

## Moot Court Human Rights (B001771)

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

**Credits 12.0**                      **Study time 360 h**

**Course offerings and teaching methods in academic year 2023-2024**

A (Year)                      English                      Gent                      group work

**Lecturers in academic year 2023-2024**

Haeck, Yves                      RE22                      lecturer-in-charge

**Offered in the following programmes in 2023-2024**

	crdts	offering
<a href="#">Master of Laws in Laws</a>	12	A
<a href="#">Exchange Programme in Law</a>	12	A

**Teaching languages**

English

**Keywords**

Simulation of a case before the Inter-American Court of Human Rights (San José, Costa Rica), combined application of aspects of international human rights (human rights instruments, public international law, international organisations, international humanitarian law, ...), solving legal issues of human rights, verbal skills.

**Position of the course**

The course is intended for students who – from a practical perspective – wish to become more proficient in international human rights. It builds on the courses 'Constitutional Law' (1st Bachelor of Law) and 'Human Rights' (2nd Bachelor of Law). The strength of this course lies with the fact that the knowledge and skills acquired in the aforementioned courses are applied on a complex practical case study.

**Contents**

In the framework of the International Moot Courts offered by the department, students are required the following:

- to deduct, analyse and study multiple human rights issues from the assignment of the respective Moot Court Competition, taking into account the relevant primary sources, case law and doctrine.
- to compile in a memorial, the different written arguments that support the viewpoint of either party in the fictitious conflict.
- to set out the elaborated written arguments in oral pleadings, taking into account possible arguments of the opposite party.
- to attend intensive coaching and pleading sessions.
- to plead the case in a simulated procedure before the Inter-American Court of Human Rights.

In the course of the academic year, there is a shift of focus in the list of requirements mentioned above. This shift is mainly linked to the different phases of the Inter-American Human Rights Moot Court Competition: 1st phase (October – March) (the case is available around 10 December): preparation and writing of the Memorial; 2nd phase (April – May): preparation of the oral pleadings; 3rd phase (about one week between 17 and 28 May): participation in the oral pleading round in Washington DC.

**Initial competences**

- Solid basic knowledge of human rights

- Good communication skills
- Willingness to cooperate with fellow students

### Final competences

- 1 Knowledge and understanding of the importance and functioning of human rights within the regional Inter-American human rights defence mechanism.
- 2 Knowledge and application of the case law of the Inter-American Court of Human Rights, in light of the case law of the European Court of Human Rights.
- 3 Detailed knowledge and application of the relevant regional and international human rights instruments, the human rights case law of regional monitoring bodies, as well as international law in one or more topical human rights issues raised in the frame of a regional human rights mechanism.
- 4 Insight in the treatment of disputes brought before the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights
- 5 Critical approach of historical and topical developments in international human rights law
- 6 Ability to organize and conduct research, both independently and in a team
- 7 Ability to analyze complex conflicts between individual prosecutors and states or between states, applying the human rights rules concerned, and deduce international law issues.
- 8 Ability to find, evaluate and assess legal and other relevant sources, and to distinguish between what is important and what is less important.
- 9 Critical approach of developments in international law.
- 10 Ability to apply critical insight, in order to defend a viewpoint with creative and original arguments in an international context, both independently and in a team
- 11 Ability to write relevant and coherent legal arguments, both independently and in a team.
- 12 Good verbal and pleading skills.
- 13 Show an active interest in scientific research within this domain.
- 14 Use English, French, Dutch (and Spanish) legal sources to analyse and solve a complex case, which is often based on current 'hot items' (of an economic-political-social nature) in the Americas (and Europe).

