



LUND
UNIVERSITY

Faculty of Law

JAMR17, Procedural Law of Human Rights, 15 credits *Processrätt och mänskliga rättigheter, 15 högskolepoäng* Second Cycle / Avancerad nivå

Details of approval

The syllabus is an old version, approved by Faculty of Law Board of education at undergraduate and postgraduate levels on 2015-10-29 and was valid from 2015-10-29, autumn semester 2015.

General Information

The course Procedural Law of Human Rights is a compulsory course within the Master's Programme in International Human Rights Law at the Faculty of Law. It is compulsory for all specializations of the Master's programme. The course is open to students in the programme leading to a Swedish Professional Law degree and who follow the courses on the Master's Programme in International Human Rights Law in their studies at an advanced level.

Lectures and course material are in English.

The course is scheduled to require 10 weeks of full time studies.

Main field of studies

Human Rights

Depth of study relative to the degree requirements

A1F, Second cycle, has second-cycle course/s as entry requirements

Learning outcomes

The aim of the course is to provide students with the necessary skills to make compelling legal arguments in court both orally and in writing using mainly legal sources but also other sources from various associated disciplines such as e.g. history and political and social science. The course promotes the capacity of students to use legal theory and method when making a critical legal argument based on international law.

Knowledge and understanding

To pass examination the student shall show:

- an understanding of the contents and implementation of the right to a fair trial

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This is a translation of the course
syllabus approved in Swedish

- insight into major approaches in theorizing issues in procedural law
- a thorough understanding of how the concept of fair trial impacts on the implementation of human rights in general
- an understanding of how the concept of a fair trial interacts with political decision-making and democracy
- an understanding of how different legal theories help to approach international human rights law
- aptness to apply different theories to problems of international human rights law.

Competence and skills

To pass examination the student shall:

- show a good command of legal tools and techniques allowing for the identification of *lex lata*
- show capability to criticize *lex lata* and current theories in order to be able to propose alternative solutions to complex legal problems *de lege ferenda*
- be able to present an intricate legal issue orally and in writing and to convincingly present a case before a critical audience.

Judgement and approach

To pass examination the student shall:

- demonstrate an understanding of basic procedural principles, norms and the implementation of a fair trial
- show an understanding of the theories underpinning the concept of a fair trial and their ramifications for the implementation of human rights in general
- display a scientific ethos in working with procedural law
- be able to make an assessment regarding societal aspects of different theories and their relevancy to international law.

Course content

The course explores the concept of a fair trial and puts it in a theoretical as well as practical context. Towards that end the students are taught how to claim a right in court, what to expect when facing a trial and how various rights are balanced in court as well as out of court. These issues are highlighted using concrete examples e.g. such as when deciding the limit of free speech and the limit of personal security in court. Issues of national sovereignty versus international requirements are dealt with as well as the states double role as the provider of a fair trial and at the same time acting as the defending party.

Legal case writing and research is studied both from a theoretical perspective applicable to international law and from a practical aspect making and assessing legal arguments. The course builds an understanding of how to apply general concepts of international human rights law and sustaining these arguments with bordering international disciplines. The bulk of the teaching is focused around the Council of Europe human rights system but also includes the Universal Declaration on Human Rights and other global and regional sources to help build persuasive arguments.

Course design

The students obtain knowledge and skills as indicated above by individual studies of course literature and other course material, and by taking an active part in lectures

and moot courts.

Instruction is in the form of lectures and moot courts as well as through individual feedback on moot court performances and mentoring when choosing an exam topic.

Assessment

In order to pass, the students have to participate in the moot court, by giving an oral presentation and submitting a written argument to opposing council before the moot court.

Examination is in the form of a two papers and the above mentioned moot court. One is a paper of 3-5 pages on topics dealing with judicial responsibility which accounts for 0-20 points of the final grade or 25%. The final paper should be 10–15 pages and constitutes 50% of the final grade or 0–40 points. The performance during the moot court is graded with 0-20 points and constitutes 25% of the final grade. In order to pass students must have achieved at least 50% on all separate exams.

