

Peer-Review Committee Evaluation Report – Business Law

The Lund School of Economics and Management (“LUSEM”) is currently conducting a quality assurance process in order to generate necessary knowledge to assure and develop the quality of the doctoral program. Pursuant to this overall objective a peer-review committee (hereinafter “the Committee”) was appointed during fall 2020 consisting of the following members:

- Professor Ulla Neergaard, University of Copenhagen
- Professor emerita Ingrid Arnesdotter, Linköping University
- Professor Lars Henriksson, Stockholm School of Economics

The evaluation process is part of an ongoing quality assurance of all educational levels including the doctoral program (3rd cycle). It is within the mandate of the Committee to evaluate the doctoral program in law according to pre-announced and set criteria for evaluation by LUSEM.

The Committee has been presented with the following materials:

- Self-evaluation report. Department of Law, 2020 (October)
- Regulations for doctoral education at Lund University (Reg. No. STYR 2018/562)
- Regulations for third-cycle studies at the School of Economics and Management (Reg. No. STYR 2018/1589)
- Admission rules for doctoral education at Lund University (Reg No. STYR 2017/409)
- Allmän studieplan för utbildning på forskarnivå i handelsrätt för avläggande av juris doktorsexamen, filosofie doktorsexamen samt juris licentiat examen och filosofie licentiatexamen vid Ekonomihögskolan, Lunds universitet, dnr U 2018/594 (General Study plan for doctoral studies)
- Individual study plans (ISP) for enrolled doctoral candidates
- List of completed doctoral projects 2016–2020 (4 projects)
- List of ongoing doctoral projects Autumn 2020 (6 projects)
- Supervisors, List of publications 2016–2020 Department of Business Law; 4 professors, 2 associate professors, 1 senior lecturer, 1 associate professor and external supervisors 1 professor and 3 associate professors.
- Description of the doctoral studies at the Lund University School of Economics and Management (LUSEM)

On request by the Committee the following materials have additionally been received:

- Dissertation by Fredrik Morawetz, April 2019
- Dissertation by Marta Papis-Almansa, March 2016
- Strategic plan for the Department of Law 2020–2023

In addition, an on-line site visit was arranged for presentation and interviews on 12 November 2020 with department head, supervisor, doctoral students and faculty management.

Based on the self-evaluation report (including the documents listed above), the doctoral student report, and the interviews, the task of the Committee is to *evaluate the strengths and weaknesses* of the program and *make recommendations*. It is incumbent upon the Committee to base our findings on the following criteria:

- The actual outcomes meet the objectives set for them, including the intended learning outcomes
- The program puts the learning of the doctoral students in focus
- The education is based on scientific ground
- All supervisors and course instructors have sufficient and appropriate disciplinary and pedagogical training (quality of staff)
- The program has a sufficient quantity of staff
- The program is relevant for the doctoral candidates and answers to societal needs
- The doctoral students have influence over planning, implementation and evaluation of the program and of their studies
- The learning environment is appropriate and accessible for all doctoral candidates
- There is a well-functioning support for doctoral students in need of such support
- The program is continuously evaluated and its quality is appraised
- Internationalization and international perspectives are promoted in the program
- Gender equality and equal treatment perspectives are integrated into the program
- Relevant (for the discipline) sustainability perspectives are promoted in the program

The Committee has been asked to submit its assessment and findings according to an evaluation form that essentially corresponds to the headings of the self-assessment report.

At the outset, we note that the report does not strictly follow the criteria laid down above and in addition to our findings under the respective heading we are reverting to the criteria at the end of our report. More importantly, we note that that some criteria lack clarity and specificity in terms of relevant yardsticks and concrete objectives in order to assess fulfilment. This is addressed separately at the end of our findings here.

Furthermore, the overall aim of the quality assessment is to ensure and develop the quality of the program. In the view of the Committee, the quality evaluation assessment could have benefitted from more explicit criteria. Also, in quality assessment it appears to us necessary to also address possible complaints and appeals, if any. Although several of the quality assurance areas covered therein are part of the current self-assessment it still appears advisable to align the forthcoming process with that, as may also prove helpful in upcoming reviews by the authority.

