FACULDADE DE DIREITO
Universidade de Lisboa

Ficha de Unidade Curricular

Curso de Mestrado em Direito e Ciência Jurídica, especialidade de Direitos Fundamentais

1. Nome da Unidade curricular:

Direitos Fundamentais

2. Informação Complementar:

Duração: Semestral ☐ Anual ☒
Horas de Trabalho: _____
Créditos ECTS: _____

3. Docente responsável e respetiva carga letiva na unidade curricular:

Domingos Miguel Soares Farinho - 120 minutos por semana

4. Outros docentes e respetivas cargas letivas na unidade curricular:

N/A

5. Objetivos de aprendizagem (conhecimentos, aptidões e competências a desenvolver pelos estudantes):

Tema: Direito Fundamentais e Internet

6. Conteúdos programáticos:

1. Discussão do programa: os tópicos atuais de Direitos Fundamentais e da Internet
2. Estado e Internet: do nascimento da Jurisdição Digital do Estado-Nação aos Estados Digitais
3. Jurisdição dos Estados vs. Jurisdição sobre a Internet: a questão dos limites constitucionais da *governance* da Internet e o âmbito dos direitos fundamentais em contexto digital
4. Direitos Fundamentais e Internet – a Constituição como garante dos cidadãos digitais:

(i) Direito Fundamental de acesso à Internet como direito fundamental

(ii) Princípio da igualdade e Internet: o caso da neutralidade no acesso à Internet

(iii) Direitos Fundamentais e Internet: o princípio da proporcionalidade e o problema da ponderação no ciberespaço

5. Direitos Fundamentais em especial – contexto, âmbito e principais questões:

(i) Liberdade de expressão

(ii)Direito à privacidade

(iii) Liberdades económicas

6. A regulação da Internet como regulação de direitos fundamentais:

(i) Regulação da estrutura física

(ii) Regulação do código

(iii) Regulação de conteúdos (a regulação de direitos fundamentais)

7. Modalidades funcionais da Internet e suas questões jurídicas:

(i) O governo eletrónico e os direitos fundamentais

(ii) Metaverso e Direitos Fundamentais
(iii) A inteligência artificial e o seu efeito sobre os direitos fundamentais – a aferição de impacto em direitos fundamentais
(iv) Sistemas institucionais de proteção de direitos fundamentais em contexto digital
(v) A soberania digital e os direitos fundamentais

7. Demonstração da coerência dos conteúdos programáticos com os objetivos da unidade curricular:

Com os conteúdos previstos estudam-se e aprofundam-se os principais aspetos que concorrem para a relação entre o Direitos Fundamentais e a Internet, bem como para a reflexão sobre os seus casos difíceis e inovadores.

8. Metodologias de ensino:

1. Análise, individual e conjunta, de diplomas legais e administrativos;
2. Comentário e discussão sobre jurisprudência
3. Estudo de casos
4. Apresentações individuais dos alunos

9. Avaliação:

Realização de um relatório final sobre um tema incluído no ponto 6.

10. Demonstração da coerência das metodologias de ensino com os objetivos de aprendizagem da unidade curricular:

A metodologia apresentada permite, num primeiro momento a criação das bases de conhecimento para uma reflexão individual e em grupo, avançando depois para a produção de pensamento e trabalho próprio sobre os Direitos Fundamentais e a Internet

11. Bibliografia principal:

Bibliografia elementar: (a lista será atualizada no início do semestre)

Monografias e periódicos:

Belli, Luca, De la Gouvernance à la Régulation de L'Internet, Boulogne-Billancourt, Berger-Levrault, 2016 (§1)

Benkler, Yochai, The Wealth of Networks - How Social Production Transforms Markets and Freedom, New Haven, Yale University Press, 2006

Callamard, Agnes, "Are courts re-inventing Internet regulation?", International Review of Law, Computers & Technology, 31, 3, pp. 323-339.

Citron, Danielle Keats, Hate Crimes in Cyberspace, Harvard University Press, 2014 (§6.1)

De Gregorio, Giovanni, and Radu, Roxana Radu and Roxana, "Digital constitutionalism in the new era of Internet governance", International Journal of Law and Information Technology, 2022, 30, 68–87

Eriksson, Johan/Giacomello, Giampiero, Who Controls the Internet? Beyond the Obstinacy or Obsolescence of the State in International Studies Review (2009) 11, p. 205–230 (§2)

Farinho, Domingos Soares, Delimitação do espectro regulatório de redes sociais in Nery, Nelson; Abboud, Georges; e Campos, Ricardo, "Fake News e Regulação", São Paulo, Thomson Reuteurs - Revista dos Tribunais, 2º edição, 2020.

