



## **Direito Comparado – Comparative Law 2022/2023**

**Principal Professor: Prof. Doutor Guilherme Dray**  
**Practical class lecturer: Catarina Granadeiro, LLM**

### **A) General purpose of the course:**

This course aims at providing students with an overview of the main legal families of the contemporary world: the family of Civil and that of Common Law, the latter through the examples of the English and American Legal Systems. The characteristics which define both will be explained and exercised in practical examples. In furtherance of this analysis, students will learn about the main contractual legal rules in both families of law as this legal domain is seminal to the comparative analysis pursued in this course.

### **B) Lecturing system and use of languages:**

The course is divided into general lectures (*aulas teóricas*), in which the topics of the program are expounded systematically in Portuguese, and seminars (*aulas Práticas*), in which cases and statutes are discussed with students in English.

### **C) Syllabus:**

**Chapter I** – Introduction to Comparative Law. Modalities of comparative law, and its main functions. (*circa 4 practical classes*)

**Chapter II** – The Roman-German legal family. In particular, the German, French and Portuguese legal systems. A potential lusophone family of law. (*circa 6 practical classes*)

**Chapter III** – The *Common Law* legal family. English Law and Law in the United States of America. (*circa 8 classes*)

**Chapter IV** – Contractual Law. The notion of contract and its constituent elements in the Civil and the Common Law traditions. Cause and consideration. The formation of contracts in the Civil and the Common Law traditions. Precontractual liability. Contractual fairness. Performance and breach of contracts; remedies for the breach of contract. (*circa 5 practical classes*)

**Chapter V** – A comparative synthesis and final remarks. (*1 practical class*)

## D) Main Bibliography:

**In English:** Konrad Zweigert and Hein Kötz, *An Introduction to Comparative Law*, Oxford, Clarendon Press, 1998; H. Patrick Glenn, *Legal Traditions of the World. Sustainable Diversity in Law*, 5<sup>th</sup> ed., Oxford, Oxford University Press, 2014; Michael Bogdan, *Concise Introduction to Comparative Law*, Groningen, Europa Law Publishing, 2013; Raymond Youngs, *English, French & German Comparative Law*, 3<sup>rd</sup> ed., London/New York, Routledge, 2014; Uwe Kischel, *Comparative Law*, Oxford, Oxford University Press, 2019.

Dário Moura Vicente, *Comparative Law of Obligations*, Edgar Elgar Publishing (2021)

**In French:** Gilles Cuniberti, *Grands systèmes de droit contemporains. Introduction au droit comparé*, Paris, LGDJ, 2019 ; René David and Camille Jauffret Spinosi, *Les grands systèmes de droit contemporains*, 12<sup>th</sup> ed., Paris, Dalloz, 2016; Raymond Legeais, *Grands systèmes de droit contemporains. Approche comparative*, 3<sup>rd</sup> ed., Paris, Litec, 2016.

**In German:** Uwe Kischel, *Rechtsvergleichung*, Munich, C.H. Beck, 2015 ; Konrad Zweigert and Hein Kötz, *Einführung in die Rechtsvergleichung*, 3<sup>rd</sup> ed., Tübingen, J.C.B. Mohr (Paul Siebeck), 1996.

**In Italian:** António Gambaro and Rodolfo Sacco, *Sistemi Giuridici Comparati*, 3<sup>rd</sup> ed., reprint, Torino, UTET, 2008.

**In Portuguese:** Dário Moura Vicente, *Direito Comparado*, vol. I, 4<sup>th</sup> ed., Coimbra, Almedina, 2018; vol. II, Coimbra, Almedina, 2017

**In Spanish:** Manuel Guillermo Altava Lavall (coord.), *Lecciones de Derecho Comparado*, Castelló de la Plana, Universitas, 2003.

## E) Internet sites with free access:

<http://www.biicl.org> (British Institute of International and Comparative Law).

<http://www.civil.udg.es/ecplp> (European and Comparative Private Law Page).

<http://www.comparativelaw.org/> (American Society of Comparative Law).

<http://comparativelawblog.blogspot.com> (Comparative Law Blog)

<http://www.constitution.org> (Constitution Society)

<http://www.dvr.euv-frankfurt-o.de/Welcome.html> (Der virtuelle Rechtsvergleicher).

<http://www.ejcl.org> (Electronic Journal of Comparative Law).

<http://www.ejls.eu> (European Journal of Legal Studies)

<http://www.fd.ulisboa.pt/investigacao/biblioteca-digital-ius-commune/> (Biblioteca Digital *Ius Commune*).

<http://gddc.ministeriopublico.pt> (Gabinete de Documentação e Direito Comparado).

<http://www.germanlawjournal.com> (German Law Journal).  
<http://www.glin.gov> (Global Legal Information Network).  
<http://www.henricapitant.org> (Association Henri Capitant).  
<http://www.isdc.ch> (Institut Suisse de Droit Comparé).  
<http://www.iuscomp.org> (The Comparative Law Society).  
<http://www.iuscomparatum.org> (Académie Internationale de Droit Comparé).  
<http://www.juriguide.com> (Juriguide).  
<http://en.jurispedia.org> (Jurispedia).  
<http://www.lexadin.nl/wlg> (World Legal Guide).  
<http://www.legiscompare.com> (Société de Legislation Comparée).  
<http://www.loc.gov/law/guide> (Library of Congress/Guide to Law Online).  
<http://www.loc.gov/law/public/glm> (Library of Congress/Global Legal Monitor).  
<http://www.mpipriv.mpg.de> (Max-Planck-Institut für Ausländisches und Internationales Privatrecht).  
<http://www.nyulawglobal.org/globalex> (New York University/Globalex).  
<http://www.ouclf.iuscomp.org> (Oxford University Comparative Law Forum).  
[http://ucl.ac.uk/laws/global\\_law/index.shtml](http://ucl.ac.uk/laws/global_law/index.shtml) (Institute of Global Law, University College London).

#### E) Evaluation method:

- The evaluation of the course is based on the participation in seminars (in Portuguese known as practical courses) and the submission of an investigation paper in one of the topics selected by the lecturers for this course, comprised in a list to be presented to the students<sup>1</sup>. If the students do not intend to submit the paper, they must mandatorily seat a written test to take place in a date TBD,
- The deadline for the delivery of the investigation is to be indicated in the first practical classes<sup>t</sup>.
- This paper should be of original content and have a length of 15 to 20 pages (including first page cover and bibliography).
- Rules for the execution of these investigation papers will be explained during seminars.
- Students that have obtained 12 (twelve) grading points in their continuous evaluation (in which one computes predominantly the investigation paper grade but also participation in class in a proportion of 70 to 30%) **dismiss** the final written test (*frequência*) for this course to take place in a date TBD
- The students that have not obtained 12 (twelve) grading points in their continuous evaluation **will have to seat** a final test (*frequência*) that will take place in date TBD
- Students that have a grade below 10 (ten) grading points in this final test ('*frequência*') will have to seat the final exam in July.
- An oral exam is optional to all students that have been approved but pertain to obtain a higher grade.

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<sup>1</sup> The student may elect a legal topic not listed but should obtain prior validation of said choice.

- The oral exam may assess any topic lectured in class (both in general lectures and seminars) and may, at the student's request, focus on the discussion of the investigation paper presented.