The main basis for the Committee's evaluation is for obvious reasons the self-assessment report, although at least in part that report to us is largely characterised much more as a *self-description* and not so much as a *self-assessment*. The latter would have been truer to the word if it had contained a more self-critical approach highlighting and carefully evaluating the strengths and weaknesses of the program and organisational challenges thereby revealing opportunities and threats along with possible identified strategies of how to take advantage of or counteracting them, respectively.

The Committee has altogether held three online-meetings.

With these general remarks the Committee hereby submit its findings regarding the doctoral programme in business law at the Department of Law, LUSEM.

1 Area, Environment and Resources

1.1 Subject of the program

In "Strategisk plan Institutionen för Handelsrätt 2020–2023" the following is stated:

"2. Forskning och forskarutbildning

Forskningen vid Institutionen för handelsrätt syftar till att vara nationellt ledande inom de aktuella ämnena samt hålla högsta internationella kvalitet. Den handelsrättsliga forskningen vid institutionen ska kännetecknas av akademisk frihet, kritiska och ämnesöverskridande frågor samt samhällsrelevans. Institutionen ska vidare tillhandahålla en stimulerande och god forskningsmiljö för doktorander.

Forskning och utbildning ska, i linje med universitets strategiska mål, sammanflätas i institutionens arbete. Den forskning som bedrivs vid institutionen ska bidra till den utbildning som bedrivs på grund- och avancerad nivå. Meritering inom utbildning och forskning ska likställas och bedömningen av vetenskapliga och pedagogiska meriter ska ägnas lika stor omsorg vid befordran och rekrytering. Det administrativa stödet för forskning och forskarutbildningen ska kännetecknas av serviceanda, professionalitet och engagemang."

Without doubt, the LL.D./Ph.D. programme in business law in general and the field of legal science as outlined and laid down in the syllabus for the programme in particular is of considerable, if not utmost, importance to society. At the outset, the Committee acknowledges that the programme under assessment draws on, and should benefit from, its multi-disciplinary environment following from its organisational location within LUSEM, in which it operates and as such offers a broader base for novel legal research. The programme is therefore well suited to take benefit of having close ties to other subjects such as economics and management apart from traditional legal science.

The overall vision of LUSEM is said to make a difference and connected to the University of Lund's overall objective to understand, explain and improve the world and the conditions of people. In line with this it is therefore the department's own vision to produce sustainable and relevant research and education of highest quality and to carry out its operation to that research and education is made possible with due regard and respect to the equal value of all humans. The research in business law aim at being nationally leading within the selected areas and to maintain highest international quality. Research shall be characterised by academic freedom, critical and cross-disciplinary questions and relevance to society.

All educational activities in business law – presumably including doctoral studies – are aimed at inter alia preparing students for future roles as e.g., advisers and managers being able to apply legal problem-solving in an elaborate way. Critical thinking, business law argumentation and legal reasoning are at the core of such activities.

However, it is not entirely clear to the Committee how business law as a subject in the 3rd cycle is being designed on an overall level and how the intersection between the diverse perspectives and subjects are integrated and materialised within the programme.

This is reflected not least by the possibility of doctoral candidates to pursue either an LL.D. or a Ph.D. It is, therefore, not clear to the Committee what criteria apply for the two – arguably significantly different – academic degrees and more precisely what makes one stand out from the other. It is mentioned that the traditional LL.D. degree is more linked to a legal dogmatic approach, whilst the Ph.D. may incorporate a wider array of perspectives and be more social science based or economically oriented, but the unclarity of how that differentiates from the LL.D. degree still remains.

It should also be viewed in the light that corresponding Ph.D. degrees in other Nordic countries do not necessarily imply this ostensibly substantive difference between the degrees. It is therefore recommended that further clarity in this regard should be addressed. The self-assessment indicates that decisive factor in the choice between the two is not primarily the research questions or research design. This appears somewhat confusing to the Committee. We firmly believe that a higher precision would prove beneficial in terms of quality of the program as such.