Os Direitos Fundamentais no Regulamento de Inteligência Artificial: levando os Direitos Fundamentais a sério ou manobra de diversão in Alfar, André; Almeida, João; Soares, João Luz (org.), o AI Act - O novo Regulamento de Inteligência Artificial europeu, Coimbra, Almedina, 2025, pp. 545-568.

Fontanelli, Filippo, The Court of Justice of the European Union and the illusion of balancing in internet-related disputes in Pollicino, Oreste/Romeo, Graziella, The Internet and Constitutional Law - The protection of fundamental rights and constitutional adjudication in Europe, London, Routledge, 2016 (§6)

Graber, Christoph B., Bottom-Up Constitutionalism: The Case of Net Neutrality, i-call working paper, no. 2017/01, Zurich, Switzerland: University of Zurich, forthcoming (2017) Transnational Legal Theory, (2017) 7 (04), pp. 524–552 (§5)

Helm, Rebecca; Nasu, Hitoshi, "Regulatory Responses to 'Fake News' and Freedom of Expression: Normative and Empirical Evaluation", Human Rights Law Review, 2021, 21, pp. 302–328.

Hoboken, Joris van and Fathaigh, Ronan, "Regulating Disinformation in Europe: Implications for Speech and Privacy", UC Irvine Journal of International, Transnational, and Comparative Law, 9, 2021, pp. 9-36.

Hobojen, Joris van; Quintais, João Pedro; Appelman, Naomi; Fahy, Ronan, Buri, Ilaria; e Straub, Marlene (ed.), "Putting the DSA into Practice – Enforcement, Access to Justice and Global Implications", Verfassgungsbooks on Matters Constitutional, 2023, available at: https://www.ivir.nl/publicaties/download/vHoboken-et-al_Putting-the-DSA-into-Practice.pdf

Husovec, Martin, "Rising above liability: the Digital Services Act as a blueprint for the second generation of Global Internet Rules, in Berkeley Technology Law Journal, Vol. 38, 2023, pp. 101-137

Lessig, Lawrence, Reading the Constitution in Cyberspace in Emory Law Journal, n. 3, 1996, p. 1-44 (§3)

Marsden, Chris; Meyer, Trisha and Brown, Ian, "Platform values and democratic elections: How can the law regulate digital disinformation?", Computer Law & Security Review, 36, 2020, p. 1-18.

Pollicino, Oreste/Romeo, Graziella, The Internet and Constitutional Law - The protection of fundamental rights and constitutional adjudication in Europe, London, Routledge, 2016 (§6)

Pollicino, Oreste, "Right to Internet Access: Quid Iuris?", in A. von Arnauld, K. von der Decken, M. Susi (eds), "The Cambridge Handbook on New Human Rights. Recognition, Novelty, Rhetoric", Cambridge University Press, 2020

Pollicino, Oreste and De Gregorio, Giovanni, "Constitutional Law in the Algorithmic Society"," in Micklitz et al. "Constitutional Challenges in the Algorithmic Society", Cambridge University Press, 2022

Redeker, Denis, et al., Towards digital constitutionalism? Mapping attempts to craft an Internet Bill of Rights, the International Communication Gazette 2018, Vol. 80(4) 302–319 (§7)

Roques-Bonnet, Marie-Charlotte, La Constitution et l'Internet, Tese de doutoramento, 2008 (edição adaptada: Le droit peut-il ignorer la révolution numérique?, Paris, Michalon, 2010) (§4)

Suzor, Nicolas, Digital constitutionalism and the role of the rule of law in the governance of virtual communities, Doctor of Philosophy thesis, School of Law Queensland University of Technology, June 2010, available at: https://eprints.qut.edu.au/37636/1/Nicolas_Suzor_Thesis.pdf (§7)

Teubner, Gunther, Horizontal Effects of Constitutional Rights in the Internet: A Legal Case on the Digital Constitution in The Italian Law Journal,Vol. 03, No. 01, p. 193-205 (§6)

Tribe, Laurence, The Constitution in Cyberspace: Law and Liberty Beyond the Electronic Frontier, American Humanist Association, 1991 (§1)

Vicente, Dário Moura; Casimiro, Sofia de Vasconcelos; e Chen, Chen (ed.), "The Legal Challenges of the Fourth Industrial Revolution – The European Union's Digital Strategy, Cham, Springer, 2023

Jurisprudência

Tribunal Europeu dos Direitos Humanos

Ahmet Yildirim c. Turquia, no 3111/10, 18 de março de 2013 (§4)

Delfi AS c. Estónia [GC], no. 64569/09, 16 de junho 2015 (§6)

Satakunnan Markkinapörssi Oy e Satamedia Oy c. Finlândia, no. 931/13, 27 junho 2017 (§6)

Bundesverfassungsgericht (BVerfG)

BVerfG Order 11 April 2018

BVerfG Order of 27 August 2019

Conseil Constitutionnel francês

2010-45 QPC du 6 octobre 2010, JO du 7 octobre 2010 (§4)

