

THE STANDARD FOR DOCTORAL DEGREES IN LAW AT THE FACULTY OF LAW, UNIVERSITY OF TROMSØ

Guidelines for the Faculty of Law in Tromsø, adopted by the Faculty Board on 31 May 2010.

1 Background

On 4 December 1995, the National Conference of Faculties of Law Studies approved the following statement:

"The Conference of Faculties of Law Studies points out that the nominal length of study for a doctoral degree in law is three years, and that assessments of doctoral theses must take this into consideration. A thesis of 200-300 pages should generally be sufficient. An effort must be made to provide better and clearer guidelines for supervisors and examiners on the standard for doctoral degrees."

A committee was appointed in order to follow up the decision. It consisted of Professor Kai Krüger, Professor Jens Edvin A. Skoghøy and Professor Erling Selvig, who issued their recommendation on 5 April 1997. The recommendation was based on three main observations:

- (1) It must be possible to fulfil the academic requirements that are stipulated within the time frame that research fellows will have at their disposal to work on a doctoral thesis, i.e. a total period of three years of full-time work.
- (2) A doctoral degree is the most important academic qualification for permanent appointment to a position at our faculties, and the academic requirements that are stipulated must satisfy the minimum requirements for academic qualifications for appointment to permanent teaching and research positions. The new qualification requirements for associate professor positions entailed a significant change in that the academic requirements for a doctoral degree also became an important part of the recruitment policy.
- (3) The qualification requirements for associate professor positions and professor positions will differ significantly in terms of both the nature and the quality of the scientific work required to document possession of the necessary qualifications for these positions.

Based on the above, the committee formulated more detailed views regarding the minimum requirements that should be stipulated for a doctoral thesis in law.

At a meeting on 17 April 1997, the National Conference of Faculties largely endorsed the views in the recommendation. The recommendation has since then be used as the basis for assessing doctoral theses at the faculties in Bergen, Oslo and Tromsø.

On 16 March 2006, the question was again discussed at the National Conference of Faculties. It was agreed that the 1997 guidelines still covered the requirements that should apply to doctoral theses in law, but that there may be a need to clarify the requirements. It was decided that draft revised guidelines should be presented at the 2007 meeting of the National Conference of Faculties.

2 Current regulations and guidelines for doctoral programmes and doctoral theses

The doctoral programmes at each of the faculties of law are regulated by their own regulations. The Regulations of 19 November 2009 No. 1858 for the degree of philosophiae doctor (PhD) at the University of Tromsø contain the following provision concerning the objective of doctoral programmes:

"A doctoral programme shall qualify the student for research activities of a high academic standard and for other kinds work in society requiring a high level of scientific insight and analytical thinking."

Section 19 stipulates the requirements that apply to doctoral theses:

"The thesis must be an independent scientific piece of work that meets international standards within the field. It must contribute to the development of new academic knowledge and be of a standard appropriate for publication as part of the scientific literature in the field.

The thesis can be monograph or a compilation of several smaller pieces of work - a compilation of articles. In a compilation of articles there must be some connection between the parts and this must be explained in a summary.

Part of a joint piece of work may be accepted as a thesis if the doctoral student's independent efforts can be identified and documented.

The faculty can issue supplementary regulations that permit a system in which several students write a thesis together.

The language of the thesis shall be decided by the supervisor, student and faculty."

According to section 14, doctoral programmes must include an educational component of at least 30 credits, which must include training in scientific theory and ethics. The educational component must be completed and approved before the doctoral student submits their thesis.

The content of the educational component is stipulated in the faculties' doctoral programmes. The educational component of the PhD programme includes seminars, written assignments, study trips etc., and is equivalent to a total of at least one semester's full-time study. The educational component is compulsory for all students on the programme.

Supplementary guidelines for assessing Norwegian doctoral degrees were adopted by the Norwegian Council of Universities on 9 December 1996. Among other things, they state that doctoral students must document:

"the minimum requirements to qualify as a researcher – demonstrated through requirements related to the formulation of research questions, precision and logical stringency. The student must also demonstrate originality and a good command of current methods of analysis and be able to reflect on their possibilities and limitations. He/she must also demonstrate knowledge of, understanding of and a reflective attitude towards other research in the field.