With regard to the vision and mission of the programme, it is noted that LUSEM on an overall level have some difficulties in clarifying the wider role of business law *within* LUSEM. Although it appears both mutually relevant and beneficiary it should be properly addressed. When business law fulfils the function of a supportive subject to economics and management, we recommend a better outreach to the other Departments especially for inter-disciplinary projects.

The current objects, as they are designed, appear to be too general to be properly measured and evaluated. A more concrete or quantifiable objective appears to the Committee appropriate for future development.

1.2 Staff: quantity, competence and management

The number of staff with the necessary knowledge and competence and tutoring capabilities is adequate to sustain 4–5 doctoral candidates over time. The staff members appear as very well equipped to manage the doctoral programme. It is noted that the available in-house-staff are limited to certain subjects in law and that individual projects may require competences in supervising a project from outside the faculty. This is, however, not necessarily a drawback and shall in no way be regarded to diminish the quality of the programme but may require the department to reach out to other institutions for collaboration.

On the basis of the interview with the Ph.D.-students it became the impression of the Committee that the research staff is very engaged, enthusiastic and supportive. These qualities are, however, less tangible qualities, and thus difficult to measure. Nevertheless, from a quality perspective they are arguably very important and an indispensable part of a successful doctoral program. It is also noted that all students have a co-supervisor,

which forms both a strength and safety net for the students, thus creating a robust program.

1.3 Research studies environment

The description in the self-assessment is well confirmed by the interviewed doctoral candidates including one person, who recently successfully defended his thesis. The research environment appears to be truly welcoming, stimulating and safe research environment that is adequately intellectually challenging. The department has therefore successfully, in our view, managed to take advantage of the relatively small size of the department to the benefit of its doctoral candidates.

What also stands out is the fact that the doctoral candidates are benefitting from a larger network compared to its peers at other legal faculties especially to the business community at large. Bearing in mind the identified obstacles for a smooth cooperation with the legal faculty at Lund University, this could bridge possibilities for candidates at other departments and foster better long-term cooperation. Notwithstanding this strength, and with due regard to the objectives of the programme, the programme itself could benefit from a clearer orientation concerning research "... that analyses and studies the design and application of law in business in the wider sense is made and how it should be made at different levels of society."

Doctoral students are being offered necessary facilities in terms of office space and other equipment necessary to carry out the projects. Also, allowances for literature and conferences are offered in line with other universities. The self-assessment report also indicates that there is an on-going review of the quality of the doctoral program within the recently initiated research council. The Committee finds this initiative laudable and would like to stress that the criteria and outcome of that review will be crucial for future assessments and we would have welcomed the particular findings from that work, although it is now presumed that this is reflected continuously in the self-assessment report.

Crucial to quality assurance is also to identify the criteria employed for the staffing of the research council regarding necessary competences and according what criteria the council will carry out its tasks. As of now, the Committee does not have access to that information.

1.4 Summary evaluation

Considering its comparatively small size and in the light of the structural challenges and viewed as an educational programme in law in the 3rd cycle, the programme at the Department for Business Law is maintaining a high standard.

2 Design, implementation and outcomes

2.1 Achieving objectives – knowledge and understanding

The self-assessment report clearly states how the objectives related to knowledge and understanding are fulfilled related to the business law in general and the topic chosen in particular. This appears satisfactory. The Department mentions the challenges connected

to identifying appropriate methodological research courses designed for doctoral students within business law. Essentially, that problem applies for all smaller departments as it may be challenging to find a critical mass with minimum number of students to carry out such courses. Arguably, this applies to many institutions. Naturally, some parts of this issue appears possible to be solved within the co-operation with Juridicum at Lund University, but the Committee also acknowledges that the cooperation with other Swedish and Nordic institutions may prove mutually beneficial in this regard.

The Committee notes that the syllabus for the doctoral programme contains elaborate and concrete aims and intended learning outcomes in relation to knowledge and understanding, ability and skills and judgment and approach. These are however, reiterating the general objectives outlined in the degree requirements enshrined in appendix 2 of the Swedish Higher Education Ordinance, SFS 1993:100. (Sw. "Examensordning").

