

## Legal Systems and Methods, JU630A (15 credits)

Legal Systems and Methods is an upper level elective course given in English at the Department of Law, Stockholm University. The course is given during the first half of the Spring semester.

### Course description

#### Prerequisites and special admittance requirements

Admission to the course and examination is granted to students who fulfil the general requirement for admissions to elective courses, i.e., passed examinations for compulsory courses within the law program amounting to at least 150 university credits. Admission is also open to exchange students enrolled at the Department of Law.

#### Course Objectives and Examination

The main purpose of this course is to assist law students in developing tools to successfully negotiate the difficulties that arise from clashing legal traditions in everyday legal work in an international or internationalized setting. To achieve this goal, a two-fold approach is necessary: First and foremost, students will be introduced to the legal cultures within the most theoretically and practically important legal systems. The curriculum places particular emphasis on legal methods and techniques specific to a legal tradition and legal family. Since legal cultures are constantly evolving, their historical background and ideological underpinnings must be considered. In addition to the study of the legal methods of the world, students are required to develop such skills that facilitate legal work in situations where more than one legal tradition is involved. Practical exercises will help students to develop inter-cultural legal communication skills and strategies (International Lawyering). The course closes with a case study.

### Juridiska institutionen



## Learning outcomes

After having completed the course, students are expected to be able to:

- show knowledge about and understanding of the legal methods and techniques of the most important legal traditions, including their historical background and their institutional and ideological underpinnings.
- identify relevant issues in this specific field of knowledge and critically analyze reasoning in law and legal scholarship regarding the methodological implications,
- collate the results of the analysis and independently and systematically formulate relevant legal arguments on the basis of methods and techniques in different legal traditions.
- evaluate the legal consequences following a choice of method and make strategic evaluations of the suitability of different methods and techniques in particular cases and
- in general, develop such practical skills that makes it possible to successfully work in an international or internationalized legal environment.

## Didactic structure

The course work starts with an introduction to the theoretical underpinnings of the curriculum, i.e., the concept of *legal cultures* and the taxonomy of comparative law.

The notion of *legal cultures* denotes a field of legal scholarship dedicated to the study of core legal paradigms – in the case of this course, primarily legal methods, procedures and institutions – as a mean to achieve a working knowledge of different legal systems. As such, this field is multi-disciplinary and involves comparative law, legal history (legal genetics) and legal methodology.

To achieve some structure in the study of different legal cultures, the curriculum is organized along the lines of the taxonomy of comparative law, or more precisely according to the different *legal traditions* and *families*. The doctrine of legal families aims at establishing groups among legal systems, identified by common legal traits or practices. The analysis of legal families hence combines a systematic approach with historical knowledge and insights. In the course, the curriculum is divided into blocks according to the specific legal family concerned.

Through the analysis of the legal cultures within different legal families the student is given an overview of the main legal systems of the world. A home assignment is used to assess students' theoretical and practical knowledge at the end of this part of the course. The knowledge and skills derived from the cultural analysis of different legal families subsequently provides the basis for the last part of the course: a skills-focused introduction to the field of International Lawyering by teachers with practical knowledge concerning inter-cultural communication and strategies within the legal field. The course closes with a case study, during which the student's ability to capitalize on knowledge and skills gained during the course's two parts is assessed.

## Curriculum

During the course, students will be introduced to the main legal systems of the



world, with a particular emphasis on legal reasoning and method. The curriculum focuses on the doctrine of legal sources and its practical application within different legal traditions. Some of the topics addressed in lectures and seminars are conventions concerning statute interpretation and gap-filling (analogies), the use of precedents, customs, and doctrinal propositions as legal arguments. Practical exercises and case studies help students to develop inter-cultural legal communication skills and strategies.

### **Course literature and material**

Zweigert, K – Kötz, H, *An introduction to Comparative Law*, 3rd ed., Oxford 1998 (492 pages)

Compendiums:

- Extract from *Interpreting Statutes. A Comparative Study*. Ed MacCormick – Summers, Routledge, New York 2016

Extract from *Interpreting Precedents. A Comparative Study*.

