

Judicial Expertise (B001363)

Due to Covid 19, the education and assessment methods may vary from the information displayed in the schedules and course details. Any changes will be communicated on Ufora.

Course size *(nominal values; actual values may depend on programme)*

Credits 4.0 **Study time 120 h** **Contact hrs** 30.0h

Course offerings and teaching methods in academic year 2021-2022

A (semester 2)	Dutch	Gent	guided self-study	3.75h
			lecture: plenary exercises	5.0h
			lecture	21.25h

Lecturers in academic year 2021-2022

Traest, Philip	RE23	lecturer-in-charge
Taelman, Piet	RE21	co-lecturer

Offered in the following programmes in 2021-2022

	crdts	offering
Master of Science in Teaching in Social Sciences(main subject Laws)	4	A
Master of Laws in Laws	4	A

Teaching languages

Dutch

Keywords

Procedural law, civil procedure, criminal procedure, investigation, expert.

Position of the course

The main objective of this course is to let students gain insight in the role, the importance and the method of judicial expertise in civil and criminal procedures. It is a fact that progress of science and technology - and the complexity of our society - have an impact on the handling of civil and criminal cases. This leads to more judicial experts being appointed and raises questions regarding their position and their relationship vis-a-vis judges and the office of the public prosecutor.

Contents

The judicial expertise is explained and examined thoroughly through the various procedural stages. Because of the elaborate regulation of this investigative measure in the Belgian Judicial Code, Article 2 of this Code and the case law of the Belgian Constitutional Court, the judicial expertise in civil matters is analyzed first before turning to the judicial expertise in criminal matters. Attention is paid to the appointment of a judicial expert, the procedure of a judicial expertise, the evidential value of an expert report, legal remedies against the expert and his/her report and his/her costs. The focus is also on the position of the judicial expert and his/her professional confidentiality and responsibility. Finally, attention is given to the expertises in certain fields of special penal law, such as accounting law, company law and financial law.

The preceding will off course be approached from the point of view of supranational law and, more specific, the ECHR. Attention is given to aspects of comparative law. An active participation of the students is expected.

Initial competences

It is recommended to have the final attainment levels of the courses penal law, criminal procedure and civil procedure. In general, they are expected to have a sufficient knowledge of Belgian positive law, as taught in the bachelor of law program.

Final competences

1 Having a thorough knowledge of and insight in the functioning of judicial expertises in civil and criminal matters, including the relevant notions of supranational law, such as the

provisions of the European Convention on Human Rights, and the position of the judicial expert.

- 2 Resolving questions and problems regarding judicial expertise in civil and criminal matters.
- 3 Resolving concrete questions regarding the mission of the expert and the delineation of his/her mission vis-a-vis the mission of the judge and/or officers of the public prosecutor's office.
- 4 Finding and consulting relevant national and international sources, in particular the law, the literature in manuals and law reviews, case law, databases and the internet.
- 5 Forming an own funded opinion about issues relating judicial expertise.
- 6 Reflecting orally and in writing about the issues that were treated.
- 7 Having a critical attitude towards the various sources.

Conditions for credit contract

Access to this course unit via a credit contract is unrestricted: the student takes into consideration the conditions mentioned in 'Starting Competences'

Conditions for exam contract

Access to this course unit via an exam contract is unrestricted

Teaching methods

Lecture: plenary exercises, Guided self-study, Lecture

Extra information on the teaching methods

Guided self-study and lectures. During classes concrete cases and (published) case law are used interactively.

Learning materials and price

A syllabus (disposable as a book at a maximum cost of 80 EUR or via Ufora), a reader, lecture notes and a recent edition of the Civil Code, Judicial Code, Penal Code, Code of Criminal Procedure and main particular laws.

References

The references are included in the learning material.

Course content-related study coaching

Feedback during office hours of teacher and assistants or on appointment. Tools of Ufora are used.

Assessment moments

end-of-term assessment

Examination methods in case of periodic assessment during the first examination period

Written examination, Oral examination

Examination methods in case of periodic assessment during the second examination period

Written examination, Oral examination

Examination methods in case of permanent assessment

Possibilities of retake in case of permanent assessment

not applicable

Extra information on the examination methods

The written exam is composed of theoretical questions, insight questions and application questions. The oral exam is composed of open questions that can be prepared in writing by the student by using the relevant legislation. This preparation can be used during the oral exam.

Calculation of the examination mark

60 % written exam and 40 % oral exam