Supremo Tribunal Federal norte-americano

582 U. S. ___ (2017) Packingham v. North Carolina (§6)

587 U. S. ___ (2019) MANHATTAN COMMUNITY ACCESS CORP. ET AL. v. HALLECK ET AL. (§1)

Tribunal de Justiça da União Europeia

C-101/01 Lindqvist [2003] (§6)

C-131/12 Google Spain [2014] (§6) (right to be forgotten)

C-507/17 Google [2019] (right to be forgotten)

C-18/18 Glawischnig-Piesczek [2019] (conflict of rights, platform regulation)

C-807/18 Telenor Magyarország Zrt. e Nemzeti Média- és Hírközlési Hatóság ElnökeC-39/19 [2020] (net neutrality)

C-252/21Bundeskartellamt [2023] (data protection, consent, platform regulation)

12. Observações:

(máximo 1000 caracteres)

NOTA: este mapa é preenchido tantas vezes quantas as necessárias para descrever as diferentes unidades curriculares.

FACULDADE DE DIREITO
Universidade de Lisboa

Curricular Unit Sheet

Course Masters in Law and Legal Science, field of Fundamental Rights

1. Curricular Unit Name:

Fundamental Rights

2. Complementary Information:

Duration: Semester ☐ Annual ☒
Work hours: _____
Credits ECTS: _____

3. Responsible Academic staff and respective workload in the curricular unit:

Domingos Soares Farinho - 2 hours/week

4. Other academic staff and respective workloads in the curricular unit:

N/A

5. Learning outcomes of the curricular unit:

Subject matter: Fundamental Rights and the Internet

Fundamental Rights have been subjected, like all fields of law, to the influence of the Internet. The aim of the present seminar is to study the relationship between these two realities, in order to understand what challenges are presented to Fundamental Rights and which answers can and should be given.

6. Syllabus:

1. Discussion of the syllabus: current topics in Fundamental Rights and the Internet
2. The State and the Internet: from the emergence of the Nation-State's Digital Jurisdiction to Digital States
3. State Jurisdiction vs. Jurisdiction over the Internet: the question of the constitutional limits of Internet governance and the scope of fundamental rights in the digital context
4. Fundamental Rights and the Internet – the Constitution as guarantor of digital citizens:
   (i) Fundamental right of access to the Internet as a fundamental right
   (ii) Principle of equality and the Internet: the case of net neutrality
   (iii) Fundamental Rights and the Internet: the principle of proportionality and the problem of balancing in cyberspace
5. Specific Fundamental Rights – context, scope, and main issues:
   (i) Freedom of expression
   (ii) Right to privacy
   (iii) Economic freedoms
6. The regulation of the Internet as the regulation of fundamental rights:
   (i) Regulation of the physical infrastructure
   (ii) Regulation of code
   (iii) Regulation of content (the regulation of fundamental rights)
7. Functional modalities of the Internet and their legal issues:
   (i) E-government and fundamental rights
   (ii) The Metaverse and Fundamental Rights
   (iii) Artificial intelligence and its impact on fundamental rights – fundamental rights impact assessment
   (iv) Institutional systems for the protection of fundamental rights in the digital context
   (v) Digital sovereignty and fundamental rights

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

The foreseen syllabus allows for the study and strengthening of key aspects that make the body of knowledge on Fundamental Rights and the Internet and the questioning of its most hard and innovative cases.

8. Teaching methodologies (including evaluation):

1. Analysis, both individually and in group, of legal and administrative statutes;
2. Commentary and discussion on case law
3. Case study
4. Individual presentations by students

Final report

9. Demonstration of the coherence between the teaching methodologies and the learning outcomes:

The presented methodology allows, from the start, for the creation of a basis of knowledge upon which to reflect, both individually and in group, on the subjet of Fundamental Rights and the internet and moving to the production of own research and findings.

10: Evaluation:

Written report on a subject included under point 6.

11: Main Bibliography:

References: (to be updated at the beginning of the semester) (maximu

Monographies and journals:

Belli, Luca, De la Gouvernance à la Régulation de L'Internet, Boulogne-Billancourt, Berger-Levrault, 2016 (§1)

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Vicente, Dário Moura; Casimiro, Sofia de Vasconcelos; e Chen, Chen (ed.), "The Legal Challenges of the Fourth Industrial Revolution – The European Union's Digital Strategy, Cham, Springer, 2023

Case-law

European Court of Human Rights

Ahmet Yildirim c. Turquia, no 3111/10, 18.03.2013 (§4)

Delfi AS c. Estónia [GC], no. 64569/09, 16.062015 (§6)

Satakunnan Markkinapörssi Oy e Satamedia Oy c. Finlândia, no. 931/13, 27.06.2017 (§6)

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12: Remarks:

(maximum 1000 characters)

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