Ed. MacCormick – Summers, Routledge, New York 2016

(in total 432 sidor).

Other articles and essays in the curriculum will be published on the course's platform (Athena) under the heading *Literature and course material*.

In addition to the reading list, further material can be added during the course period, if a lecturer requests that a specific article etc. is to be read in preparation for classes. Such material will be announced in Athena.

### **Attendance**

Active participation in the seminars is mandatory. The requirement of active participation means that the student must make suitable preparations for the seminar and be prepared to answer questions and take part in the discussion. Students who cannot attend a seminar for legitimate reasons (for example, illness as attested by a physician's certificate) can compensate for his or her absence or inactivity by writing a short paper on the topic of the seminar (approximately 600 words or two A4 pages, 12 pt., 1.5 spacing), which is due at the same time as the home assignment. A maximum of 25 percent of the seminars (4 out of 17 seminars) can be compensated by a written assignment. If the absence exceeds the 25 percent limit the student will not be able to complete the course. Participation in the case study is mandatory and cannot be compensated.

### **Examination**

Grading will be based on individual achievements in both the written exam and the case study. The written exam makes up 75 percent and the case study 25 percent of the basis for the assessment. To pass the course the student must fulfil every learning outcome in the syllabus.

### **Home Assignment**

The written exam is a home assignment that consists of three questions that require essay-style answers. Regarding the length of the answers, there is no limitation in the



number of pages that could be handed in. Please note, however, that the immediate relevance of the student's writing in regard to a specific question will be considered in the grading process. As an approximation, 3 - 4 pages per question should be enough.

In accordance with academic standards, references to literature and other sources (including web pages) should be made continuously through the text. Students may abstain from using notes when quoting course literature, but if the list of sources is expanded beyond that, notes must be used. Please note that reasoning or conclusions in the text that could neither be attributed to the author, nor to any traceable source, will be regarded as an attempt at plagiarism.

As different examiners will be grading the answers, each question should be answered separately, to facilitate distribution.

The answers should be up-loaded in the course's platform, Athena.

### **Case study**

The case study starts with a separate introduction, where the particulars of the exercise are communicated to the participants and the case is distributed. Students will be divided into working groups of 3 to 5 students. We strive to maximize legal-cultural diversity in each group.

During the case study, students can contact the appointed tutor for guidance and questions. The working groups will have 3 or 4 days to prepare a written and an oral argument based on the case and according to the instructions given during the introduction. The arguments are presented before a panel consisting of both legal scholars and lawyers specialized in transnational and intercultural legal work.

### **Grading**

Grades are given on either the Swedish four-grade scale or the European Credit Transfer System (ECTS) seven-grade scale. The Swedish grading scale consists of the following grades; Pass with distinction (AB), Pass without distinction (BA), Pass (B) or Fail (U). Students who submit a request at least a week prior to the exam to the course administrator are entitled to a grade on the ECTS seven-grade scale. The ECTS seven-grade scale is as follows: A (Excellent), B (Very good), C (Good), D (Satisfactory) or E (Sufficient). Failing grades are Fx (Insufficient) and F (Wholly insufficient). Exchange students are graded exclusively according to the on the ECTS seven-grade scale.

Student performance is graded according to the following **grading criteria**:

#### **The four-grade scale**

**AB** The student shows particularly good knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she can, with great precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate relevant, cohesive and persuasive legal arguments based on methods in different legal traditions and with great precision evaluate the legal consequences following a clearly strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.



**Ba** The student shows good knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she can, with good precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate largely relevant, cohesive and persuasive legal arguments based on methods in different legal traditions and with good precision evaluate the legal consequences following a largely strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**B** The student shows the reasonable knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she can, with acceptable precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate sufficiently relevant, cohesive and persuasive legal arguments on the basis of methods in different legal traditions and with reasonable precision evaluate the legal consequences following a partly strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**U** The student shows a lacking knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she is unable to, with any precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student cannot formulate relevant, cohesive and persuasive legal arguments on the basis of methods in different legal traditions and with any precision evaluate the legal consequences following a strategic choice of methods. He or she has not developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