### 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

This course unit cannot be taken via an exam contract

### Teaching methods

Group work

### Extra information on the teaching methods

The process: Participation in a moot court requires students to study and analyze a fictitious conflict between individual prosecutors and a State, to defend both verbally and in writing the viewpoint of either party by using legally founded arguments. More specifically, students are required to form a country team. Together, they take up the defence of the individual prosecutors or the State. Each student takes on a number of sub-aspects, which eventually will make up two end products:

1. The Memorial is a written contribution or conclusion. Each of the participants is responsible for solving one or more legal questions. The team members assume a shared responsibility for the consistency, coherence and logical structure of the

Memorial, as well as for the more formal parts.

2. The Pleadings are jointly developed by the country team members and then divided in different parts. Each part will be orally brought forward by a team member at the international pleading rounds in Washington DC, as regarding the Inter-American Human Rights Moot Court Competition.

In order to manage these complex learning situations (individual work, team work, ...) and to optimize integration into the complex learning process (to learn and practise skills, to know, command and apply a combination of the course contents), intensive coaching is provided. This coaching is built around an intensive series of coaching and pleading sessions, that steer the gradual learning process, by providing a logical series of interim and preparatory tasks. Coaching takes place in small groups and is complemented with an individual approach, when necessary. Apart from the lecturer-in-charge and the department staff, coaching can also be provided by external experts and specialists, when their input is deemed useful.

### Learning materials and price

Documents distributed by the organizers of the moot courts, directly via the organizers' website and/or via the university department, which uploads the documents on Minerva.

All relevant sources (books, treaty texts, reports, articles, ...) that can be consulted either physically or electronically in the faculty library or central library.

### References

Inter-American Human Rights System:

- T. ANTKOWIAK and A. GONZA, *The American Convention on Human Rights*, Oxford, Oxford University Press, 2017
- C. BURBANO HERRERA, *Provisional Measures in the Case Law of the Inter-American Court of Human Rights*, Antwerp, Intersentia, 2011
- L. BURGORGUE-LARSEN and A. UBEDA DE TORRES, *The Inter-American Court of Human Rights. Case-Law and Commentary*, Oxford, Oxford University Press, 2011, 1e editie
- L. BURGORGUE-LARSEN and A. UBEDA DE TORRES, *Les Grandes Décisions de la Cour Interaméricaine des droits de l'homme*, Brussel, Bruylant, 2008
- I. DE PAZ GONZALEZ, *The Social Jurisprudence of the Inter-American Court of Human Rights*, Cheltenham, Edward Elgar, 2018
- H. FAUNDEZ LEDESMA, *The Inter-American System for the Protection of Human Rights. Institutional and Procedural Aspects*, San José, Inter-American Institute of Human Rights, 2008
- C. GROSSMAN, A. DELCAMPO and M.A. TRUDEAU, *International Law and Reparations; The Inter-American System*, Atlanta, Clarity Press, 2018
- Y HAECK, C. BURBANO HERRERA and O. RUIZ CHIRIBOGA (eds.), *The Inter-American Court of Human Rights: Theory and Practice, Present and Future*, Cambridge, Intersentia, 2015
- C. MEDINA, *The American Convention on Human Rights*, Cambridge, Intersentia, 2016, 2nd edition
- J.M. PASQUALUCCI, *The practice and Procedure of the Inter-American Court of Human Rights*, Cambridge, Cambridge University Press, 2013, 2nd edition
- C. STEINER and M.C. FUCHS, *Convencion Americana sobre Derechos Humanos*, Berlin, Konrad Adenauer Foundation, 2019, 2nd edition

European Human Rights System:

- J. GERARDS, Y. HAECK, I. LEIJTEN, J. MEESE and B. VAN BOCKEL (eds.), *Sdu Commentaar EVRM*, Den Haag, Sdu Uitgevers, 2019, 2nd edition
- D.J. HARRIS, M. O'BOYLE, E. BATES and C. BUCKLEY, *Law of the European Convention on Human Rights*, Oxford, Oxford University Press, 2023, 5th edition
- P. LEACH, *Taking a Case to the European Human Rights System*, Oxford, Oxford University Press, 2017, 4th edition
- K. REID, *A Practitioner's Guide to the European Convention on Human Rights*, London, Sweet & Maxwell, 2019, 6th edition
- W. SCHABAS, *The European Convention on Human Rights? A Commentary*, Oxford, Oxford University Press, 2015
- P. VAN DIJK, F. VAN HOOFF, A. VAN RYN and L. ZWAAK, *Theory and Practice of the European Convention on Human Rights*, Intersentia, 2018, 5th edition

