment of court or several majority judgments. National & supranational models.

Style & Language of judgments.

Reform issues (France, Italy, UK, the European Courts) & impact of dialogues horizontally and with European courts and UN bodies. Identify common problems and if possible also trends, convergence and centrifugal forces in traditions and organization. Steep learning curve for UK and Scandinavian courts. How do German and French courts compare?

Consequences of proportionality for the reasoning set out in judgments. Impact of other principles of European law.

Chair: Lord Reed, UK Supreme Court

Panelists : President Jean-Louis Gallet, Conseiller, Conseil d'état (and formerly Cour de cassation and President of the Tribunal des conflits), President Giuseppe Barbagallo, Consiglio di stato, Justice Stefan Lindskog (discussant), Högsta domstolen, and Professor Mads Andenas/Professor Duncan Fairgrieve.

Break 11.00-11.45: Participants will be greeted by the President of [the Storting](#), Olemic Thommessen, in the chamber of its historic second house. Norway added a fuller bill of rights to its 1814 Constitution in 2014 after a discussion on the role of court review and the impact of European and international law. ([The Parliament is five minutes walk away from the Supreme Court Building.](#))

11.45-12.00: Short exchange with the President of the University, Professor Ole Petter Ottersen.

2. Internal organization – impact on form of judgment

How does the internal organization of the court impact on the form & style of judgment?

“Collective work” between judges. Preparing the hearing, use of written submissions by parties, skeletons/the case for oral submissions, how to identify and focus preparations of parties and of judges on core issues.

Use of reporting judge, assistants. Meeting of judges before first hearing/trial. Active use of oral proceedings.

Avocat general and rapporteur public functions.

Judges' deliberations. Reporting judge, summing up, voting. Drafting committee.

Chair: President Bernard Stirn, Conseil d'état

Panelists:

Mattias Guyomar, Conseil d'état
Vice President Guido Raimondi, ECHR, former Corte di cassazione judge.
Justice Arnfinn Bardsen, Dr juris, Høyesterett.
Paper by Judge Paul Mahoney (former ECtHR Registrar, President of the EU
Administrative Tribunal and currently a Justice of the ECtHR, who will not attend).

Informal sandwich lunch. Introduction to the Norwegian Supreme Court by Justice
Arnfinn Bardsen and tour around the building from 1430.

3. Judicial reasoning: precedent and external sources

Citation of precedent, of lower courts in the case, of general courts in
administrative courts and vice versa, of European and international sources
(‘comparative law before the courts’ only briefly here and for completeness sake,
and in full in subsequent Aix seminar). The influences international courts have
on one another, and on national courts, and their horizontal exchanges.

Consequences of proportionality

Reference to academic materials. Use of policy considerations – explicit or
implicit.

Panelists: Lord Reed, UK Supreme Court, Professor John Bell, Cambridge, Dr
Eirik Bjorge, Oxford, Professor Mads Andenas, Oslo

Late afternoon session will take place at [the University of Oslo in Domus
Media/Midbygningen \(DMØ\) second floor, Karl Johans gate 47.](#)

18.00-18.30 Reception and tour: The Aula Magna of the University of Oslo.

20.00 Dinner.

**Mads Andenas invites foreign participants to dinner on the Saturday at his
home in [Inkognitogaten 2.](#)**