To centre members, newsletter subscribers and members of CORA’s Advisory Board.

CORA Newsletter 3/2015

This newsletter contains a briefing on the activities of the centre this fall. The attention must in particular be drawn to the future seminars and conferences. The main news in this newsletter is however the positive review, that the centre has been given in relation to its reapplication for an extension. CORA (2) will be elaborated directly below this section.

CORA (2)

CORA got approved for a period of 5 years from the 1st of September 2010. The 12th of March 2015 the management of CORA gave in an application for the extension of CORA for further 5 years. This should contain an evaluation of the centres work the past 5 years.

The centres approval period has since then been administratively extended, until there’s a final decision in the case.

A committee consisting of professor Jonas Ebbesson (Stockholm University), professor Dag Wiese Schartum (University of Oslo) and professor Aileen Mcharg (University of Strathclyde) has on the 29th of September 2015 with a 15 pages rapport evaluated CORA’s application for extension and the conclusion of their evaluation is: "The Advisory Board recommends that CORA should be extended for a further five years”.

In its evaluation the committee has a range of propositions for the strengthening of the centre, among others a proposal to expand CORA’s news flow with more frequent newsletters. The newsletters should contain more information regarding the centres research activities. This newsletter will be the centres first attempt to meet this proposal. Therefore it will contain an expanded section on the research results. It should however be stated, that the new section in no way is comprehensive.

Carsten Henrichsen has in connection to the application for an extension of the centre announced that he wishes to withdraw from his position as leader of CORA by the end of 2015. At the same time Michael Gøtze wishes to withdraw from the management. The centre has proposed to the dean, that CORA from 2016 will contain of Trine Baumbach as executive of the centre and Peter Blume as vice executive of the centre. Also it is proposed that the centres advisory panel should be reconstructed.

The final decision of the extension of the centre depends on the faculty dean. The transition to CORA (2) will be marked with a seminar on the 3th of December. This will be mentioned below in relation to conferences.
Biographical data

Lin Adrian has from the 1st of August been appointed as lector with focus on research and teaching in Mediation.

Law student Emma Borup has been extended as project student at CORA for another year until the 30th of August 2016.

Law student Anna-Louise Fink has been employed as project student at CORA for a period of 1 year from the 1st of September 2015.

Professor Niels Fenger has returned from his sabbatical (1st of October 2014–31st of September 2015) after the expiry of his judge constitution in the Eastern High Court.

Professor Peter Mortensen has been granted sabbatical from the 1st of May 2015 – 30th of May 2016 for employment as senior jurist in Cowi’s department for land and rights.

PhD-student Valgerdur Solnes, who is employed on the faculty’s PhD programme with the faculty of law in Iceland, has been granted a member of CORA with professor Peter Pagh as assistant supervisor on a project on "public and private ownership of land, mainly original and sequential possession, in light of Icelandic legislation" (main supervisor is professor David Thor Björgvinsson, iCourts).

Read further: http://jura.ku.dk/english/staff/phd/?pure=en/persons/537327.

Research assistant, PhD Trine Vendius has been assigned a 1 year post doc grant for research in the regulation of private investigation in Denmark with effect from the 1st of June 2016.

Articles


The article reflects on the demands that the research (and teaching) in criminal law must meet to accommodate to the development of the 21st century and at the same time have international impact. The article concludes that the research in criminal law first and foremost must address the changes that are due to the substantial influence from international law, not least when it comes to free speech and the protection of privacy.

Peter Blume: An alternative model for data protection law: changing the roles of controller and processor, International Data Privacy Law, October 1, 2015, p. 1-6

Key Points:

• This article contains a proposal for changing the roles of data controller and data processor.

• It is argued that data responsibility should be linked to the actual processing of the personal data.

• In general, data protection should be real, but today it is often a fiction.
According to § 21 of the Ombudsman Act the ombudsman must assess, whether the authorities have acted in accordance with the applicable law. This competence is very wide and resembles the competence of the courts. The article focuses on the question of what is meant by applicable law, especially on the ombudsman’s interpretation of the provisions in the substantial legislation, that doesn’t have administrative character. This leads to a (critical) assessment of whether it is suitable and well-founded, that the competence of the ombudsman is stated in such a wide manner.

Carsten Henrichsen (red.): It the ethics of officials hurting?, Futuriblerne, Journal on Social Conditions – 43th issue, nr. 2-3, 2015 (49 pages)

This theme issue on the ethics of officials contains an adapted edition of 5 presentations, that were given on the conference “No one above the Parliament?” on the 9th of April 2015 in Christiansborg. The five presentations were held by Birgitte Poulsen, Jesper Tynell, Carsten Henrichsen, Pernille Boye Koch and Jens Elo Rytter. In addition to these 5 articles the issue also contains 3 more articles. One is written by Michael Gøtze, who was supposed to participate at the conference, while the two other articles by Niels Fenger and Peter Harder have no connection to the conference. However the two last articles contribute substantially to the debate on officials’ positions in the central administration.

Peter Pagh: Contributions to the Journal for Environment, issues 5, 6, 7 and 8/2015.

