



FACULDADE DE DIREITO
Universidade de Lisboa

Ficha de unidade curricular
Academic Year 2022/2023

Degree in Law (1st Cycle)

International Protection of Human Rights – 4th year – Night
(Optional Curricular Unit – 1st Semester)

Professor: Prof. Dr Maria José Rangel de Mesquita

Teaching Team: Prof. Dr. Cláudia Monge

Dr. Gustavo Almeida Neves

Curricular Unit

International Protection of Human Rights– 1st. Cycle – Degree in Law – Optional Curricular Unit – 4th Year – 1st Semester – Night

Main Topic: International Protection of Human Rights - Current trends and Future

The curricular unit aims at the study of the main systems of international protection of Human Rights in force – universal and regional – and their respective guarantee legal instruments, especially judicial guarantees, as well as the relationship between those systems and the Portuguese Legal Order. The main Topic aims at the current trends and future challenges of the international protection of Human Rights, including the study of the Human Rights and the Rule of Law as European values.

The teaching developed in the curricular unite is part of the teaching and research activities of the Jean Monnet Module “Fundamental Rights and Rule of Law as European Values in a Global World after the Conference on the Future of Europe” (2022-2025, Key Topic 1 - Fundamental Rights and Rule of Law as EU values: evolving legal and jurisprudential framework in the EU and beyond the recovery in response to the Covid-19 crisis and the Convention on the Future of Europe e Key Topic 3 – Promoting the role of Fundamental Rights and the Rule of law as EU values in national and international regional litigation [Chapters VIII and XVI]).

Professor and teaching hours in the Curricular unit

Prof. Dr. Maria José Rangel de Mesquita (2 hrs/week)

Teaching staff and teaching hrs. in the curricular unit

Prof. Dr. Cláudia Monge (2 hrs /week - 1 Class)

Dr. Gustavo Neves (2 hrs/week – 1 class in English)

Learning outcomes of the curricular unite

Learning outcomes (juridical knowledge):

- to acquire the relevant technical-juridical key concepts which are essential to understand the current systems of international protection of human rights



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- to acquire knowledge on the juridical nature and the way of functioning of the main systems of international protection of human rights, including specialized international justice, in order learn how to use those systems, mainly the European systems

Learning outcomes (skills and competences):

- compared (transversal) critical analysis of basic structural elements of the systems of international protection of human rights
- critical analysis of the case law produced by those system as well as of their contribute to the development of International Law (including specialized International Law)
- critical comprehension of the relationship between those systems and between them and the EU legal order as well as national legal orders (current state of the art and evolution perspectives)
- acquire the necessary skills to be able to use each of those systems considering the concrete dispute and the human right at stake, especially the international systems that allow individual claims

Syllabus

TITLE I – INTRODUCTION

Chapter I – Preliminary remarks

Chapter II - Origins and evolution of the International Protection of Human Rights and main concepts.

Chapter III – International Law, regional law and European Human Rights Law.

Section 1 – Foundations, autonomy and main features.

Section 2 – The catalogues of human rights and main categories.

Chapter IV – The main systems of international protection of human rights: universal system and regional systems.

Section 1 – Main features and structural elements.

Section 2 – Converging and diverging features.

Section 3 – International Justice on Human Rights.

TITLE II – THE UNIVERSAL SYSTEM

Chapter V - The UN system: the relevant sources.

Chapter VI - The UN system: the means of guarantee of human rights.

TITLE III – THE REGIONAL SYSTEMS

Chapter VII – Europe: the system of the Council of Europe.

Section 1 – The system of the ECHR



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Section 2 – The system of the European Social Charter.

Chapter VIII - Europe: The system of the European Union.

Section 1 – The Charter of Fundamental Rights of the European Union and the other legal sources.

Section 2 – The system of protection of human rights: main features.

Section 3 – Fundamental rights as a European value and the Conference on the Future of Europe.

Chapter IX – The relationship between the system of the ECHR and the system of the European Union.

Chapter X - America

Section 1 – The system of the American Convention of Human Rights.

Section 2 – Other systems (brief remarks).

