



THE LEVEL OF DOCTORAL DEGREES IN LAW

Guidelines for the Faculties of Law at the University of Bergen and the University of Oslo, adopted by the board of the Faculty of Law in Bergen on 4 September 2007 and the Dean of the Faculty of Law in Oslo, Jon T. Johnsen, on 6 September 2007.

1. Background

On 4 December 1995, the National Faculty Meeting for Legal Studies agreed on the following statement:

«The Faculty Meeting for Legal Studies points out that the nominal length of study for the doctoral degree in law is three years, and that the evaluation of the doctoral thesis must take this into consideration. As a rule, a thesis of 200-300 pages should be sufficient. Efforts must be made to provide better and clearer guidelines for supervisors and examiners regarding the level of the doctoral degree.»

To follow-up the decision, a committee was appointed consisting of Professor Kai Krüger, Professor Jens Edvin A. Skoghøy and Professor Erling Selvig. It submitted its recommendation on 5 April 1997. The recommendation was based on three main observations:

- (1) The academic requirements must be stipulated in a way that enables them to be met within the time frame that research fellows will have at their disposal to work on doctoral theses, 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 must be such that they meet the minimum requirements for academic qualifications for appointment to permanent teaching and research positions. The new qualification requirements for assistant professor posts entailed a significant change in that the academic requirements for the doctoral degree also became an important part of the recruitment policy.
- (3) There will be significant differences between the qualification requirements for positions as associate professor and for professorships, in terms of both the nature and the quality of the scholarly work that is required to document competence for these two types of positions.

On the basis of the above, the committee formulated more detailed recommendations regarding the minimum requirements that should apply to a doctoral thesis in law.

At a meeting on 17 April 1997, the National Faculty Meeting largely endorsed the views in the recommendation. The recommendation has since been used as the basis for the evaluation of doctoral theses at the faculties in Bergen, Oslo and Tromsø.

On 16 March 2006, the issue was again discussed by the National Faculty Meeting. There was agreement that the guidelines from 1997 still covered the requirements that should apply to doctoral theses in law, but that requirements may need to be specified and further clarified. It was decided that a proposal for revised guidelines should be presented to the National Faculty Meeting in 2007.

2. Applicable regulations and guidelines for doctoral degree programmes and doctoral theses

The doctoral degree programme at the University of Bergen is regulated by the [Regulations for the degree of philosophiae doctor \(PhD\)](#), adopted by the University Board on 12 June 2003, section 1 of which stipulates the following objective for the doctoral degree programme:

«The research programme for the PhD degree at the University of Bergen is organised within the framework of the doctoral degree programmes offered by the institution. The aim of the research programme is to qualify the candidate for research activities and other kinds of work requiring a high level of scientific insight. The programme comprises an independent research project resulting in a scientific dissertation of a high academic standard.»

Section 6.1 stipulates the requirements that apply to the doctoral thesis:

« The dissertation must be an independent, scientific piece of work of international standard and high academic standard with respect to the research questions, examination of concepts, methodological, theoretical and empirical basis, documentation and form of presentation. The dissertation must contribute to the development of new academic knowledge and be of an academic standard appropriate for publication as part of the scientific literature in the field in question. »

The doctoral degree programme at the University of Oslo is regulated by the [regulations adopted by the University Board on 21 June 2007](#), which define the object of the programme as follows:

« The doctoral education at the University of Oslo shall educate independent researchers of high international calibre who act in accordance with recognised scientific and ethical principles. The

doctoral education shall qualify candidates to conduct research and perform other types of work requiring scientific insight and analytical thinking. »

The requirements for the doctoral thesis are set out in section 10.1:

« The dissertation shall be an independent, scientific work that meets international standards with regard to scientific merit, methodology and ethical requirements.

The dissertation must promote the development of new scientific knowledge and achieve a level of scientific merit which suggests that the dissertation could be published as part of the scientific literature in the subject area. ...»

In addition to the work on the thesis, the doctoral degree programme includes a training component of at least 30 credits, which shall provide insight into scientific theory and ethics, among other things. The training component must be completed and approved before the doctoral student submits the thesis.

The content of the training component is stipulated in the faculties' doctoral programmes. The training component of the doctoral degree programme includes seminars, written assignments, study trips etc., and it is equivalent to a total of at least one semester's full-time study. The training component is mandatory for all candidates attached to 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 candidates 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 candidate 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 evaluating a thesis, special consideration should be given to whether the thesis represents an independent and comprehensive piece of scientific work of 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 level of the doctoral thesis – some general points

The restructuring of the doctoral degree programme that has taken place in connection with the transition from dr. juris to PhD does not in itself mean that the requirements that apply to the doctoral thesis have changed. The guidelines that were adopted by the National Faculty in 1997 have also been regarded as normative for evaluations of PhD theses. The present guidelines – which replace the guidelines from 1997 – do not aim to *change* the requirements that apply to PhD theses, but to provide more detailed and specific guidelines for the evaluation.