Topics for the paper are chosen primarily by the students after individual mentoring and approval by the course director.

Active participation in lectures and moot courts has an impact on grading in borderline cases.

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.

One of the following grades is given: Fail (U), Pass (B), Pass with Credit (BA) or Pass with Distinction (AB).

All grading criteria rest on the baseline set up for the grade B. Criteria for the grade BA are additional to those for the grade B. Criteria for the grade AB are additional to those for the grade BA. Each grade criterion consists of a qualitative and a quantitative dimension. To be awarded a specific grade, the grade criterion must be satisfied in its qualitative as well as its quantitative dimension.

Grading criteria are applied to all dimensions listed as "Learning outcomes" in this syllabus. By way of example, an AB would presuppose that the student's examination reflect her or his mastery with regard to knowledge and understanding, skills and abilities and values and attitudes as laid down in the syllabus as "learning outcomes". Grading is done primarily using Qualitative and Quantitative criteria. The Quantitative criterion reflects how well read the student is whereas the Qualitative criterion reflects how well the student can use his/her knowledge to make a well structured critical and analytical argument and put it in a proper context.

B – Basic command

In order to achieve this grade the student must show good knowledge about how procedural law and the notion of a fair trial has been used as a legal standard in international and regional human rights law.

The student must achieve sound knowledge about how democracy or the lack of thereof impacts the fair trial and the decisions made therein.

The student has to acquire sound knowledge and understanding of the interpretative

methods used by the judicial when applying a fair trial rules in deciding a case.

The student must show an ability to identify and critically analyse case law concerning fair trial; to write legal memos; to show command of argumentative skills; and to work individually and in Groups.

BA – Advanced command

In order to achieve this grade the student must show very good knowledge about how procedural law and the notion of a fair trial has been used as a legal standard in international and regional human rights law.

The student must achieve sound knowledge about how democracy or the lack of thereof impacts the fair trial and the decisions made therein.

The student has to be able to critically and independently identify and elaborate about the advantages and disadvantages of using arguments other than strictly legal ones such as using history or overarching democratic arguments in decision making as a justification for the adoption of specific legal regimes.

The student must show a good ability to identify and critically analyse case law concerning fair trial; to write legal memos; to show good command of argumentative skills; and to work individually and in Groups.

AB – Mastery

In order to pass the student must show an in-depth knowledge about how fair trial standards have impacted decisions *ratione materiae* in international and regional human rights law.

The students must achieve substantive knowledge about the influences of Human Right courts in specific legal regimes, in particular to regional standards.

The student must be able to demonstrate an excellent knowledge with regard to the incorporation of fair trial rights protection, especially in Europe; showing good ability to analytically and critically identify the impact of those rights.

The student has to be able to critically and independently identify and elaborate about the advantages and disadvantages of using a trial to set or abolish human right standards vis-à-vis traditional political decision making. In addition they must show ability to identify and to logically deconstruct legal discourses in connection to the cases analysed.

The student has to be able to fully and critically understand the interpretative methods used by the judicial when making legal arguments promoting their point of view.

The student must show a very good ability to identify and critically analyse case law concerning fair trial; to write extensive and coherent legal memos; to show a very good command of argumentative skills; and to work very well individually and in Groups.

Entry requirements

Passed examination in the courses in the first year of the Master's programme equivalent to 60 credits.

Further information

The University views plagiarism as a very serious academic offence, and will take disciplinary actions against students for any kind of attempted malpractice in connection with examinations and assessments. The penalty that may be imposed for

this, and other unfair practice in examinations or assessments, includes suspension from the University.

Subcourses in JAMR17, Procedural Law of Human Rights

Applies from H22

2201 Procedural Law of Human Rights, 15,0 hp
Grading scale: Fail, Pass, Pass with credit, Pass with distinction

Applies from H13

1201 Procedural Law of Human Rights, 15,0 hp
Grading scale: Fail, Pass, Pass with credit, Pass with distinction