



FACULDADE DE DIREITO  
Universidade de Lisboa

## Ficha de Unidade Curricular

### Mestrado em Ciência Jurídica

#### Unidade curricular

Direito Administrativo  
Segundas-feiras 11:00/13:00

#### Docente responsável

David Duarte

#### Conteúdos programáticos

Discricionariedade Administrativa: A Perspectiva Analítica

##### 0: Introdução

##### 1: O conceito operativo de discricionariedade

- 1.1: Alternativas legais, pluralidade de estatutos deonticos da acção e escolha
- 1.2: Alternativas de linguagem e alternativas normativas
- 1.3: A componente epistémica das alternativas

##### 2: Discricionariedade e linguagem

- 2.1: Certeza e incerteza linguísticas
- 2.2: Elenco de incertezas linguísticas
- 2.3: Incertezas linguísticas e alternativas

##### 3: Discricionariedade e normas

- 3.1: Estrutura normativa
- 3.2: Normas de competência e normas de conduta em sentido estrito
- 3.3: Operadores deonticos e alternativas
- 3.4: Conflitos normativos e alternativas

##### 4: Discricionariedades abstracta e concreta

- 4.1: Elenco de alternativas
- 4.2: Eliminação de alternativas: derrotabilidade
- 4.3: Escolha e reserva de administração

#### Metodologias de ensino

- as aulas têm estrutura de seminário;
- entrega de um paper no final do primeiro semestre e de outro no final do segundo;
- a classificação final é a média de ambos os papers (80%) com a avaliação relativa à participação nas sessões (20%);

#### Bibliografia principal

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- Frändberg, Åke  
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- 2015. An Egalitarian Defense of Proportionality-based Balancing: A Reply to Luc B. Tremblay. *International Journal of Constitutional Law*. 12. 4. 891-899.  
- 2004. Semantic Normativity and the Objectivity of Legal Argumentation. *Archiv für Rechts- und Sozialphilosophie*. 90. 51-65.  
Klatt, Matthias / Meister, Moritz  
- 2012. *The Constitutional Structure of Proportionality*. Oxford: Oxford University Press.  
Klatt, Matthias / Schmidt, Johannes  
- 2012. Epistemic discretion in Constitutional Law. *International Journal of Constitutional Law*. 10. 1. 69-105.  
Lopes, Pedro Moniz  
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## Curricular Unit Sheet

### Masters on Legal Science

#### Curricular unit

Administrative Law  
Mondays 11:00/13:00

#### Academic staff

David Duarte

#### Syllabus

Administrative Discretion: An Analytical Perspective

- 0: Introduction  
1: A workable concept of discretion  
1.1: Legal alternatives, plurality of deontic statutes and choice  
1.2: Language and normative alternatives  
1.3: The epistemic component of alternatives  
2: Discretion and language  
2.1: Language certainty and uncertainty  
2.2: List of language uncertainties  
2.3: Language uncertainties and alternatives  
3: Discretion and norms  
3.1: Norm structure  
3.2: Competence norms and norms on action  
3.3: Deontic operators and alternatives  
3.4: Conflicts of norms and alternatives  
4: Abstract and concrete discretion  
4.1: Set of alternatives  
4.2: Elimination of alternatives: defeasibility  
4.3: Choice and administrative rule of law

#### Teaching methodologies

- classes will follow a workshop model;
- one paper at the end of both semesters to be delivered;
- final evaluation is the average of both papers (80%) with an assessment on class participation (20%);



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Main Bibliography

- see above