When assessing a thesis, special consideration should be given to whether the thesis represents an independent and comprehensive piece of scientific work of a high academic standard with regard to the formulation of research questions, methodological, theoretical and empirical basis, documentation, treatment of the literature and form of presentation. It is especially important to consider whether the material and methods applied are relevant to the questions raised in the thesis, and whether the arguments and conclusions posited are tenable. The thesis must contribute new knowledge to the discipline and be of an academic standard appropriate for publication as part of the scientific literature in the field."

3 The standard for doctoral theses – some general points

The restructuring of the doctoral programme that took place in connection with the transition from dr. juris to PhD does not in itself mean that the requirements that apply to doctoral theses have changed. The guidelines that were adopted by the National Conference of Faculties in 1997 have been regarded as normative for the assessment of PhD theses as well. The current guidelines, which replace the 1997 guidelines, do not aim to change the requirements that apply to PhD theses, but to provide more detailed and specific guidelines for assessments.

The guidelines are intended for theses based on legal method. Such theses may make use of traditional legal method or interdisciplinary methods, including law and economics, philosophy of law, sociology of law, and history of law methods. Theses can also contain interdisciplinary argumentation, e.g. from social science, economic, natural science, historical, or philosophical research. This can be enriching and help to develop legal science. It is important, however, that the doctoral student shows respect for the challenges inherent in using interdisciplinary methods and/or integrating argumentation from other sciences and acknowledges the limitations it will entail if they do not have a good command of these methods at an advanced level. It should be stated in the thesis whether methods from other subjects have been used to shed light on legal issues or whether the ambition has been to make an independent contribution to the development of the subject in other areas.

A PhD thesis must be assessed as the result of work carried out within a certain stipulated time frame. The standard time for working on a thesis is three years.

In the assessment of doctoral theses in law, the importance of the increasing internationalisation of law for many projects must be taken into account. Internationalisation has resulted in sources of law becoming more complex and extensive in many areas, and doctoral students have, more often and to a greater extent than before, to familiarise themselves with other legal systems and foreign methodological approaches. This will be time-consuming and require a great deal of work. The same completeness requirement cannot be applied to such projects as has traditionally been applied to national projects in the field of legal dogmatics.

The thesis should explain how the examination of the legal material has been organised and limited. The choices that were made should also be adequately explained. It should also be evident how the foreign legal material has been used, i.e. whether it is used as examples, as source of law factors or as the basis for a comparative analysis.

The inclusion of source of law material from other legal systems will in most cases be enriching, and the doctoral student should, therefore, normally include and make use of such material. The precondition for accepting that a purely national perspective has been used is that the topic can be dealt with fruitfully without the inclusion of international perspectives. Moreover, doctoral students who limit their perspective to domestic Norwegian law will normally be required to justify their choice, thereby demonstrating that the decision is the result of conscious deliberation.

Elements relating to legal politics also enrich theses. A doctoral thesis should, therefore, normally contain discussions of legal policy. More extensive discussions of legal policy will have a natural and important place in some theses. If a thesis contains discussions of legal politics, it should be made clear on which empirical and/or normative basis the discussion is based, and how the views on legal politics are rooted in or derived from the empirical and/or normative material. It should also be clear when the presentation shifts from the legal dogmatics level to legal politics.

When formulating the assessment committee's written recommendation, account should be taken of the fact that the document will be publicly available, and that, among other things, it will be perceived as expressing the expectations that normally apply to doctoral theses. It is therefore important that the recommendations do not express expectations that are unrealistic in light of the time that the student has had to work on the thesis.

4 Scope and format

It is important that doctoral theses are kept within reasonable limits as regards their scope, not primarily out of consideration for the doctoral students, but for the readers and the quality of the theses. Around

250-400 pages will normally be an appropriate length. There is no basis for applying a general minimum requirement as regards scope.

The thesis can be written in Norwegian, Swedish, Danish or English, or in another language approved by the faculty on a case-by-case basis. The choice between a Scandinavian language and English should be made in consultation with the supervisor in light of factors such as the nature of the topic and where the most qualified audience is expected to be found.

