



FACULDADE DE DIREITO
Universidade de Lisboa

Curricular Unit Sheet

Bachelor's Degree Course

Curricular unit

Fundamental Rights

Responsible Academic staff

Domingos Miguel Soares Farinho

Other academic staff and respective workloads in the curricular unit

N/A

Syllabus

1. The concept of fundamental right: a EU Charter of Fundamental Rights approach
 - 1.1. Main distinctions and classifications:
 - 1.1.1. Fundamental Rights and Human Rights
 - 1.1.2. Rights as principles and rights as rules
 - 1.1.3. Negative Rights (aka Liberal Rights) and Positive Rights (aka Social Rights)
 2. The horizontal effect of fundamental rights
 3. Normative conflicts and fundamental rights; restrictions on fundamental rights and principles
 - 3.1. Principle of proportionality
 - 3.2. Principle of equality/non-discrimination
 - 3.3. Principle of legal certainty
 - 3.4. Principle of dignity of the human person
 4. Case-law analysis of specific fundamental rights:
 - 4.1. Right to life
 - 4.2. Right to privacy
 - 4.3. Freedom of expression
 - 4.4. Right to education
 - 4.5. Right to health
 5. Access to ECtHR and the CJEU; Access to European Constitutional Courts

Teaching methodologies (including evaluation)

Student participation is encouraged. For that purpose, a number of readings will be indicated for each class. Discussion and critical analysis of the subject will be promoted in small groups of students. During the semester, Students deepen knowledge over selected case-law of their choice, discussing in groups and presenting to class. Evaluation will be made according to the following factors:

- Participation in activities in class (25%);
- Presentation of principles or selected case-law (25%);
- Written test (50%).

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



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The flexibility of the curriculum and the collaborative work in classes aim at stimulating the critical analysis of students over the theoretical and practical aspects of the subject, as well as developing autonomy and argumentative and research competences.

Main Bibliography

Books and articles (the number at the end connect with the relevant topic in the syllabys)

- (1996) Alexy - Discourse Theory and Human Rights [1.1.1]
(2000) Alexy - The Structure of Legal Principles
(2006) Clapham - Human Rights Obligations of Non-State Actors (Chapters 1 and 9) [2]
(2018) Fredman - What is a human right (Chapter 2) [1.1.1]
(2018) Fredman - Challenging the divide - socioeconomic rights as human rights (Chapter 3) [1.1.3]
(2008) Gardbaum - Human Rights as International Constitutional Rights [1.1.1]
(2017) Lopes - The Syntax of Principles Genericity as a Logical Distinction between Rules and Principles [1.1.2]
(2003) Neuman - Human Rights and Constitutional Rights [1.1.1]
(2007) Raz - Human Rights Without Foundations [1.1.1]
(2017) Smet - Resolving Conflicts Between Human Rights (pp. 13-82)[3]

Case Law (to be added)