

# JUR-3622 International Environmental Law and Climate Change in the Arctic – 15 stp

**The course is administered by**

Faculty of Law

**Place of study**

Tromsø

**Type of course**

Master level. The course is given during the spring and the fall term.

**Admission requirements**

Students must be on master level and should have a basic knowledge of public international law and/or the law of the sea.

Students at the Integrated master's degree programme in law may choose this course as a partial fulfillment of the requirements for the elective part of the programme's fifth year, cf. Programme Specification for the Master's Degree in Jurisprudence at the University of Tromsø (Studieplan for graden Master i rettsvitenskap ved Universitetet i Tromsø), Sec. 4.

Followed by necessary application and admission process, other students (such as exchange students) may also choose this course, cf. Regulations for the Elective Component in the Master's Degree Programme in Jurisprudence (Reglement for den valgfrie delen av masterstudiet i rettsvitenskap) (Regulation).

Students who do not have admission to the Master of Law-studies at the Faculty of Law must contact the Faculty for information about required qualifications and application process for this course.

**Course contents**

This course offers a broad introduction to international environmental law, after which students will gain a specialized insight into the legal framework applicable to the Arctic region. The Arctic region is environmentally vulnerable, and is thus greatly affected by climate change. Climate change threatens biodiversity, the livelihoods of Arctic indigenous peoples, and leads to sea level rises and changing weather patterns, amongst others. This, in turn, leads to increased shipping in the Arctic as well as fisheries moving up further North. The North West Passage and the Northern Sea Route will likely be used for commercial shipping in the near future, leading to increased risks of oil pollution in the vulnerable Arctic ecosystems.

International environmental law is a rapidly developing field that seeks to mitigate effects of climate change and protect the environment. It involves a multitude of multilateral treaties, declarations and other instruments of international law. This course aims to provide students with an introduction to the major concepts, cases and principles that together shape the body of international environmental law. Students will learn how these concepts and principles apply in the Arctic, especially in the context of climate change.

The course covers the following topics:

- The international legal framework, including international environmental law, the law and institutional arrangements specifically applicable to the Arctic region (such as the Arctic Council), and the law of the sea.

- Key principles and concepts of international environmental law, including the precautionary approach, the ecosystem approach, sustainable development, environmental impact assessments and marine protected areas.
- The various dispute settlement procedures available to States in case of an international environmental dispute related to the Arctic region
- Substantive areas of international environmental law, such as atmospheric protection and climate change regulations, the protection of the marine environment, biodiversity, fisheries and marine mammals.
- The role of indigenous people in the Arctic in the context of climate change
- The relationship between international environmental law and other branches of public international law, such as human rights law and trade law.
- The remaining challenges in the Arctic, the scope and limits of international environmental law, and whether there is a need for an Arctic Treaty

### **Objective of the course**

#### *Knowledge:*

Having passed the exam, the student shall have acquired:

- Advanced knowledge of the international environmental legal framework applicable to the Arctic
- Advanced knowledge of the principles and concepts of international environmental law, such as the precautionary approach, the ecosystem approach, environmental impact assessments, etc.
- Advanced knowledge of the obligations under international environmental law to protect the environment in a context of climate change, such as atmospheric protection and the protection of biodiversity
- Advanced knowledge of the obligations under the law of the sea relating to the protection of the marine environment in the Arctic
- General knowledge of the dispute settlement procedures applicable to international environmental disputes in the Arctic
- Knowledge of the role of indigenous peoples in the Arctic in relation to climate change
- Knowledge of the Svalbard Treaty
- Knowledge of the relationship between international environmental law and other branches of public international law

#### *Skills:*

Having passed the exam, the student is able to

- identify and analyze questions of theoretical and practical character in the international environmental law applicable to the Arctic
- analyze critically and use various sources of information to structure and formulate scholarly and practical arguments
- independently and critically interpret and apply the relevant sources of law
- identify the limitations of the existing law applicable to the Arctic region
- undertake an independent and critical research project relating to international environmental law applicable to the Arctic

#### *General Competence:*

Having passed the exam, the student:

- can apply his/her knowledge to new legal scenarios
- can communicate effectively, both orally and in the written form, about international environmental law issues related to the Arctic
- knows how to write a scholarly paper, find relevant academic sources, and adhere to academic integrity
- is able to demonstrate his/her ability to cooperate and work together in a group
- masters the English language and terminology within this field of law
- will be able to engage in one of the most complex legal challenges we face today

## **Language of instruction**

English

## **Teaching methods**

This course uses interactive and dynamic teaching methods. The course will consist out of both lectures and seminars comprising a total of 30 hours. The course will include a practical exercise (in the form of a moot court, or otherwise) and student presentations of a small research project. Students are encouraged to participate actively during the lectures and seminars. Students are expected to be prepared for lectures and seminars by studying the corresponding literature of the curriculum. Students should study independently in periods when there are no lectures or seminars.

