



FACULDADE DE DIREITO
Universidade de Lisboa

Ficha de Unidade Curricular

Doutoramento em Direito

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 deontológicos 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 deontológicos 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 projecto de investigação no final do primeiro semestre e de um paper no final do segundo;
- a classificação final é a média do paper (80%) com a avaliação relativa à participação nas sessões (20%);

Bibliografia principal

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- 2002. Theory of Constitutional Rights. Oxford: Oxford University Press.

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Barak, Aharon

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- 2012. Defeasibility and Legality: a Survey. The Logic of Legal Requirements. Essays on Defeasibility. Edited by Jordi Ferrer Beltrán and Giovanni Battista Ratti. Oxford: Oxford University Press. 11-38.

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Curricular Unit Sheet

PhD 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 research project at the end of the first semester and a paper at the end of the second;
- final evaluation is the average of the paper (80%) with an assessment on class participation (20%);



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Main bibliography

- see above