Faculty of Law

JUCN33, New Directions in Environmental Law, 15 credits

New Directions in Environmental Law, 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 2022-11-09 to be valid from 2023-01-09, spring semester 2023.

General Information

This is an optional course within the programme leading to a Swedish law degree. The course is also open to international students participating in exchange programmes within the Faculty of Law. Substantively, the course-focus is on EU environmental law.

Language of instruction: English

Lectures and course material are in English. The course is scheduled for 10 weeks of fulltime studies.

Language of instruction: English

Learning outcomes

Operating mainly within an EU legal context, students learn to:

1. Understand the inherent limitations of law as a tool to regulate the environment,
2. Recognize concrete manifestations of these limitations in legal regimes pertaining to water, nature, pesticides and climate,
3. Appreciate (legal) innovations addressing these shortcomings,
4. Understand the role(s) of science and expertise in environmental decision-making and enforcement.
5. Students learn correctly to apply primary and secondary EU environmental law to concrete fictive or real cases

Course content

Securing an environment fit to support meaningful human life, it is now widely agreed, is the challenge of the 21st century. As UN Secretary General Guterres

recently put it: unless humankind learns to live in peace with nature its survival is under imminent threat. For future generations, the next ten years are believed to be critical.

Is environmental law equipped to forge such peace with nature? To what extent are institutions at liberty to ignore science, i.e. 'the laws of nature', in environmental decision-making? What counts as robust science in court?
Despite the existence of principles unique to environmental law, in particular precaution, there are reasons to be sceptical about the ability of (environmental) law to respect the environment:

- Earth systems (hydro cycle, nitrate cycle, carbon cycle, etc.) are global, whereas law in the final analysis is always local,
- Although ultimately humans are mere (invasive) manifestations of nature, law sharply distinguishes between nature and humans, privileging the former over the latter in ways that deny human interdependence with nature, for example through the notion of property as a fundamental human right,
- Law privileges present over future generations: provided that proper (democratic) procedure is followed and fundamental rights are respected, present generations essentially are at liberty to compromise opportunities for future generations,
- Environmental law is premised on the idea of gradual environmental change and stability of Earth systems whereas, actually, in the Anthropocene change is fast and unpredictable,
- The rule of law implies that law always takes precedence over nature regardless of consequence.

This course critically engages these conceptual, spatial and temporal design-flaws in the concrete legal contexts pertaining to nature conservation, water, the climate and pesticides. We discuss recent legal innovations purportedly addressing such flaws, such as bestowing legal personality on nature ('rights of nature'), or establishing what we could term 'eco-territorialtiy' ('river basins', 'special areas of conservation', etc.).

The course concludes with a written group assignment on a topical issue of Swedish or EU environmental law, to be introduced in a final lecture.

Outline

Cluster 1: Foundational Concepts

What do notions that we tend to take for granted such as 'regulation', 'law', 'environment' and 'Anthropocene' mean, and how do they interact? How do the instruments of EU environmental law find their way in national legal orders?

Cluster 2: Science and Law

Science connects law with nature. What role does law assign to science, in particular in the context of environmental (judicial) decision-making?

- Science and precaution: the example of pesticides
- Citizens science

Cluster 3: Nature Conservation

The Habitat and Bird Directives have been incredibly important. Questions that will guide our study of these two key-instruments of environmental law include:

- What determines the protected status of a habitat: politics (law) or ecological realities in the field?
- What notion of 'nature' is implicit in these instruments?
- How should we legally appreciate rewilding and reintroduction initiatives?

Cluster 4: Water

The Water Framework Directive again is of crucial importance:

- How does it deal with transboundary water bodies?
- What quality standards does the WFD impose, and are these enforceable?
- Does the WFD concern water quantity?
- How should we appreciate hydro-energy in the context of the WFD?
- Can we foresee 'obligations to rewild' rivers?

Cluster 5: Climate

In force since 2021, we focus on the European Climate Law and the EU ETS scheme that will be key in realizing its targets:

- How does the EU's climate policy relate to global instruments in the field, such as the Paris Agreement?
- What role do markets play in the realization of the EUs climate ambitions?
- How do these EU instruments relate to Carbon Dioxide Removal and climate engineering technologies?

Cluster 6: Group project

We will be working on an environmental law case, fictive or real, in groups of about five students. The mark will count as 20 percent towards the final overall grade.

Course design

Teaching is structured in lectures and seminars. The student obtains knowledge and competences as above by individual studies of course literature and other course material, and by taking active part in lectures and seminars.

Assessment

Examination is in the combined form of a written exam (80%) and a group project (20%). Active participation in the seminars is mandatory.

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.
The final grade on the course is based on an overall assessment of the student's performance on seminars, written exam and research essay.

B – Pass

The student shows

- good knowledge of the fundamentals in EU Environmental Law
- in-depth knowledge of EU Environmental law on atmospheric pollution and climate change, conservation of biodiversity, protection of fresh water and hazardous chemicals.
- good understanding of the interaction between International Environmental Law, EU Environmental Law and National Environmental Law
- good knowledge about current research and methodology within the area

- basic knowledge of Contemporary research within the area
- good ability to identify legal problems, apply the relevant international, EU and national body of legal materials, analyze the problems and systematize arguments to solve them, within the field of Environmental Law, in particular in an international and European perspective
- good ability to conduct independent investigation in an objective but critical manner, and to present the results both in an oral and written manner.

BA – Pass with credit

The student shows

- in-depth knowledge of the fundamentals in EU Environmental Law
- in-depth knowledge of International and EU Environmental law on atmospheric pollution and climate change, conservation of biodiversity, protection of fresh water and hazardous chemicals.
- in-depth understanding of the interaction between International Environmental Law, EU Environmental Law and National Environmental Law
- good knowledge about current research and methodology within the area
- good knowledge of contemporary research within the area
- in-depth ability to identify legal problems, apply the relevant international, EU and national body of legal materials, analyze the problems and systematize arguments to solve them, within the field of Environmental Law, in particular in an international and European perspective
- in-depth ability to conduct independent investigation in an objective but critical manner, and to present the results both in an oral and written manner.

AB – Pass with distinction

The student shows

- very good knowledge of the fundamentals in EU Environmental Law
- excellent knowledge of International and EU Environmental law on atmospheric pollution and climate change, conservation of biodiversity, protection of fresh water, hazardous chemicals and waste.
- very good understanding of the interaction between International Environmental Law, EU Environmental Law and National Environmental Law
- very good knowledge about current research and methodology within the area
- comprehensive knowledge of contemporary research within the area
- excellent ability to identify legal problems, apply the relevant international, EU and national body of legal materials, analyze the problems and systematize arguments to solve them, within the field of Environmental Law, in particular in an international and European perspective
- excellent ability to conduct independent investigation in an objective but critical manner, and to present the results both in an oral and written manner.

Entry requirements

For students on the Professional Law Degree Programme the entry requirements for semesters 7 and 8 are outlined in the Programme syllabus (utbildningsplanen).

Exchange students must have passed at least two and a half years of law studies at university level including basic knowledge of EU law.

Subcourses in JUCN33, New Directions in Environmental Law

Applies from V23

2301 Exam, 15,0 hp
Grading scale: Fail, Pass, Pass with credit, Pass with distinction