### **The seven-grade scale (ECTS)**

**A** The student shows exceptionally good knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she can, with the utmost precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate clearly relevant, cohesive and persuasive legal arguments on the basis of methods in different legal traditions and with the utmost precision evaluate the legal consequences following a clearly strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**B** The student shows particularly good knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she can, with great precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate relevant, cohesive and persuasive legal arguments based on methods in different legal traditions and with great precision evaluate the legal consequences following a strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**C** The student shows very good knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or



she can, with very good precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate largely relevant, cohesive and persuasive legal arguments based on methods in different legal traditions and with good precision evaluate the legal consequences following a largely strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**D** The student shows good knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she can, with good precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate largely relevant, cohesive and persuasive legal arguments based on methods in different legal traditions and with good precision evaluate the legal consequences following an at least partly strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**E** The student shows sufficient knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she can, with some precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student can formulate largely relevant, cohesive and sufficiently persuasive legal arguments based on methods in different legal traditions and with some precision evaluate the legal consequences following a somewhat strategic choice of methods. He or she has developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**Fx** The student shows clear gaps in his or her knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she is unable to, with any precision, identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student is largely unable to formulate relevant, cohesive and persuasive legal arguments on the basis of methods in different legal traditions and with any precision evaluate the legal consequences following a strategic choice of methods. He or she has not developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

**F** The student shows serious gaps in his or her knowledge of legal methods and techniques in the main legal traditions, including their historical, institutional and ideological foundations. He or she is unable to identify relevant issues and critically analyze legal reasoning with regards to its methodological implications. Furthermore, the student is clearly unable to formulate relevant, cohesive and persuasive legal arguments on the basis of methods in different legal traditions and to evaluate the legal consequences following a strategic choice of methods. He or she has not developed such practical skills that makes it possible to work in an international legal environment in an efficient and confident manner.

### Course grade

The final course grade is calculated according to the following tables.

#### Grading scale AB – U

Grade 1	Grade 2	Grade 3	Grade 4	Course Grade
AB	AB	AB	AB	AB

AB	AB	AB	Ba	AB
AB	AB	Ba	Ba	AB
AB	Ba	Ba	Ba	Ba
AB	Ba	Ba	B	Ba
Ba	Ba	Ba	Ba	Ba
AB	Ba	B	B	Ba
Ba	Ba	Ba	B	Ba
AB	B	B	B	Ba
Ba	Ba	B	B	Ba
Ba	B	B	B	B
B	B	B	B	B

**Grading scale A – F**

Grade 1	Grade 2	Grade 3	Grade 4	Course Grade
A	A	A	A	A
A	A	A	B	A
A	A	A	C	A
A	A	A	D	B
A	A	A	E	B
A	A	B	B	A
A	A	B	C	B
A	A	B	D	B
A	A	B	E	B
A	A	C	C	B
A	A	C	D	B
A	A	C	E	B
A	A	D	D	B
A	A	D	E	C
A	A	E	E	C
A	B	B	B	B
A	B	B	C	B
A	B	B	D	B
A	B	B	E	B
A	B	C	C	B
A	B	C	D	B
A	B	C	E	C
A	B	D	D	C
A	B	D	E	C
A	B	E	E	C
A	C	C	C	B
A	C	C	D	C
A	C	C	E	C
A	C	D	D	C
A	C	D	E	C
A	C	E	E	C
A	D	D	D	C
A	D	D	E	C
A	E	E	E	D
B	B	B	B	B
B	B	B	C	B
B	B	B	D	B
B	B	C	C	B
B	B	C	D	C
B	B	C	E	C

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B	C	E	E	D
B	D	D	D	C
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B	D	E	E	D
B	E	E	E	D
C	C	C	C	C
C	C	C	D	C
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C	D	D	D	D
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C	D	E	E	D
C	E	E	E	E
D	D	D	D	D
D	D	D	E	D
D	D	E	E	D
D	E	E	E	E
E	E	E	E	E

### **Revision of grades**

Students have a right to request a revision of the grades given. The request must be in writing and directed to the examining teacher. The reasons for the request must be given in full. It is also possible to request – in writing – that the examiner accounts for the reasoning behind an assessment. The request should be handed in or sent via e-mail to the course administrator.

