

Research areas of particular interest to the Department of Law

The Department of Law is interested in PhD projects in the basic legal disciplines or the area of tension between economics and law. The Department of Law is particularly interested in applicants in the fields of constitutional law, administrative law, tax law and private law.

Below are some examples of topics that can be addressed in a PhD thesis.

Constitutional law

The principle of legality in Danish constitutional law

An examination of the requirement for a legal basis in different areas. Analysing areas of the Constitutional Act where the requirement for a legal basis has been strengthened. The interplay between the requirement for a legal basis and the intensity of judicial review. The analysis can usefully be put into perspective with foreign constitutions and the importance of the principle of legality there.

The project may have a starting point in Danish constitutional law or in foreign law or EU-law with perspectives to Danish constitutional law.

Administrative law principles at constitutional level?

To what extent can key principles of administrative law, such as the principle of equality and the principle of objectivity, be considered constitutional norms? Do general principles of administrative law apply when it appears from Article 24 of the Constitutional Act that the King can grant pardons and amnesties? Are members of the Danish Parliament bound by the principles of objectivity, fact-finding, etc. when deciding questions of eligibility to stand for election, as stated in Article 30 of the Constitutional Act?

The project may have a starting point in Danish constitutional law or in foreign law or EU-law with perspectives to Danish constitutional law.

The suspensive effect in Danish constitutional and administrative law – an evolving institute?

Article 63(1) of the Constitutional Act states that the courts are empowered to decide any question relating to the scope of the executive authority; though any person wishing to question such authority shall not, by taking the case to the courts of justice, avoid temporary compliance with orders given by the executive authority. How does this principle harmonise with the rules on so-called suspensive effect, which have developed in case law since the Supreme Court's judgment in U 1994.823 H? The analysis can usefully be put into perspective with comparable foreign schemes.

The project may have a starting point in Danish constitutional law or in foreign law or EU-law with perspectives to Danish constitutional law.

Contact: Professor wsr Frederik Waage (fwa@sam.sdu.dk)

Administrative law

Topics that touch on the digitised public sector are of great interest, such as:

Responsibilities where several authorities use the same IT system

An analysis of liability issues – public authority liability, official liability and/or liability for damages – where several authorities use and/or develop the same IT system.

Mass decision systems

How to review a decision taken by a mass decision-making system, such as the Danish property valuation system. Does the responsible authority even understand the logics on which the decision is generated, and what about reopening by remonstrations or on the authority's own initiative?

Automatic decisions

An analysis of administrative law issues related to fully or partially automated decision processes, including, for example, in relation to bias and delegation.

The duty to provide guidance

Today, the duty to provide guidance is mainly carried out digitally, either as pop-up messages or via pre-fabricated text boxes. This also includes methods such as nudging and wizards, which can be used in a guiding but also irrelevant way to direct the citizen in a certain direction, including making certain elements less prominent. For example, a study could examine how the duty to provide guidance has evolved over time and how it is currently expressed in different public IT systems. The project could result in good governance principles for correct and complete digital public authority guidance.

The Brussels Effect: The Impact of EU Digital Legislation

Today, an extensive range of EU legal acts focusing on digitalisation, encompassing areas such as artificial intelligence (AI), cybersecurity and data usage and 're-use', are being adopted. The influence of this evolving legislative landscape on the digitised Danish public administration warrants exploration.

Contact: Associate Professor Jøren Ullits (juon@sam.sdu.dk)

VAT and tax law

VAT issues in cross-border trade in goods and services

The topic could cover a range of VAT law issues, including the new rules on chain trading, VAT fraud or problems arising from the different definitions of whether the delivered product is immovable property or goods. For VAT purposes, it is not clear whether it is one or the other and the place of supply rules are different depending on whether the delivered product is considered to be immovable property or goods.

Impact of excise duties on the green transition and the achievement of Denmark's climate objectives

This is a very broad approach. This will allow a potential PhD student to choose between energy taxes and environmental taxes, while integrating relevant areas such as environmental and climate energy and utility law.

Contact: Associate Professor Jette Thygesen (jett@sam.sdu.dk)

Tax and duty control

Legal issues related to the exchange of information between tax authorities in different countries

There are many rules concerning the obligation of tax authorities to exchange information with the tax authorities of other countries – both in the area of direct and indirect taxes. In addition to analysing the applicable law, the study may include the application of the rules in practice and how to ensure the validity of the information. Finally, personal data protection aspects can be included.

Legal issues related to preventive measures against money laundering and terrorist financing, with particular emphasis on the role of the auditor

The project will have to relate to the EU rules in the area of money laundering and their implementation in Danish law, including, but not exhaustively, Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 and LBK no. 316 of 11/03/2022 and LBK no. 380 of 02/04/2020. The AML rules impose a number of specific duties on auditors, which should be the starting point for the project.

Contact: Associate Professor Jette Thygesen (jett@sam.sdu.dk)

Tax law

The concept of business in tax law and its delimitation

New types of income-generating activities are continuously emerging as a result of general societal developments. For instance, due to technological developments, it is now possible to engage in different types of activities on internet-based platforms and on social media, etc. The question is whether the traditional distinction between business income and other types of income is applicable in a contemporary context.

Taxation on the posting of employees under Danish domestic law and the international double taxation rules

The project focuses on the problems related to the fact that it is increasingly possible to live in one or more countries and work in one or more other countries at the same time, but that the taxation of individuals' income is still closely linked to the individual's residence, tax residence and the physical performance of the work.

Contact: Associate Professor Jane Ferniss (jfe@sam.sdu.dk)

Law of Obligations

Studies in the law of obligations

The special parts of the Law of Obligations all build on the general part and include a number of non-exhaustive areas of law such as construction law (where the paradigm is AB18), IT law (where the paradigm is K04), tenancy law (where the paradigm is TYPE A) and employment law. The proposed PhD project aims to analyse and categorise practice in order to derive horizontal and/or vertical legal principles and/or principles across the law of obligations.

Application of property law to IP rights

The project proposes to address the question of whether the rules governing the application of property law to disputes over substantive property rights (i.e. physical objects) apply, *mutatis mutandis*, to intellectual property (IP) rights (i.e. non-physical objects). The analysis should include the question to what extent IP right holders can secure their rights against third parties under Danish law.

AI and IP

The increasing use of AIs creates challenges for IP law as we know it. This is partly because AIs require a large amount of data to function properly, which leads to the question of the extent to which an AI can use, process and share data under IP law. A second issue is to what extent an AI as such can be subject to IP protection, while a third issue is to what extent the output created by an AI can infringe the rights of third parties. The proposed PhD project takes a horizontal approach to IP law, involving both the substantive and procedural parts of IP law.

The IP law doctrine of infringement

If you have acquired one of the exclusive rights that characterise IP law, this exclusive right can be infringed. The infringement assessment is carried out according to different principles depending on the type of exclusive right, including the doctrine of confusion, the principle of overall impression and the doctrine of equivalents. The proposed PhD project intends to analyse and categorise practices in order to identify differences and similarities between these infringement principles, and – since cumulative protection under several jurisdictions is sometimes possible – advantages and disadvantages for the rights holder.

Contact: Professor wsr Torsten Bjørn Larsen (tobj@sam.sdu.dk)