



FOUNDATIONS OF LAW

2018/2019 – 2nd SEMESTER

1. COURSE SYLLABUS

This course provides an overview of the Portuguese Juridical System. Upon successful completion of this course the student shall inter alia develop a legal vocabulary, explain fundamental legal concepts and discuss topics relating to the Law.

- 1.1. The concept of Law: Law, Society and Normative Social Orders.
- 1.2. Branches of Law: International and Internal; Public, Private and Hybrid.
- 1.3. The State and the Portuguese Constitutional System: the Portuguese Juridical System and the State of Law (Origins, Evolution and Crisis).
- 1.4. Sources of Law and the Creation of Legal Rules: Law (Hierarchy, Types of Legislative Acts, Review of Constitutionality and Legality. Termination of Laws and Codification, Customs and Practices, Jurisprudence, Doctrine and Equity.
- 1.5. The Juridical Rule: Features, Structure, Types and Sanctions.
- 1.6. Interpretation, Integration and Application of Juridical Rules: Interpretation Processes, Integration Processes and Application Processes (Retroactivity).
- 1.7. The Juridical Relation: Concepts, Types, Subjective Rights and Juridical Duties, Elements (Subjects, Object, Juridical Fact and Guarantee).
- 1.8. Contracts (Formation Process, Lacks and Vices of the Juridical Will and Contractual Perfection) and Civil Liability (Types, Regime and Consequences).

2. TEACHER

2.1. Theoretical Classes

FILIFE MANUEL FARRÉU RAMA DOS SANTOS BARATA

2.2 Practical Classes

FILIFE MANUEL FARRÉU RAMA DOS SANTOS BARATA

3. MATERIALS

3.1. Instructional materials

All documents published in *Aquila*, in *Support Material Section*, which are the basis of theoretical and practical classes of *Foundations of Law*.

3.2. Legislation

Portuguese Constitution (*English version to be provided*)

Portuguese Civil Code (*English version to be provided*)

3.3. Bibliography in English

ALMEIDA, Carlos Ferreira de; CRISTAS, Assunção; PIÇARRA, Nuno (2007). *Portuguese Law: an overview*. Coimbra: Almedina.

Written papers on relevant topics shall be provided throughout the semester.

4. DETAILED SYLLABUS

1. Introduction

1.1. The need of an Introduction to Law to students of Economics, Management and Finance. Need of studying other juridical sciences. The importance of a critical view of the Law.

1.2. Practical guidance over the studying method, materials and evaluation

2. Law and society

2.1. The plurality of meanings of the word Law: “Objective Law”, “Subjective Law”, “Science of Law”

2.2. Juridical order and other normative orders: Moral order, Religious order, Social conduct order

3. Purposes and core values of Law

3.1. Justice, rights and fundamental freedoms

3.2. Safety

3.3. Economic and social welfare

4. Features of the Law and of the Juridical Rule

4.1. Concept of system and of juridical rule

4.2. Features of the system and of the juridical rule

5. Branches of Law

5.1. Public Law and Private Law

5.2. Internal Law, European Union (EU) Law and International Law

5.3. Internal public Law

5.3.1. Constitutional Law

5.3.2. Criminal Law

5.3.3. Tax Law

5.3.4. Administrative Law

5.3.5. Social Security Law

5.3.6. Environmental Law

5.3.7. Financial Law

5.3.8. Registry and notary Law

5.3.9. Procedural Law

5.4. Internal Private Law

5.4.1. Obligations Law

- 5.4.2. Law of Things
- 5.4.3. Family Law
- 5.4.4. Succession Law
- 5.4.5. Commercial Law
- 5.4.6. Labor Law
- 5.4.7. Copyright Law and Industrial Property Law

