**Fundamental Rights - for Who?**

**The fundamental rights concept of legal capacity**

**Lecturers:**

**Bernadette Somody** (senior lecturer) [somodyb@ajk.elte.hu](mailto:somodyb@ajk.elte.hu) and

**Emese Pásztor** (assistant lecturer) with the contribution of **Péter Stánicz (PhD student).**

**Department of Constitutional Law (ELTE)**

**Course description**

It may seem obvious who the holders of fundamental rights are and that, they can enforce these rights, should they be infringed. Every human person is equally entitled to the complete extent of fundamental rights and it is also widely acknowledged that legal persons/organisations are also holders of fundamental rights. Legal practice, however, shows that these forums often encounter ambiguous cases even with these traditional holders of fundamental rights, while the new challengers (e.g. Artificial Intelligence) to legal capacity have also appeared and raised urgently pressing questions.

The course analyses a number of themes from different perspectives. Moreover, it broadens the students' previous knowledge, that mainly relates to their national laws and the ECtHR, by using the full range of international sources of human rights law, complemented with a comparative approach. In addition, a critical attitude towards the law is stimulated, through continuous attention to the potential as well as the limitations of the law as a tool for human rights protection.

**Course schedule**

The course is divided into four blocks:

(I) The first part focuses on the concept of fundamental rights legal capacity and the capacity to exercise fundamental rights. It provides a broad overview of the traditional fundamental rights holders and related problems (e.g. the status of the foetus, children, persons with mental disabilities) as well as the novel issues raised by the new challengers to legal capacity (e.g. Artificial Intelligence, nature).

(II) After establishing the concept of the fundamental rights legal capacity, the course moves on to analysing the status of legal persons/organisations and the scope of their legal capacity.

(III) The third section centres around children and persons with mental disabilities, and their capacity to exercise fundamental rights.

(IV) Finally, the fourth part of the course addresses the most recent dilemmas raised by new challengers, especially Artificial Intelligence.

**Subject requirements**

The course builds on active in-class participation and the independent prep-work of students based on handouts. The participants elaborate case-studies selected from European legal practice, processing the cases with a special emphasis on comparative considerations. Beyond active participation, an essay is required in a related topic chosen freely by the participants.

**Assessment**

* class attendance [a maximum of three absences (3x90 mins) are permitted]
* active in-class participation
* a written essay (in a related topic chosen freely by the participant)