- The Air Quality Directive, The Environmental Protection Act and air pollution at Nørreport station – with comments on the judgement of the CJEU in case C-404/13 and the decision of the Environmental Board of Appeal in MAD 2014.302 (TfM 5-2015, 56, p. 147-155).

- The Environmental Damage Act: The forgotten law – with comments on the judgment of the CJEU in case C-514/13 (TfM 6-2015, 71, p. 147-157).

- Is it forbidden to place benches, fire places and playground equipment within the coastal protection line? – With comments on the practice of the Environmental Board of Appeal (TfM 7-2015, 83, p. 183-193).

- When and where does the prohibition against state changes in the Nature Protection Act § 3 apply and what does the prohibition mean? – Analytical and legal security problems with § 3 (TfM 8-2015, 96, p. 217-230).


Abstract: The Internet has made it easier for child sex offenders to get into direct contact with their victims, including the exchanging and distributing of “child pornography”. On a European level, child sexual exploitation is one of the three main priorities of EC3, Europol's Cybercrime Centre. Directive 2011/93/EU on combating the sexual abuse and sexual exploitation of children further prescribes that the EU Member States shall ensure that sexual offences against children are effectively investigated. However, when it comes to investigative measures such as undercover policing, national police forces are bound by national rules. This article concludes that undercover policing is a necessary investigative tool in order to detect and infiltrate the networks of these sexual offenders. Departing from a legal dogmatic method this article first examines relevant EU legal instruments. It then takes a comparative approach describing national differences in
investigating sexual offences against children. Finally, it discusses whether common rules in the area are foreseeable within the existing frameworks of European law.

Books

Anne Lise Kjær and Lin Adrian et. al (red.): The law in the language – an anthology of the interaction between law and language in judicial practice, Djøf Publishing 2015 (347 pages).
(Retten i sproget - en antologi om samspillet mellem ret og sprog i juridisk praksis, Djøf Forlag 2015 (347 sider)).

The book offers an introduction to the interaction between law and language. How does law and language influence on each other? What is meant by way of speeches such as »the language is the lawyer’s most important tool«? How is the language expressed in different legal arenas? And what different kind of language understandings lies behind various legal words.

The book is split into four main themes that reflect the width of the legal linguistic field:

- What is good legal language?
- How do you convince with language?
- What happens to the law, when the language is invisible for the lawyer?
- What does language mean for the legal interpretation?

The book excels in its interdisciplinary approach and also by merging legal research and practice. The contributors are Nordic researchers and practitioners, that each have an insight in the relationship between law and language. The book addresses to practitioners and researchers that have interest in law and language. It is written in a way that makes it relevant and interesting for both target groups.

Trine Vendius: Europol and Cyber criminality – proactive investigation and crimes against children, Ex Tuto Publishing 2015 (320 pages)

This book offers a comprehensive introduction to the Europol-cooperation, including how the organization has developed in relation to the internal security of EU, and where the organization is today. Departing from the police cooperation in a security policy context – between sovereignty, globalization and cybercrime – the book contains a chronological tour de force of the development up to the establishment of Europol's cybercrime center, EC3.

The Europol-cooperation's role in the fight against online sexual crimes against children is carefully examined, including the powers of the Danish police in the proactive investigation – e.g. by use of agents – compared with other EU-member states. The book also examines “Operation Icarus” and questions of forum shopping.

The book is based on the authors PhD-thesis.

Conferences

Lin Adrian et. al.: Booklauch – The law in the language, Legal linguistic network – CORA (2nd of September 2015, from 16-17.30, meeting room in Studiegården, st. th.).
Carsten Henrichsen and Søren H. Mørup: Legal right to welfare benefits, Kommunal- og Forvaltningsretsforeningen in Danmark (10th of September 2015, from 17-19, in Horten, Hellerup).


Trine Vendius et.al.: Conference on the EU-justice opt-out, Centre for European Politics in cooperation with Think Tank Europe (3rd of November, from 13.15 -17, in Festsalen, Frue Plads 4). Registration: http://thinkeuropa.dk/event/danmarks-fremtid-i-ria-muligheder-og-konsekvenser

Meeting for police researchers with Senior Security Manager at Parsifal Service, MSc Morten Stauenberg, who will do a presentaion on investigation psychology, including witness psychology (26th of November 2015, from 14-16, Studiegården, meeting room 1.floor to the right). The meeting is public.

Development trends in public law. On the occasion of entering CORA’s second approval period, the centre will host a seminar with presentations by former ombudsman Hans Gammeltoft-Hansen, Head of Division at The Danish Parliamentary Ombudsman Lisbeth Adserballe, and professor Carsten Henrichsen, CORA. (7th of January 2016 from 14-15.30, Alexandersalen, Bispetorvet; afterwards reception in Studiegaarden, meeting room at ground floor).

Registration: http://jura.ku.dk/cora/kalender/udviklingstendenser-den-offentlige-ret/tilmelding/

Kind Regards

Carsten Henrichsen

Head of Centre