The guidelines aim to cover theses based on legal method as well as mixed theses that combine substantial elements of legal method with smaller elements of methods from other subjects, such as social sciences, economics, history or philosophy. An element of methods from other subjects can enrich PhD theses in law and will often have to be regarded as a positive element even if the use of the method is not at the same high level as one would expect of a thesis that is mainly based on methods from the subject in question. It is important, however, that the doctoral candidate shows respect for the challenges that lie in integrating methods from other subjects and acknowledges the limitations it will entail if he or she does not master 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 evaluated as the result of work carried out within a certain stipulated time frame. The standard time frame for work on the thesis is three years, of which the training component accounts for one semester's full-time work. As such, a doctoral student has two and a half years at his/her disposal to complete the actual writing. The research fellowship period is not normally extended.

In the evaluation 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 unfamiliar 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, and the choices that have been made should be justified insofar as this is necessary. 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.

Although the inclusion of foreign law will usually be enriching, it cannot be a general requirement that doctoral students include and make use of such material. However, it is a precondition for accepting that a purely national perspective has been used that the topic can be dealt with fruitfully without the inclusion of international perspectives. Moreover, doctoral candidates 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 consideration.

Elements relating to legal politics will also often enrich a thesis, but it cannot be a general requirement that a doctoral thesis contains discussions of such elements. 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.

In the evaluation committee's draft written recommendation, it should be taken into account 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 candidate 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 200 to 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. Whether the thesis is to be written in a Scandinavian language or in English should be decided in consultation with the supervisor, in light, among other things, of 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 candidate's opportunity to receive feedback from the academic environment during the process. In theses that are based on articles published in reputed journals, the doctoral student will benefit from independent peer reviews and editorial control. The article format will also force the candidate 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.

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 mastery of methods, analytical level and presentation skills.

The doctoral thesis is the doctoral candidate's «journeyman's exam». It will prove the candidate's ability to carry out legal research at the level that is required for a university post. 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 degree programme. Many of those who wish to pursue an academic career will have to produce

much of the basis for professorial competence after completion of their doctoral degrees, as a post-doctoral researcher or a permanent member of the academic staff.

The following guidelines must be read in the knowledge 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 will be discussed in sections 0 to 0. In addition, some general guidelines will be stipulated as regards the evaluation of choice of topic (section 0), content and presentation (section 0).

5.1 The topic

The topic must be suitable for the purpose. It must be manageable within the time frame at the candidate's disposal, and it must be capable of being subjected to fruitful examination using the method or methods utilised by the doctoral candidate. 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. under 0 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 evaluations and independently utilise the possibilities offered by legal 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 candidate demonstrates insight into and mastery of the use of the *method or methods* accepted in the relevant academic community. 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 academically accepted does not mean that a thesis must be automatically rejected if the doctoral candidate has used unusual or controversial methods. However, if this is the case, the doctoral candidate must be required to explain his/her choice and clarify what distinguishes his/her method from the one normally

used. The method must be seen as scientifically justifiable and suited to dealing with 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 candidate must master the methods accepted in Norway or the Nordic countries. With international or comparative topics, it is normally a requirement that the candidate masters methods accepted by a wider academic community. The general requirements relating to scientific method are largely international.

5.4 Publishable result

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

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 candidate 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.

It must be a requirement that the *concepts* of the discipline are used in a conscious, consistent and clear manner. This must be evaluated 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 candidate can establish a connection between his/her 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 work», which means that the doctoral candidate must document that he/she is *thoroughly familiar with the applicable area of law*. This applies not only to rules, case law and other sources of law, but also to previous law literature. The doctoral candidate must normally be expected to show how the topic has been treated in previous law literature, and to clarify how his/her 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 candidate has had at his/her disposal, that the choices made are characterised by thorough consideration and that they are not clearly injudicious. Normally, the doctoral candidate 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 candidate 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 candidate is commenting on current law and when he or she is expressing his/her own views on how the law could or should be.

The doctoral candidate must be capable of presenting the results of his/her 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 summery 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 evaluation in connection with the dr. philos degree

Theses submitted for evaluation 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 candidates 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.... »