Students will write a research essay of 5 pages (double-spaced) about one of the topics made available to them. They should engage critically with their research question, demonstrate independent thinking, and structure their arguments accordingly. They are free to use the literature in the curriculum, but are also encouraged to find additional literature in academic books or journals. Students are expected to present their research projects in the form of an oral presentation to the rest of the class. The essay must be handed in before the presentation.

## **Assessment**

The course is assessed through a six hours closed book written exam. The exam may include theoretical and/or scenario questions.

Students is allowed to bring into the examination room a specific treaty collection identified in advance by the Faculty of Law. The treaty collection may only contain underlining etc. in accordance with the Faculty's regulations on that matter. Students may also bring a dictionary, as long as it merely provides translations and no definitions. The Faculty must approve each students examination supports (treaty collection and dictionary) prior to the examination.

The grading scale of A to F is applied, where F constitutes fail.

Students who fail their examination are entitled to re-sit the examination, cf. Regulations for examinations at the University of Tromsø Sec.22.

## **Date of examination**

The date for the exam can be changed. Final date will be announced at your faculty early in May and early in November.

## **Schedule**

See timeplan.uit.no

## **Recommended reading/syllabus**

Students are required to buy, or otherwise have access to:

- Philippe Sands, Jacqueline Peel, Adriana Fabra and Ruth Mackenzie (eds). *Principles of International Environmental Law* (3<sup>rd</sup> ed.) Cambridge: Cambridge University Press, 2012.
- Ole Kristian Fauchald and Bård Sverre Tuseth, *Global and Regional Treaties 2016* (Institutt for offentlig rett v/Calax AS, 2016).
- The compendium available at the UiT bookstore.

Curriculum:

## **International Legal Framework**

- Philippe Sands, Jacqueline Peel, Adriana Fabra and Ruth MacKenzie (eds.), *Principles of International Environmental Law* (3<sup>rd</sup> ed.) (Cambridge University Press, 2012), Chapter 2: pp. 22-49 (28 pages)

- Catherine Redgwell, "International Environmental Law," in Malcolm D. Evans (ed.), *International Law* (Oxford University Press, 2014), pp. 688-726 (38 pages)

### **International Environmental Law in the Arctic**

- G. Xue and Y. Long, "The Changing Arctic and an Adaptive Approach to the Protection of Arctic Marine Ecosystems", in M.H. Nordquist, J.N. Moore and R. Long (eds) *Challenges of the Changing Arctic. Continental Shelf, Navigation, and Fisheries* (Brill Nijhoff 2016), pp. 326-362 (37 pages)

- T. Pedersen and T. Henriksen, "Svalbard's Maritime Zones: The End of Legal Uncertainty?", *International Journal of Marine and Coastal Law* 24 (2009): pp. 141-161 (22 pages)

- O.S. Stokke, "Protecting the Arctic Environment: The Interplay of Global and Regional Regimes", *Yearbook of Polar Law* 1 (2009): pp. 349-371; 22 pages

### **Law of the Sea**

- Malcolm D. Evans, "The Law of the Sea," in (ed.) *International Law* (Oxford University Press, 2010), pp. 651-686 (36 pages)

- Donald R. Rothwell and Tim Stephens, "Marine Environmental Protection," in *The International Law of the Sea*, pp. 338-382 (45 pages)

### **Principles and tools of international environmental law (I and II)**

- Philippe Sands, Jacqueline Peel, Adriana Fabra and Ruth MacKenzie (eds.), *Principles of International Environmental Law* (3<sup>rd</sup> ed.) (Cambridge University Press, 2012), Chapter 6: pp. 187-237 (51 pages)

- Ingvild Jakobsen, "Marine Protected Areas as a Tool to Ensure Environmental Protection of the Marine Arctic: Legal Aspects," in E. Tedsen et al., (eds.) *Arctic Marine Governance* (Springer-Verlag Berlin Heidelberg, 2014), pp. 215-233 (19 pages)

- Suzanne Lalonde, "Marine Protected Areas in the Arctic," in Erik J. Molenaar, Alex G. Oude Elferink and Donald R. Rothwell (eds.), *The Law of the Sea and the Polar Regions: Interactions between Global and Regional Regimes* (Martinus Nijhoff Publishers, 2013), pp. 85-112 (28 pages)