Quality is facilitated through travel and literature allowances, engagements of supervisors, annual reports and follow-ups of conferences and presentations – all documented in the ISP. It is highlighted with regard to advancing up-to-date specialised knowledge that the students are offered assistance in more specialised doctoral courses. This is confirmed by the doctoral students and appears satisfactory to the Committee. From a quality perspective, it seems necessary to assess the criteria set up by the Department to ensure adequate standards and the way in how they are met when choosing external courses. It is furthermore noted that the study plan stipulates mandatory participation of the Research school at Lund University, which forms the theoretical basis for the projects.

Again, since the Department is endeavouring to offer advancement into more cross-disciplinary projects that objective may need special attention and particular criteria that may be assessed. The Committee notes that although that appears to be an objective, the doctoral program is still relatively akin to other doctoral programmes in law. That should not necessarily be viewed in the negative, as LUSEM appears to be well aligned in terms of quality with other legal faculties operations, but if there is an added objective to stand apart from other law schools, the differences and advantages offered need more attention, ultimately mirrored by policy documents and the syllabus for the program.

2.2 Achieving objectives – competence and skills

In order to fulfil the requirements related to competence and skills for the doctoral candidates, the self-assessment indicates that this is evaluated mainly through the written work (manuscripts of the theses), which are assessed by tutors/supervisors informally and continuously. What is important to note is the different seminars at the beginning, the half-time evaluation and the final seminar – all leading up the final defence of the thesis. These are truly important quality checkpoints and appears most adequate and mirrors the procedures at other LL.D. programmes in Sweden. It follows from the syllabus that there should be two senior researchers at the mid-term seminar offering written and oral comments on the manuscript and an outside expert senior researcher acting as reviewer at the open final seminar. The appointment procedure is described in the syllabus. This procedure appears satisfactory to the Committee.

The expert reviewer at the final seminar is required to be a senior researcher from Juridicum, Lund University, under a special arrangement between the departments. It is our understanding that this entails an understanding – albeit not binding – that Juridicum should appoint the reviewer for projects aiming for the LL.D. degree, whereas LUSEM would be at liberty to appoint any other reviewer for Ph.D. projects. What originally is told to be motivated by concerns of quality at the interest of sister departments within the university to uphold adequate academic standards for doctoral projects in law, it appears questionable whether such concerns linger on. We also understand that LUSEM has experienced difficulties in co-operation with Juridicum insofar LUSEM's projects are not being given high priority causing delays on projects, which indirectly might affect the individual student's choice between a LL.D. or Ph.D. degree. Superfluous as that may seem in substance, the Committee would therefore welcome a higher degree of clarity of the cooperation – if any – between the departments in that regard and if deemed difficult, stand-alone procedures for LUSEM appear to be necessary developed and thereby reducing the incentive for candidate being forced to choose between degree on that ground. The choice should be nothing by related to the subject-matter of the thesis.

The Committee notes that from a quality point view it is desirable to describe how the continued evaluation is done, although that may seem obvious to researchers. It appears appropriate and purposeful to design the evaluation process in this way. Also, a cooperation with other Nordic institutions for e.g., mid-term external reviewers may also provide useful for quality improvements.

2.3 Achieving objectives – judgement and approach

The doctoral programme in law has requirements related to judgment and approach. This comprises research ethics, the role in society and responsibility of the individual to act responsibly. These requirements are fulfilled through a course on research ethics although the remainder of these requirements are incorporated in the dissertation work, and should, as such, be evaluated continuously as outlined above. This appears to the Committee satisfactory.

2.4 Summary evaluation

We conclude that the design and outcome of the programme, despite its ambitions to stand out considerably from traditional legal doctoral programmes still adheres to a traditional approach. Whether unintentional or not appears superfluous to say, but this should not be regarded negative. On the contrary, the Department has managed to sustain and deliver high quality research within the field of business law, that necessitates the use a cross-disciplinary approach. This is not least demonstrated by the dissertations provided to us.

