



UiO • **Faculty of Law**
University of Oslo

Norwegian Life and Society

THE NORWEGIAN LEGAL SYSTEM

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Outline

1. Some questions for reflection
2. Foundation of the country and Consitution
3. The Parliament, the legislative branch
4. The government, the executive
5. The Court, the judiciary
6. Common or civil law system?
7. Major trends

1. Some questions for reflection:

Legal systems:

- What is a legal system?
- Why do we need a legal system?
- Which institutions do the legal system consist of?
- What do we need “checks and balances” for?

The Norwegian legal system:

- Similar or different from other legal systems?
- Different institutions?
- Different way of thinking?
- Different material (substantive rights) rights?

2. Foundation: The Constitution of 1814

- 17th of May 1814
- Constitution: inspired by USA, France and right to self determination
- Radical and democratic
- Constitutional Monarchy - Sovereignty of the People
- Division of powers
- Legally binding? Limiting legislative and executive powers
- Judicial review?

Norway today

- Constitutional monarchy: King Harald V
- Prime minister: Erna Solberg



- State Church: Protestantism



3. The Parliament (Stortinget) – the legislative branch

- Unicameral
- Power to issue new legislation
- The Principle of legality
 - Rule of Law
 - Sovereignty of the people
 - Citizens able to foresee their legal position (legal certainty)
- Constitutional limitations on the legislator



4. The Government – the executive branch

The Council of State:

- Chaired by the King
- Adoption of decisions

The governmental conference:

- Chaired by the Prime Minister
- Preliminary discussions

- Matters of main significance



The executive branch (2)

Legislative process:

- Substantial influence on the legislative process (“lov”)
- Power to issue *directives* (“forskrifter”) – delegated powers

Executive power – enforcing legal order:

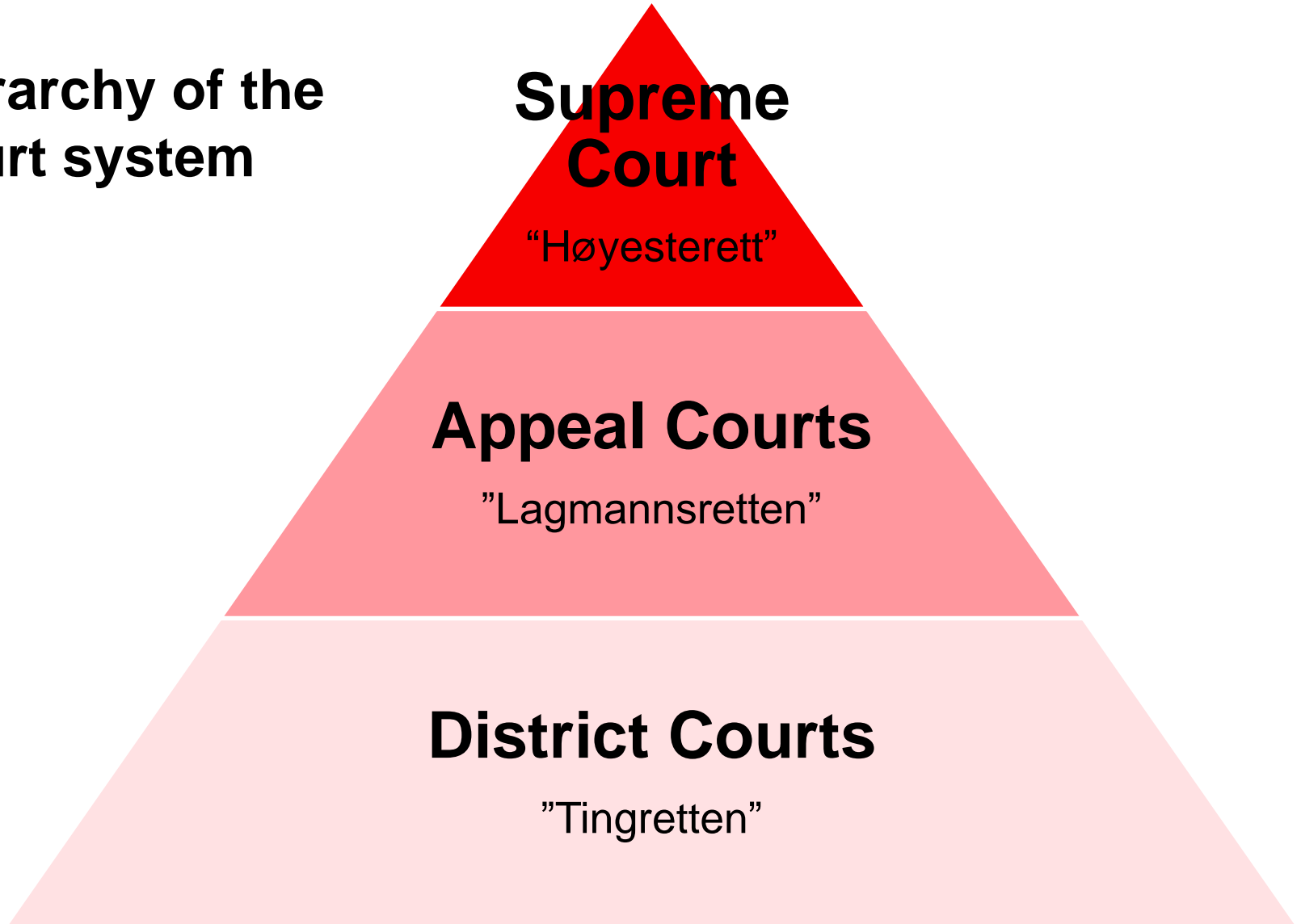
- Criminal cases
- Civil cases
- Other fields of law