### **International and comparative aspects**

Even though the taxonomy of comparative law provides the general structure of the first part of the course, the didactic goal is not to compare legal cultures and families. Instead students are provided with a basic understanding of foreign legal cultures through the medium of legal method, institutions, and procedures. The curriculum is, however, specifically designed to give students a working knowledge of law in regard to an international or internationalized marketplace. In that sense the course in its entirety is inter- and transnational in character.

### **Cooperation with society and legal practice**

Since the curriculum is skills-focused, a two-pronged approach is necessary: The academically schooled teachers provide the historical and theoretical underpinnings, but lawyers, versed in the practical application of law in international and transnational settings, have been handpicked to teach students the practical skills involved. This approach requires a large degree of coordination between the two



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groups of teachers involved.

### **Coordination with other courses and the law programme as a whole**

The course is an elective course at the advanced level and it both broadens and deepens the student's insights into legal method and culture in relation to the mandatory courses at the basic level. Since the curriculum focuses on institutions, procedures and methods, rather than material law, the connection is particularly strong with mandatory courses such as Procedural law, Legal history and General jurisprudence. There is a noticeable orientation in the teaching towards private law, in particular contract law, which is a consequence of the didactic goal of the course.

Private law is, without a doubt, the legal field that most lends itself to transnational legal business.

The course, *Legal Systems and Methods*, is designed in conjunction with another elective course, *Juridisk metodlära* (15 credits). Swedish-speaking students are therefore recommended to study both courses, since they will give them a well-rounded insight into most aspects of legal methodology. It is also possible to write a master's thesis relating to the two courses. However, it is equally possible to study the course in isolation or in combination with courses on material or comparative law.

### **Student participation and course development**

All students will be encouraged to evaluate the course by participating in a scheduled oral evaluation at the end of the study and/or by filling out a course evaluation form provided by the course administrator. Course evaluations are a crucial part of the quality assurance of the course's curriculum, literature, teaching and examination. This course is continually developing, and the views and ideas expressed by participants are an integral part of this process.

The course evaluation report for the spring term 2020 is available on the course's platform, Athena. In the questionnaire, students have been asked to assess the major strengths of the course, the need for improvements and the overall relevance of the various parts of the curriculum in relation to the learning outcomes in the course's syllabus.

The participants considered the diversity of both the student group and the teaching staff as one of the major strengths of the course. They argue that this diversity creates an international ambience and authenticity that contributes to the fulfillment of the main goals of the course. The teaching staff in general is praised for its knowledge of and skill in presenting different legal cultures. We are trying to enhance the pedagogical effect of the international ambience by primarily using teachers who have a working knowledge of the legal system and culture in question. During the case study, students are divided into working groups and we strive to maximize the diversity within the groups, to achieve the best conditions for intercultural understanding and cooperation within the group.

Classes on International Lawyering have been universally popular among students. The exercises were considered relevant to both the course's academic aims and to practice in a realistic international setting. According to the course evaluation, this part of the course represents great professional development to students from widely diverse backgrounds and aspirations. Therefore, we are working towards an even



closer connection between the academic and practical aspects of the course's curriculum. The combination of a home assignment and a case study was also considered one of the major strengths of the course, since it ensures that both academic and practical skills are properly assessed.

On the topic of improving the course's curriculum, some students want the scope of the curriculum to be widened to include examples of Asian legal cultures. The seminar on Islamic Banking was considered rewarding but should be given more space within the curriculum. Some students found some of the questions in the home assignment too theoretical or too open. Consequently, the questions will be phrased differently in the future, to make them more transparent and skills based.

Further, we are attempting to strengthen the pedagogical cohesion within the curriculum, by adopting a general pattern for the interaction between classes and exercises. Students have identified the classes and Moot Court exercise in German law as particularly rewarding and we will try to replicate this model in every part of the course.

Most students regard the course's curriculum, as goal orientated, and it is given high marks for relevance.