- Robin Warner, "Environmental Assessments in the Marine Areas of the Polar Regions," in Erik J. Molenaar, Alex G. Oude Elferink and Donald R. Rothwell (eds.), *The Law of the Sea and the Polar Regions: Interactions between Global and Regional Regimes* (Martinus Nijhoff Publishers, 2013), pp. 139-162 (24 pages)

- Vito de Lucia, "Competing Narratives and Complex Genealogies: The Ecosystem Approach in International Environmental Law," *Journal of Environmental Law* 27 (2015): pp. 91-117 (27 pages)

### **Dispute settlement**

- John Merrills, "The Means of Dispute Settlement," in Malcolm D. Evans (ed.), *International Law* (Oxford University Press, 2014), pp. 563-584 (22 pages)

- Natalie Klein, "Settlement of international environmental law disputes," in Malgosia Fitzmaurice, David M. Ong and Panos Merkouris (eds.), *Research Handbook on International Environmental Law* (Edward Edgar Publishing Limited, 2010), pp. 379-400 (22 pages)

- R. Beckman, "UNCLOS Dispute Settlement Regime and Arctic Legal Issues", in M.H. Nordquist, J.N. Moore and R. Long (eds) *Challenges of the Changing Arctic. Continental Shelf, Navigation, and Fisheries*, (Brill Nijhoff, 2016), pp. 573-592 (20 pages)

### **Atmospheric protection and climate change**

- Philippe Sands, Jacqueline Peel, Adriana Fabra and Ruth MacKenzie (eds.), *Principles of International Environmental Law* (3<sup>rd</sup> ed.) (Cambridge University Press, 2012), Chapter 7: pp. 238-299 (62 pages)

- M. Doelle, "The Climate Change Regime and the Arctic Region", in T. Koivurova, E.C.H. Keskitalo and N. Banks, *Climate Governance in the Arctic* (Springer, 2009), pp. 27-50 (24 pages)

- Annalisa Savaresi, "The Paris Agreement: An Early Assessment," *Environmental Policy and Law* 46, no. 1 (2016): pp. 14-18 (5 pages)

### **Marine environment**

- D. McRae, "The Negotiation of Article 234", in F. Griffiths (ed.), *Politics of the Northwest Passage* (McGill-Queen's University Press, 1987), pp. 98-114 (27 pages)

- Rosemary Rayfuse, "Climate Change and the Law of the Sea," in Rosemary Rayfuse and Shirley V. Scott (eds.), *International law in the Era of Climate Change* (Edward Edgar Publishing Limited, 2012), pp. 147-174 (28 pages)

### **Biodiversity**

- Philippe Sands, Jacqueline Peel, Adriana Fabra and Ruth MacKenzie (eds.), *Principles of International Environmental Law* (3<sup>rd</sup> ed.) (Cambridge University Press, 2012), Chapter 10: pp. 449-478 (30 pages)

- R. Rayfuse, "Protecting Marine Biodiversity in Polar Areas Beyond National Jurisdiction", *Review of European, Comparative & International Environmental Law* 17, no. 1 (2008): pp. 3-13 (11 pages)

### **Living marine resources**

- E.J. Molenaar, "International Regulation of Central Arctic Ocean Fisheries", in M.H. Nordquist, J.N. Moore and R. Long (eds) *Challenges of the Changing Arctic. Continental Shelf, Navigation, and Fisheries* (Brill Nijhoff, 2016), pp. 429-463 (35 pages)

- Nigel Banks, "The Conservation and Utilization of Marine Mammals in the Arctic Region," in Erik J. Molenaar, Alex G. Oude Elferink and Donald R. Rothwell (eds.), *The Law of the Sea and the Polar Regions: Interactions between Global and Regional Regimes* (Martinus Nijhoff Publishers, 2013), pp. 293-321 (29 pages)

### **Indigenous peoples**

- R.L. Barsh, "Indigenous Peoples," " in *Oxford Handbook of International Environmental Law*, Bodansky, D. et al (eds.), (Oxford University Press, 2007), pp. 830-853 (27 pages)

### **Relationship to other regimes**

- A. Boyle, "Relationship between International Environmental Law and Other Branches of International Law" in *Oxford Handbook of International Environmental Law*, Bodansky, D. et al (eds.), (Oxford University Press, 2007), pp. 125-146 (21 pages)

### **Challenges for international environmental law in the Arctic**

- T. Koivurova, "Alternatives for an Arctic Treaty - Evaluation and a New Proposal", *Review of European Community and International Environmental Law* 17 (2008): pp. 14-26 (13 pages)

**Total: 754**