In order to succeed in being different than others or considerably stand out vis-à-vis other programmes it would, nonetheless, require more work on clarifying the differences between the doctoral work in business law done at LUSEM and that done elsewhere. The difference is naturally the choice of topics and research questions, but whether there is a methodological difference to other universities remains unclear to the Committee.

3 Working life perspective

The placement opportunities for a Swedish speaking person with a LL.D. / Ph.D. in law are quite favourable in Sweden. This applies especially for the public sector for high level employment at authorities and regulatory bodies, but most commonly in private practice. If, however, the person would be seeking a post doc position at another university or faculty it is required that the applicant possesses a comprehensive and relevant pedagogical portfolio. It is a general shortcoming that the 3rd cycle education seemingly does not accommodate for that requirement. However, this is not a unique challenge and applies to several other programmes within the higher educational sector, at least in Sweden. The faculty is however, offering its doctoral candidates possibility to conduct teaching by reducing the doctoral work and extending the period to allow for this.

It is somewhat unclear to this Committee if there are any quality assessment criteria related to working life opportunities. Possibly this relates to relevance of the program and societal needs. It should be sufficient to say that this criterion is more than adequately fulfilled.

If, however, LUSEM aspires to enhance quality with regard to relevance and societal needs, we recommend more concrete, measurable and verifiable criteria with special focus on this area.

4 Doctoral student perspective

Although again somewhat unclear which specific criteria this heading relates to, the Committee believes that it is referring to the criteria on putting the learning of the doctoral students in focus, learning environment, support for doctoral students, supervision and as such a composite heading covering several criteria.

The doctoral candidates clearly confirm the overall positive work environment as described above. There was a complete absence of disapproval on any area and a general opinion of overall satisfaction. It is therefore the Committee's view that there is a true student satisfaction at LUSEM that both on an overall and specific level characterise the programme. In order to evaluate quality, it might have been productive also to exemplify possible problems and shortcomings and how these had been dealt with.

5 Gender equality perspective

The self-assessment expresses that there is a focus on gender balance within the department in general, including affirmative actions, and also the programme related to e.g., work and private life balance. The management of the doctoral programme have high insight and knowledge about what is required for the doctoral students with regards to equal opportunities as well as finding a good balance between work and private life. The criteria on gender equality and equal treatment perspectives therefore should be regarded as fulfilled.

6 Sustainability perspective

The doctoral programme in law has requirements related to judgment and approach. This comprises research ethics, the role in society and responsibility of the individual to act responsibly. These requirements are fulfilled through a course on research ethics although the remainder of these requirements are incorporated in the dissertation work, and should, as such, be evaluated continuously as outlined above.

The criteria here stipulate that relevant discipline sustainability perspectives should be promoted in the programme. This appears to the Committee satisfactorily fulfilled.

7 Other comments

In assessing the operations of the doctoral programme in law at LUSEM, this must be viewed in light of its position within the faculty and the historical development over time. Business Law is in the view of the Committee a supportive and as such important complement to the main subjects at LUSEM. The activities at the Department of Law is – at least in part – dependent on its relationship to the Faculty of Law. The necessity to be regarded as a fully worthy member of the academic society, which is important in order to attract prospective new students and teachers. This is, in turn, a prerequisite for sustainable education at the 1st and 2nd cycle.

8 Summary evaluation and recommendations

First and foremost, LUSEM is to be applauded for the way it has managed to set up its programme despite significant challenges not least in terms of its small scale and limitations as to freedom of manoeuvre. In this regard, particular reference may be made to the high satisfaction of the interviewed doctoral students, who seemed to perceive the intimacy characterizing the small research environment as a huge strength. In other words, LUSEM provides a positive environment for its doctoral to conduct their research. In terms of the application of co-supervision this appears as a strength as well. It is the Committee's unilateral view that the doctoral programme in law at LUSEM adheres to and meets applicable academic standards, however without being outstanding. Thus, in our view, the programme is, despite its ambitions to take a broader view, still very traditional viewed in comparison to other law faculties in the Nordic countries, although there is a clear focus on the areas of law of particular importance to business, which seems to be the overall *raison d'être* of the programme.

