



LUND
UNIVERSITY

Faculty of Law

JUFN33, International Investment Law and Arbitration, 15 credits

International Investment Law and Arbitration, 15 högskolepoäng
Second Cycle / Avancerad nivå

Details of approval

The syllabus was approved by Faculty of Law Board of education at undergraduate and postgraduate levels on 2019-01-30 to be valid from 2019-01-30, spring semester 2019.

General Information

International Investment Law and Arbitration is offered as an optional course on the Master of Laws programme. It is to be included in semester 7 or 8 of the programme. The course comprises ten weeks of full-time study.

Language of instruction: English

Main field of studies

Law

Depth of study relative to the degree requirements

A1N, Second cycle, has only first-cycle course/s as entry requirements

Learning outcomes

The student shall, on completion of the course, be able to demonstrate ability to:

1. understand the relevant elements of international law. This includes the ability to identify the international agreements that are relevant to the solution of certain commonly occurring or fundamentally important types of legal problems, the ability to summarise the contents of key legal provisions and principles, the ability to correctly use certain terms of key importance to international law, the ability to organise and explain the links between general provisions and principles, and the ability to define fundamental terms of international law;
2. apply the provisions and principles of international law to new and authentic but still relatively simple cases or problem situations. This includes the ability to identify and specify problems concerning the application of international law, and the ability to communicate problems concerning the application of international law logically and coherently;

3. analyse and disentangle difficult and complex problems with regard to the application of international law. This includes the ability to describe actual reality in terms of legally relevant similarities and differences, the ability to explain and justify prevailing theories, the ability to use previous legal decisions as a basis for general conclusions about the contents of international law and as a possible source for new concrete legal arguments, and the ability to explain the relationship between existing legal regulations and the societal context and the interests that the regulations have been created to regulate or operate in;
4. assess and critically discuss established legal provisions and arguments. This includes the ability to independently reflect on the role of international law in society, the ability to anticipate or speculate about the outcome of a specific legal dispute or issue of legal policy, and the ability to formulate an appropriate strategy in a specific dispute or problem situation from the perspective of one of the parties;
5. creatively use their knowledge of international law. This includes the ability to formulate and perform an appropriate legal strategy in a specific dispute or problem situation from the perspective of one of the parties, the ability to formulate a theory of the coherence of the whole or certain parts of the international legal regime, and the ability to formulate justified proposals of new concepts and principles, or new interpretations or new international legislation.

Course content

The course focuses on the protection of foreign investments under international law. It covers both substantive and procedural aspects.

The substantive focus is based on treaty law – i.e. bilateral and multilateral investment protection treaties – as well as customary international law. Key concepts such as expropriation, fair and equitable treatment, state responsibility and attribution will be addressed. Another important aspect of this module is treaty interpretation based on the Vienna Convention on the Law of Treaties.

The procedural focus covers jurisdictional issues, interpretation of arbitration clauses, compensation for breaches of international law, as well as various aspects of applicable law. Another important element of the procedural focus is post-award issues such as challenges against, and enforcement and recognition of, treaty-based arbitral awards, including questions of state immunity.

Course design

The teaching consists of lectures and seminars. Seminars are taught either in the traditional sense or in the form of “mini-mock arbitrations” in which students are given a fact pattern, which they are expected to use to argue given positions. Both lectures and seminars are intended to work as means to attain the learning outcomes of the course. However, the lectures focus on the following two outcomes: that the students shall be able to understand international law in the sense of point 1 of the learning outcomes, and that the students shall be able to apply international law in the sense of point 2 of the learning outcomes. The seminars are more focused on the remaining three outcomes: that the student shall be able to analyse and disentangle difficult and complex problems with regard to the application of international law in the sense of point 3 of the learning outcomes, that the students shall be able to assess international law and its application in the sense of point 4 of the learning outcomes, and that the student shall be able to creatively use their knowledge of international law in the sense of point 5 of the learning outcomes.

Assessment

Students are assessed on the basis of their performance in a final written exam, as well as the assessed seminars throughout the course.

The examiner, in consultation with Disability Support Services, may deviate from the regular form of examination in order to provide a permanently disabled student with a form of examination equivalent to that of a student without a disability.

Subcourses that are part of this course can be found in an appendix at the end of this document.

Grades

Marking scale: Fail, Pass, Pass with credit, Pass with distinction.

B - Pass

The student must be able to demonstrate that he or she understands international law in the sense of point 1 of the learning outcomes, that he or she is able to apply international law in the sense of point 2 of the learning outcomes, and that he or she is able to analyse and disentangle difficult and complex problems with regard to the application of international law in the sense of point 3 of the learning outcomes.

BA - Pass with Credit

The student must be able to demonstrate that he or she understands international law in the sense of point 1 of the learning outcomes, that he or she is able to apply international law in the sense of point 2 of the learning outcomes, that he or she is able to analyse and disentangle difficult and complex problems with regard to the application of international law in the sense of point 3 of the learning outcomes, and that he or she is able to assess international law and its application in the sense of point 4 of the learning outcomes.

AB - Pass with Distinction

The student must be able to demonstrate that he or she understands international law in the sense of point 1 of the learning outcomes, that he or she is able to apply international law in the sense of point 2 of the learning outcomes, that he or she is able to analyse and disentangle difficult and complex problems with regard to the application of international law in the sense of point 3 of the learning outcomes, that he or she is able to assess international law and its application in the sense of point 4 of the learning outcomes, and that he or she is able to creatively use their knowledge of international law in the sense of point 5 of the learning outcomes.

Entry requirements

Students on the Master of Laws programme must have passed semesters 1-4 of the programme and 30 credits from semesters 5 and 6. Furthermore, they must have passed the course LAGF01 International Law. International students must have passed at least two and a half years of law school studies, including an introductory course of international law corresponding to at least five weeks of full time study (7.5 credits).

Subcourses in JUFN33, International Investment Law and Arbitration

Applies from H19

1901 International Investment Law and Arbitration, 15,0 hp
Grading scale: Fail, Pass, Pass with credit, Pass with distinction