5. The Court System – the judicial branch

- The independence of Courts
- Tasks of the Courts
 - Criminal cases
 - No investigative courts
 - Civil cases
 - Not all disputes settled in courts of law
 - Conciliation proceedings
 - Administrative cases
- Courts only rule in *legal matters*



Hierarchy of the Court system



District Courts

- 70 District Courts
- Jurisdiction in all matters
 - No division of ordinary courts and administrative courts
 - No division of criminal courts and civil courts
 - No separate constitutional court

Appeal Courts

- Only 6 Appeal Courts
- Right to appeal
 - Civil cases
 - Criminal cases

Supreme Court

- Right to appeal heavily restricted
- Purpose
 - Not to ensure right outcome in each and every case
 - Ensure uniformity of legal process
 - Resolve matters where the law is unclear
 - Develop the law
 - Decide in matters of principle



Composition of the Courts

Professional judges

District Courts: 1

Appeals Courts: 3

Supreme Court: 5

Supreme Court

- plenary session: 20

Lay judges

Civil cases:

None, but parties may demand

Criminal cases:

Lay judges in majority in first and second instance. None in the Supreme Court.

Court proceedings and hearings

Civil cases

Strong oral tradition

- Witnesses, documentary evidence and legal arguments presented directly before the court during “main hearing”

Criminal cases

Oral tradition even stronger

- Judges as “tabula rasa”
- Presumption of innocence
- Evaluation of evidence
- Principle of contradiction

Principle of transparency

6. A continental or common law system?

Continental law

- Extensive and detailed legislation
- Principles of law

Common law

- Case-law developed by Courts of law
- Tradition

Norwegian law

- Parliamentary legislation key figure
 - Legislation less detailed
- Trusts the courts to find “the spirit of the law”
- But courts emphasise the “preparatory works” of legislators
 - Supreme Court case-law highly important
 - Courts recognised to “develop law”
 - Fields of law that are not legislated
- Scandinavian “legal pragmatism” – less principles

7. Some major trends in the Norwegian legal system

- *Wide administrative powers in the aftermath of WWII*
- *Increased protection of citizen's position*
- *Consumer protection*
- *Deregulation – more free market*
- *EU and EEA*
- *Human Rights*
- *Soft on crime – or tougher on crime?*
- *The aftermath of 22 July 2011?*