In addition to general assessment, the following aspects may be pointed out:

The Committee firmly believes that the programme has a potential for further development, for instance for an even more articulated cross-disciplinary approach. A prerequisite for this is that the Department of Law should foster a continued discussion on how to shape the doctoral programme to more specifically allow for such a cross-disciplinary approach. This is very well worth exploring more in detail and to clarify how that distinguishes itself from traditional legal dogmatics, if at all. Especially – and even when there are only minor differences compared to other legal doctoral programmes these should be

highlighted and address the specific and added complications of the cross- or multidisciplinary approach employed at LUSEM.

In the view of the Committee, the cooperation arrangement with Juridicum should be assessed and evaluated more carefully. It should therefore be decided if and how the cooperation with other subjects at LUSEM and/or the Faculty of law in Lund should develop. In particular, it may be considered to which degree LUSEM wishes to develop a true independence from the Faculty of Law and if that would be the case what would the way forward be.

Also, it appears appropriate for the Department of Law to more firmly establish an outreach to and cooperation with other seminal research and education institutions in law, whose educational mission is somewhat different than the one at legal faculties. Typically, these institutions are also smaller in size and face similar or the same challenges as the Department of Law at LUSEM.

Furthermore, it should be considered to further clarify the difference between the two degrees offered – what the exact pros and cons of offering both LL.D. and Ph.D. in law degrees seemingly indistinguishable from one another. If both degrees shall continue to be offered, it is recommended to clarify the differences and criteria association with the respective degree.

Finally, it could be considered how to develop the program further in other respects. For instance, the following could be addressed: development of a mission statement clarifying its strategic priorities and a plan of action to have them fulfilled; development of visions for further internationalization and standards of research excellence within the primary fields of research in relation to the educational elements and actual theses; development of a strategy developed for attracting increased funding for LL.Ds/PhDs; development of a strategy as to development of courses and collaborations with other universities in that regard; development of a plan for ensuring the continuous competences of the supervisors; development of the institutional framework supporting project management (ensuring from the very start of the appointment of LL.D./PhD-students that a tailor-made training and supervision plan is drawn up, containing all agreements on supervision, training, planning, research related activities, assessment and progress interviews, including e.g. annual follow-ups and progress-interviews); ensuring that the interrelationship between research time, teaching requirements, research stays, etc. for the students is optimal; development of a clear career planning path; and development of a research integrity policy/best practice for LL.D./Ph.D.-students.

The Committee acknowledges that these recommendations could be considered somewhat far-reaching and administratively burdensome, although they do appear to us as essential areas of future focus and development.

9 Overall assessment of the criteria

Criteria	The Committee's assessment
The program puts the learning of the doctoral students in focus	Fulfilled
The education is based on scientific ground	Fulfilled, although the cross-disciplinary scientific ground should be properly addressed
All supervisors and course instructors have sufficient and appropriate disciplinary and pedagogical training (quality of staff)	Fulfilled
The program has a sufficient quantity of staff	Fulfilled, although a plan for competence supply should be developed to mirror the overall objectives to encompass business law areas
The program is relevant for the doctoral candidates and answers to societal needs	The criterion itself appears self-fulfilling
The doctoral students have influence over planning, implementation and evaluation of the program and of their studies	Fulfilled
The learning environment is appropriate and accessible for all doctoral candidates	Fulfilled
There is a well-functioning support for doctoral students in need of such support	Vague criterion, but fulfilled on the overall level
The program is continuously evaluated and its quality is appraised	Unclear, as there are no steering documents available and the assessment deviates from ESG
Internationalization and international perspectives are promoted in the program	Probably fulfilled, but difficult to properly verify and not addressed specifically in the self-assessment
Gender equality and equal treatment perspectives are integrated into the program	Fulfilled
Relevant (for the discipline) sustainability perspectives are promoted in the program	Probably fulfilled, but the relevance and verifiability remain unclear