The thesis can be written in the form of a monograph or as a number of articles (an article-based thesis). Certain topics will benefit from being treated with the thoroughness and coherence of presentation that only a monograph can provide, but a monograph limits the student's opportunity to receive feedback from the academic environment during the process. In theses that are based on articles published in reputable journals, the doctoral student will benefit from independent peer reviews and editorial control. The article format will also force the student to work in stages, which can have a positive effect on progress. The quality requirements are the same for article-based theses as for monographs.

Article-based theses must be submitted with a summary of the issues and conclusions presented in the articles from an overall perspective, thereby documenting the common thread that ties the thesis together. This shall include a summary of the contribution the thesis makes to the field of research.

If a thesis contains previously published articles, the summary must also contain academic updates, such that the thesis presented is academically up-to-date. Alternatively, each article can be updated.

5 Quality requirements

The doctoral degree is the highest academic degree and one of the most important criteria for appointments to higher academic positions. The doctoral thesis must therefore be subject to demanding requirements, both in terms of the scope of the research carried out, and in terms of the command of methods, analytical level and presentation skills.

The doctoral thesis is the doctoral student's "final practical exam". It is intended to prove the student's ability to carry out legal research at the level required for a university position. Research fellows cannot be expected to achieve the breadth and depth of legal production that is required for professorial competence during the course of the doctoral programme. Many of those who wish to pursue an academic career will have to produce much of the basis for professorial competence after completing their doctoral degrees, as a post-doctoral researcher or a permanent member of staff.

The following guidelines must be read with the proviso that not all quality elements in a doctoral thesis can be expressed as guidelines. This applies, for example, to qualities relating to the development of

theory, innovation and the use of perspectives from the philosophy of law. The guidelines must, therefore, not be viewed as an exhaustive description of academic qualities.

The doctoral degree regulations contain three main requirements for a thesis, which are discussed in sections 5.2 to 5.3. In addition, some general guidelines are stipulated regarding assessing the formulation of research questions (section 5.1), content and presentation (section 5.5).

5.1 The topic

It is a fundamental requirement for a thesis that it contains a clear research question, so that it is obvious to the reader what the topic of the thesis is and which issues this raises. The research question provides the framework for the subsequent analyses, and a precise research question is therefore usually required in order to provide a sound and structured framework for the presentation. Normally, an explanation of the delimitation of the topic will also be needed. Delimitation is intended to enable the student to treat the topic thoroughly without being so narrow as to prevent the author from including interesting research questions and source material. It is a general requirement that the delimitation should express a qualified and conscious choice.

The topic must be suitable for the purpose. It must be manageable within the time frame at the student's disposal, and it must be capable of being subjected to fruitful examination using the method or methods utilised by the doctoral student. It is not a requirement that the topic itself has novelty value. A previously discussed topic must also be accepted if the author treats it independently and contributes new knowledge, cf. 5.2 below.

5.2 Independence

Pursuant to the doctoral degree regulations, a doctoral thesis must be an independent piece or work that contributes to the development of new knowledge in the field. The requirements regarding independence and novelty are related and overlap. A thesis that shows independence in the formulation of research questions and in analyses will contribute to the development of new academic knowledge. This means that, within the topic of choice, the thesis must be well thought-through, include assessments and independently utilise the possibilities offered by methods and tradition. The novelty requirement does not mean that the author must have moved the boundaries of the discipline. It is sufficient that the existing boundaries are supplemented by new knowledge. Conversely, a thesis that consists exclusively of a compilation and description of already known material cannot be accepted as adequate.

5.3 Method

A thesis must also meet internationally accepted scientific standards. This means that it is a fundamental requirement that the doctoral student demonstrates insight into and a good command of the use of the

method or methods accepted in the relevant academic environments. It also means that the doctoral thesis must satisfy fundamental requirements relating to scientific method and research ethics, and that the source material and the method(s) must be presented in a manner that ensures that the analyses and results are verifiable.