5.5. Hybrid branches of Law

- 5.5.1. Economic Law
- 5.5.2. Banking Law
- 5.5.3. Consumer Law

6. The Political System and the Legal System

- 6.1. Romanic-Germanic system and Anglo-Saxon system
- 6.2. Portuguese Constitution (CRP)
 - 6.2.1. Concept of Democratic State of Law
 - 6.2.2. State functions, organization of the political and jurisdictional power

7. Sources of Law

- 7.1. Concept of sources of Law
- 7.2. Enumeration
 - 7.2.1. International and European Union (EU) Law
 - 7.2.2. Internal Law
 - 7.2.2.1. State Law
 - 7.2.2.1.1. Parliament
 - 7.2.2.1.2. Government
 - 7.2.2.2. Infra-State Law
 - 7.2.2.2.1. The Autonomous Regions
 - 7.2.2.2.2. Administrative Regions
 - 7.2.2.2.3. Local Authorities
- 7.3. Hierarchy of laws, illegality and unconstitutionality

8. Application of Law

- 8.1. Duration and cessation of the Law
- 8.2. Application of Law in time and space
- 8.3. Law interpretation and integration of lacunae

9. The juridical relation

- 9.1. Concept and structure (*general*)

9.2. Structure (*detailed*)

9.2.1. Subjects

9.2.1.1. Natural persons

9.2.1.1.1. Juridical personality

9.2.1.1.2. Juridical capacity and incapacities

9.2.1.1.3. Domicile and absence

9.2.2. Legal entities

9.2.2.1. Concept and acquisition of legal personality

9.2.2.2. Capacity

9.2.2.3. Public legal entities and private legal entities

9.2.2.4. Associations and Foundations and corporations

9.2.2. Object

9.2.2.1. Immediate Object

9.2.2.1.1. Subjective rights and Potestative rights

9.2.2.1.2. Binding effect (*vinculações*)

9.2.2.2. Mediate Object

9.2.2.2.1. Things

9.2.2.2.2. Performance (*prestação*)

9.2.3. The juridical fact (in general)

9.2.3.1. Concept

9.2.3.2. The juridical business (*negócio jurídico*)

9.2.3.2.1. Unilateral and bilateral businesses

9.2.3.2.2. Contracts

9.2.3.2.2.1. Concept, principles

9.2.3.2.2.3. Capacity, legitimacy and representation

9.2.3.2.2.3.1. Object

9.2.3.2.2.3.2. Suitability

9.2.3.2.2.3.3. Main and ancillary elements

9.2.3.2.2.4. Legal Cause

9.2.3.2.2.5. Formation

9.2.3.2.2.5.1. Declarations of negotiation (*Declarações Negociais*)

9.2.3.2.2.5.2. Structure

9.2.3.2.2.5.3. Evidence

9.2.3.2.2.6. Conclusion and effectiveness of the juridical business

9.2.3.2.2.7. Unlawfulness (*Ilicitude*)

9.2.3.2.2.7.1. Nullity and annulment

9.2.3.2.2.7.2. Lack and vices of the juridical will, divergence between juridical will and declaration

9.2.4. The juridical fact (in detail)

9.2.4.1. Purchase and Sale Agreement

9.2.4.1.1. Concept

9.2.4.1.2. Structure

9.2.4.1.3. Effects

9.2.4.1.4. Types

9.2.4.2. Civil liability

9.2.4.2.1. Concept, distinction towards other types of liability

9.2.4.2.2. Subjective liability

9.2.4.2.2.1. The unlawful fact

9.2.4.2.2.2. Fault

9.2.4.2.2.3. Damage

9.2.4.2.2.4. Causation

9.2.4.2.2.5. Obligation to indemnify

9.2.4.2.3. Objective civil liability

9.2.4. Guarantee

9.2.4.1. The juridical relation: public tutelage and private tutelage

9.2.4.2. Guarantee of the obligations

9.2.4.2.1. Personal guarantees

9.2.4.2.2. *In rem* guarantees

9.2.4.2.3. Creditor's privileges

Lisbon, February 2019