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| |  | | --- | | Code:**JOPJ495XA0** | | Name:**Family and Fundamental Rights** | | Original subject name: | | Credit:**6** | | Requirement type:**Report (three-scale)** | | Internet address:: | | |  | | --- | |  |  |  | | --- | | Notes: | | Responsible lecturer:**Dr. Molnár Sarolta Judit** | | Organizational unit:[JÁK Polgári Jogi Tanszék](javascript:__doPostBack('upFunction$h_addedsubjects$upModals$upmodal_subjectdata$ctl02$Subject_data1$upParent$tab$ctl01$upSubjectData$dtbBaseData2$ctl15','')) | | Classes per week**Practical: 2** | | Classes per term**Practical: 2** | |

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| **Family and Fundamental Rights**  **Aim of the course:**  **Introducing students to basic international and human rights law concepts, rules and organizations, including European human rights regimes. The course examines both the horizontal and vertical family relationships in the light of fundamental rights. The topics include partnering and parenting and the major changes in these fields in recent years. Students will be acquainted with the legal reasoning of the case law of European Court of Human Rights in comparison with that of the US Supreme Court. This is especially important as family life situations are very similar still legal approaches may differ. The widening of the legal perspective can be highly beneficial for the legal thinking of the students.**  **Outline of the course:**  **Topic 1.      Introduction and Perspectives**  **A.     Law of Persons and Family Law**  **B.     Comparative and International Family Law**  **C.     Cases**  ***1.      Griswold v. Connecticut, 381 U.S. 479* (*1965*)**  ***2.      Eisenstadt v. Baird, 405 U.S. 438 (1972)***  ***3.      E.Ct.H.R., Haas/Switzerland (2011) (extract)***  ***4.      E.Ct.H.R., Ahrens/Germany (2012)***  ***5.      E.Ct.H.R., Munoz Diaz/Spain (2009)***  ***6.      E.Ct.H.R., Stubing/Germany (2012)***  **Topic 2.      Horizontal Family law: Partnering**  **A.     Demographic evolutions**  **B.     Four forms of partnering**  **D.     Content**  **E.      Dissolution**  **F.      Cases**  ***1.      E.Ct.H.R., Munoz Diaz/Spain (2007)***  ***2.      E.Ct.H.R., Şerife Yigit/Turkey, Grand Chamber Judgment (2010)***  ***3.      E.Ct.H.R.,* Johnston and Others /Ireland *(1986)***  ***4.      E.Ct.H.R., Mata Estevez/Spain (2001)***  ***5.      E.Ct.H.R.,* Karner/Austria (2003)**  ***6.      E.Ct.H.R.,* Burden/the United Kingdom *(2008)***  ***7.      E.Ct.H.R., Schalk & Kopf/Austria (2010)***  ***8.      E.Ct.H.R., Stubing/Germany (2012)***  ***9.      United States v. Windsor, 570 U.S. \_\_\_ (2013)***  ***10.   Obergefell v. Hodges, 576 U.S. \_\_\_ (2015)***  **Topic 3.      Vertical Family law: Parenting**  **A.     Who are the parents?**  **B.     How to link the child to the ‘right’ parent legally?**  **C.     Contact rights vis-a-vis children**  **D.     The rights of the child**  **E.      Focus**  **F.      Cases**  ***1.      Michael H. v. Gerald D., 491 U.S. 110 (1989)***  ***2.      E.Ct.H.R., Ahrens/Germany (2012)***  ***3.      E.Ct.H.R., X and others/Austria (2013)***  ***4.      Troxel v. Granville, 530 U.S. 57 (2000)***  ***5.      E.Ct.H.R., Odievre/France (2003)***  ***6.      E.Ct.H.R., Paradiso And Campanelli/Italy (2017)***  **Topic 4.      The Person and his Prenatal status**  **A.     Introduction**  **B.     Prenatal Life**  **C.     Cases**  ***1.      E.Ct.H.R., Evans/UK (Grand Chamber Judgment) (2007)***  ***2.      E.Ct.H.R., Odievre/France (2003)***  ***3.      E.Ct.H.R., S.H. and others/Austria (Grand Chamber Judgment)(2011)***  ***4.      Roe v. Wade, 410 U.S. 113 (1973)***  ***5.      E.Ct.H.R., A, B and C/Ireland (2010***  **Aim of the course: Introducing students to basic international and human rights law concepts, rules and organizations, including European human rights regimes. The course examines both the horizontal and vertical family relationships in the light of fundamental rights. The topics include partnering and parenting and the major changes in these fields in recent years. 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Wade, 410 U.S. 113 (1973)***  ***5.      E.Ct.H.R., A, B and C/Ireland (2010)***    **Exam**  **Your final grade will be calculated based on:**  **75% Final Exam (anonymously graded based on an exam ID you will be provided);**  **15% Commenting on a case as a home assignment**  **10% Class Participation**  ***Final Exam*: Three-quarters of your grade will be based on a comprehensive 1 hour final exam after classes conclude. The final aims to address all the substantive material covered throughout the semester.**  **Essay question that simulate real issues faced by practicing attorneys; the questions will require you to identify and analyze a variety of issues**  ***Form:* The final exam will be open book – this means that you can consult any written material (including your case book and commercial material) other than the exam being written contemporaneously by a fellow classmate. However, the final is very time-intensive, such that bringing more material will likely not result in a better grade since leafing through materials consumes precious time. I advise all students to prepare for the final as if it were a “closed book” exam; the better you know that material without referencing your notes etc., the more likely you are to finish the exam and be able to demonstrate your knowledge.**  **Commenting on a case as a home assignment*:* You will be asked to comment on a case in a maximum of 2 pages mid-term of the classes. I will provide you with intensive feedback on your performance to help you to improve as it prepares you for the final exam. The completion of this task will count as 15% of your grade.**  ***Class Participation:* Class participation is a smaller part of your grade and designed to give you credit for the level and quality of your engagement in class discussions.**  **Access to Students**  **I want to be as available to you as possible. Please feel free to contact me at molnar.sarolta.judit@jak.ppke.hu, if you would like to ask a question about the class material. If you would like to meet with me in person, please e-mail me with some available times so that we can coordinate a mutually acceptable time. If you want to catch me in close proximity to class, I would suggest that you see me *after* class.**  **Tentative Outline of Course Topics**  **The following is an outline of topics that we will cover during the semester. Please note that what is listed here may evolve as issues emerge from our discussions in class.**  **Class discussion will focus primarily on highlights of the materials; not every case, or note that has been assigned will be discussed in class. You are responsible for completing all of the assigned readings, regardless of whether they are directly discussed in class.**  **Course materials:**  **Material coverd in class, readings of cases listed in syllabus.** | |