African Human Rights System:

- R. MURRAY, The African Charter on Human and Peoples' Rights. A Commentary, Oxford, Oxford University Press, 2019
- F. VILJOEN, International Human Rights Law in Africa, Oxford, Oxford University Press, 2012, 2nd edition

UN Human Rights System:

- I. BANTEKAS, M. STEIN and D. ANASTASIOU, The UN Convention on the Rights of Persons with Disabilities. A Commentary, Oxford, Oxford University Press, 2018
- M. FREEMAN, C. CHINKIN and B. RUDOLF, The UN Convention on the Elimination of All Forms of Discrimination Against Women. A Commentary, Oxford, Oxford University Press, 2023, 2nd edition
- S. JOSEPH en M. CASTAN, The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary, Oxford, Oxford University Press, 2013, 3rd edition
- M. NOWAK, M. BIRK and G. MONINA, The United Nations Convention Against Torture. A Commentary, Oxford, Oxford University Press, 2019, 2nd edition
- M. NOWAK and W. SCHABAS, Nowak's CCPR Commentary - The UN Covenant on Civil and Political Rights, Kehl am Rhein, Engel Verlag, 2019, 3rd edition
- B. SAUL, D. KINLEY and J. MOWBRAY, The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials, Oxford, Oxford University Press, 2014
- R. TAYLOR, A Commentary on the International Covenant on Civil and Political Rights, Cambridge, Cambridge University Press, 2020
- P. THORNBERRY, The International Convention on the Elimination of All Form of Racial Discrimination, A Commentary, Oxford, Oxford University Press, 2016
- J. TOBIN, The UN Convention on the Rights of the Child. A Commentary, Oxford, Oxford University Press, 2019
- W. VANDENHOLE, G. ERDEM TURKELLI and S. LEMBRACHTS, Children's Rights. A Commentary on the Convention on the Rights of the Child and its Protocols, Cheltenham, Eldwar Elgar, 2019

#### **Course content-related study coaching**

Within this type of problem directed education, course content-related study coaching essentially covers a set of coaching and independent learning situations, in which the coaches offer interim guidance and fine-tuning of both the end products (Memorial and Pleadings) and the process (approach, group processes, ...).

The guidance and supervision consists of a series of intensive coaching and pleading sessions that steer the gradual learning process by setting a logical series of interim and preparatory tasks.

This series of exercises is complemented with personal student coaching, which ranges from distant coaching by e-mail to personalised coaching sessions, when in the interest of the individual and/or the group.

In each coaching situation, intensive use is made of the available educational supporting technologies (Ufora, ...) and specially devised infrastructure (pleading room, ...).

Apart from the responsible lecturer and department staff, coaching can also be provided by external experts and specialists, such as lawyers, judges and (former) staff of international human rights courts, when their input is deemed useful.

#### **Assessment moments**

continuous assessment

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

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

#### **Examination methods in case of permanent assessment**

Oral assessment, Participation, Assignment

#### **Possibilities of retake in case of permanent assessment**

examination during the second examination period is not possible

#### **Extra information on the examination methods**

100 % non-periodic evaluation, 40 % of which is based on the Memorials, 30 % on

the Pleadings and 30 % on the evaluation of the interim and preparatory assignments and the associated contribution to and participation at the coaching and pleading sessions.

**Calculation of the examination mark**

Non-periodic (100 %). Students are obliged to participate in all evaluations (both periodic and non-periodic evaluations). If not, they will be declared 'failed'.

**Facilities for Working Students**

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