Chapter XI - Africa

Section 1 – The system of the African Charter of People's and Human Rights.

Section 2 - The relationship with the African Union and the fusion of the African Court of Human and People's Rights and the Court of Justice of the African Union.

Chapter XII – Arab world (brief remarks)

TITLE IV – INTERNATIONAL PROTECTION OF HUMAN RIGHTS

AND THE PORTUGUESE LEGAL ORDER

Chapter XIII – Sources of binding international law and hierarchy of sources.

Chapter XIV – The relevant systems within the Portuguese legal order.

TITLE V – INTERNATIONAL PROTECTION OF HUMAN RIGHTS AND JUDICIAL REVIEW:

CURRENT TRENDS AND FUTURE CHALLENGES

Chapter XV – The relationship between the regional European systems and national legal orders

Section 1 – The dialogue between international courts and national courts, especially constitutional courts.

Section 2 – The judicial instruments of relationship between international courts and national courts and Protocol N.º 16 to the ECHR.

Section 3 – The problem of the (higher) level of human rights.

Section 4 – Structural violations and pilot-judgements.

Section 5 – The execution of the decisions of the international courts in the national legal order, especially the recourse of review (“recurso de revisão”) of the Portuguese legal order

Section 6 - Just satisfaction and State liability actions.

Section 7 - Political, financial, migration and pandemic crisis and judicial control of the violations of human rights.



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Chapter XVI – Human rights, fundamental rights and the Rule of Law as European values in a global world.
Section 1 – Evolution of the legal framework and of the case law in the European Union.
Section 2 – The promotion of human rights, fundamental rights and of the Rule of Law as European values in national and transnational litigation.
Section 3 – Human rights, fundamental rights and the Rule of Law and independence of the judiciary.

Chapter XVII – Change of paradigm and evolution perspectives.
Section 1 – The dialogue between international courts in respect of human rights.
Section 2 – The reform of the ECHR system.
Section 3 – The relationship between international (regional) systems: the accession of the European Union to the ECHR – the (re)negotiation of the accession in course.
Section 4 -The fusion between international (regional) courts.
Section 5 – Competition between (non-judicial and judicial) systems of protection of human rights and solutions.

Chapter XVIII –Human rights: the wording of the catalogues and the challenge of new contexts (examples).

Demonstration of the syllabus coherence with the curricular unit's objectives.

The syllabus includes a complete approach of the main aspects of the international (universal, regional) systems in force of protection of human rights in a double perspective: the comparative (transversal) comparison in the basis of its structural elements and the perspective of each individual system of protection both in its material and procedure features. Such approach allows the knowledge of such systems at present in order to its future use.

The syllabus includes a global approach of the relationship between those systems and with the national legal orders, especially the Portuguese legal order, considering that disputes regarding human rights are solved both at national and international (universal, regional) – namely European regional level. Such an approach allows the knowledge of those relationships aiming at the articulation, in each case, of the relevant national and transnational instruments of protection.

Teaching methodologies (including evaluation)

Teaching methodologies are based in three elements: a theoretical introduction to each subject of the syllabus through the use of the expositive method and the identification of the main problematic juridical issues; the critical analysis of the relevant case law and other legal sources of the main international systems of protection of human rights; the practical application of the knowledge acquired - according to previous identification of the topics to be analysed and of the relevant documents and doctrine for previous preparation by the students.

Evaluation methodology is based in two elements: a practical element (critical analysis of case law and legal basis, procedural piece, other assignments such as short presentation on a specific topic); and a research element in order to write a paper on a specific topic according to the individual interests of the students.

Demonstration of the coherence between the teaching methodologies and the learning outcomes

The theoretical introduction and identification of the juridical issues allows the acquisition of the key juridical concepts regarding the international systems of protection of human rights as well of the key knowledge on the nature and modus operandi of each of those systems.



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The critical analysis of the main legal sources and of the case law and the drafting of a procedural piece and the solving of cases allow in particular the comprehension of the system in practice, aiming at its use when facing a concrete dispute – identifying the relevant judicial remedies that may be used and how they relate with the national and other transnational levels.

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