

Curricular unit sheet

Bachelor's Course

Curricular unit

History of Legal history (course in English, 1st semester)

Responsible Academic staff and respective workload in the curricular unit (enter full name)

Professor Isabel Maria dos Santos Graes

Other academic staff and respective workloads in the curricular unit

Mestre Jorge Testos

Learning outcomes of the curricular unit

The optional course on Philosophy of Law in Historical Perspective aims to provide a framework and an overview of occidental legal reasoning since the Middle Ages till nowadays and how it had an impact on the legal systems, especially the Portuguese.

Once the analysis of the previous legal reasoning legacy establishes exemplary the formative knowledge of contemporary law, more than studying the various doctrines that occurred, the reflexion made in this discipline will critically bring together both the doctrines, the legal methodology of jurists and of law schools. So we intend to give special importance in the interpretation of law, the reasoning of judicial decisions and the legal argumentation.

In order to achieve these purposes, students will be given a complex of sources, that will provide a formative and global vision of the occidental law.

Syllabus

1. The Middle Ages
 - a. Philosophical and Law theories
 - b. The concepts of justice and the resistance to injustice
 - c. Introduction to the sources of the law
 - d. Political and methodology law and the teaching of law
2. Modern Age
 - a. Humanism and Law
 - b. Sovereignty and legislative power (Maquiavel and Bodin)
 - c. The second scholastic
 - d. The enlightenment project
 - e. Science of legislation
 - f. The beginning of the codification process
3. The Contemporary Age
 - a. The liberalism and the construction of a "new" law
 - b. The concept of "volonté générale"
 - c. Positivism versus the return of natural law. Legalism. Historicism. The anti-naturalism reaction

- d. Postmodernity law
- e. The internationalization of the legal systems.

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

The program shows the constitution and historical evolution of the occidental legal systems, showing the various doctrines and political experiences that explained and justified the idea of normative plurality and the jurist function.

Teaching methodologies (including evaluation)

Methodology: The themes will be presented in theoretical classes by the teacher and the students are prompted to intervene whenever there will be doubts regarding the concerned subject. In the practical classes the subjects will be debated and the students shall deliver/present their paper works.

Assessment: It follows the methodology established in the Regulation of the Faculty of Law-Lisbon. By choosing continuous assessment (method A), the student is required to participate in classes by presenting oral presentations (50%) and writing a final research paper (50%). By opting for the final evaluation (method B), the student must carry out a written examination, in accordance with the evaluation regulations.

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

The main and essential lines indicated in the program will be developed in the theoretical classes providing the student a doctrinal knowledge. Nevertheless the student is invited to investigate the subjects through lectures and research of other sources, especially primary ones.

Main Bibliography

CAVANNA, Adriano, **Storia del diritto moderno in Europa**, Milano, Giuffrè, 1980

António Pedro Barbas Homem, **A Lei da liberdade**, Cascais, 2001.

O Justo e o Injusto, Lisboa, 2001.

GENNARO, Antonio de, **Introduzione alla storia del pensiero giuridico, ginsnaturalismo**, filosofia del diritto, storia del pensiero giuridico, Torino, Giappichalli, 1979

GRAES, Isabel, **O poder e a justiça em Portugal no século XIX**, Lisboa, 2014

História do Pensamento Jurídico, Colectânea de textos de apoio, AAFDL, Lisboa, 2017

GROSSI, Paolo, **Assolutismo giuridico e diritto privato**, Milano, Giuffrè, 1998

LARENZ, Karl, **Metodologia da ciência do Direito**, Lisboa, 1997.

LESAFFER, Randall, **European Legal History, a cultural and political perspective**, Cambridge University Press, Cambridge, 2009

MAZZARELLA, F., **Un Diritto per l'Europa industriale. Cultura giuridica ed economia dalla rivoluzione francese al secondo dopoguerra** (Per la storia del pensiero giuridico moderno), Giuffrè, 2016

POUND, Roscoe, **Las grandes tendencias del pensamiento jurídico**, Editorial Comares, Granada, 2004

RADBRUCH, Gustav, **Rechtsphilosophie**, Ralf Dreier, 2011.

RODRÍGUEZ PANIAGUA, José M^a, **Historia del pensamiento jurídico**, Editorial Biblioteca Nueva, Madrid, 2013

STOLLEIS, Michael, **L'oeil de la loi. Historie d'une métaphore**, Paris, 2006.

VILLEY, Michel, **La formation de la pensée juridique moderne**, Paris, PUF, 2016;

Philosophie du droit . Définitions et fins du droit. Les moyens du droit, Paris, 2006

NOTE: this map can be filled in as many times as necessary to describe the different curricular units.