The requirement that the method(s) must be scientifically accepted means the thesis must include an explanation of the choice of method(s) or what separates their method(s) from what is normally used in academic environments. The method(s) must be scientifically thorough and suitable for examining the topic of the thesis.

The importance placed on the requirement that the scientific standards must be internationally accepted depends on the topic and research questions of the thesis. This does not mean that a thesis must be based on international legal sources or international legal method. If the topic is Norwegian or Nordic law, the doctoral student must have a good command of the methods accepted in Norway or the Nordic countries. With international or comparative topics, it is normally a requirement that the student has a good command of the methods accepted by a wider academic community. The general requirements relating to scientific method are largely international.

5.4 Publishable results

Pursuant to the Doctoral Degree Regulations, the thesis must also be publishable as part of the literature in the academic field. This means that the thesis must contribute views or results that are of interest to the academic environments, that the presentation is clear and accessible, and that it satisfies the formal minimum requirements set by reputable publishers and editors of journals.

5.5 Content and presentation

A doctoral thesis must demonstrate that the concepts of the discipline are used in a conscious, consistent and clear manner. This must be assessed as an important quality of a thesis, i.e. whether it contributes to increased clarification of concepts and, if applicable, to the development of concepts. This should not to be confused with the development of new terms for old concepts.

It will be an advantage if the doctoral student can establish a connection between their topic and related issues in other legal areas or connections with more general legal issues. If the analyses have transfer value or they form the basis for generalisations, this will be seen as positive.

A doctoral thesis will normally be a "specialist piece of work", which means that the doctoral student must document that they are thoroughly familiar with the applicable area of law. This applies not only to rules, case law and other sources of law, but also to literature. The doctoral student must normally be expected to show how the topic has been treated in previous literature, and to clarify how their presentation is based on and distinguishes itself from this previous work.

How extensive research is required depends on the nature of the topic. It must be a general requirement that the scope of the research is reasonably proportionate to the time that the student has had at their disposal, that the choices made are characterised by thorough consideration and that they are not clearly injudicious. Normally, the doctoral student must be expected to be familiar with and make use of the views and sources of law that have been the subject of particular discussion in the field or in related fields. This requirement also ensures that the thesis utilises and builds on the knowledge that has already been developed in the field.

Views that are not the author's own and that cannot be characterised as generally accepted thinking must be supported by precise references to the sources on which they are based, in accordance with the tradition in the field. The doctoral student must be required to distinguish to a sufficient degree between "borrowed" and self-developed views. Quotes must be clearly indicated. It must also be a requirement that it is made relatively clear when the doctoral student is commenting on current law and when they are expressing their own views on how the law could or should be.

The doctoral student must be capable of presenting the results of their research and analyses in a structured and clear manner. It should be possible for the reader to follow "a recurring theme" throughout the thesis, from the introductory formulation of the research question and presentation of the topic, via the discussions and analyses carried out, to the concluding summary of the results. This does not mean that the thesis must be based on just one research question or thesis that is pursued throughout the presentation, but the questions that are discussed should be related to the initial specification of the topic and research question, and the presentation must be organised in a clear, logical and straightforward manner.

6 Theses submitted for assessment for the dr. philos degree

Theses submitted for assessment in connection with the dr. philos degree are not subject to the same time frame as PhD theses, and it is not a precondition that the students have completed mandatory courses. The requirements for dr. philos theses are discussed in the Norwegian Council of Universities' guidelines of 9 December 1996:

"A Norwegian doctoral degree is awarded as proof that the candidate's research qualifications are of a certain standard. Degrees *incorporating* a specified schedule and an organised research programme (PhD) and degrees *with no* such requirements (dr. philos.) are regarded as being of an equal standard. This principle of equivalence refers to the academic *standard* and *quality* of the work submitted, not merely its *volume*. In the organised research programmes, qualifications may be documented through tests and participation in various activities within the training programme. Since the degree of dr. philos. does not include an organised research programme, the preparatory work (e.g. the collection of data) and the thesis itself may be expected to be more extensive than for degrees with an organised research programme. Irrespective of the kind of degree, the candidate must satisfy the *minimum requirements to qualify as a researcher...*"