



FACULDADE DE DIREITO  
Universidade de Lisboa

## Ficha de Unidade Curricular

Curso de Mestrado em Ciência Jurídica

### 1. Nome da Unidade curricular:

Direito Administrativo

### 2. Informação Complementar:

Duração: Semestral  Anual

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

David Duarte

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

- X

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

- X

### 6. Conteúdos programáticos:

Discrecionariiedade Administrativa: A Perspectiva Analítica

0: Introdução

1: O conceito operativo de discrecionariiedade

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: Discrecionariiedade e linguagem

2.1: Certeza e incerteza linguísticas

2.2: Elenco de incertezas linguísticas

2.3: Incertezas linguísticas e alternativas

3: Discrecionariiedade 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: Discrecionariiedades abstracta e concreta

4.1: Elenco de alternativas

4.2: Eliminação de alternativas: derrotabilidade

4.3: Escolha e reserva de administração

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

- X

### 8. Metodologias de ensino:

- as aulas têm a estrutura de seminário;

### 9. Avaliação:

- 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%);

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

- X

### 11. Bibliografia principal:

Alchourrón, Carlos / Bulygin, Eugenio

- 1998. Introducción a la Metodología de las Ciencias Jurídicas y Sociales. Buenos Aires: Astrea.



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- 2010. Two or Three ?. On the Nature of Legal Principles. Edited by Martin Borowski. Stuttgart: Franz Steiner Verlag. 9-18.
- 2002. Theory of Constitutional Rights. Oxford: Oxford University Press.

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- 2015. On the Instrumental Value of Vagueness in the Law. *Ethics* 125. 425-448

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- 2004. Defeasibility of Legal Reasoning. Krakow: Zakamycze.

Bulygin, Eugenio / Mendonca, Daniel

- 2005. Normas y Sistemas Normativos. Madrid: Marcial Pons.

Duarte, David

- 2011. Linguistic Objectivity in Norm Sentences: Alternatives in Literal Meaning. *Ratio Juris*. 24. 2. 111-138.

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- 2000. Vagueness in Law. Oxford: Oxford University Press.

Ferrer Beltrán, Jordi / Ratti, Giovanni

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Frändberg, Åke

- 2018. The Legal Order. Cham: Springer.

Hage, Jaap

- 2018. Foundations and Building Blocks of Law. Maastricht: Eleven Publishing.

Jestaedt, Matthias

- 2012. The Doctrine of Balancing, its Strengths and Weaknesses. Institutionalized Reason. The Jurisprudence of Robert Alexy. Edited by Matthias Klatt. Oxford: Oxford University Press. 152-152.

Klatt, Matthias

- 2015. An Egalitarian Defense of Proportionality-based Balancing: A Reply to Luc B. Tremblay. *International Journal of Constitutional Law*. 12. 4. 891-899.

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- 2012. The Constitutional Structure of Proportionality. Oxford: Oxford University Press.

Klatt, Matthias / Schmidt, Johannes

- 2012. Epistemic discretion in Constitutional Law. *International Journal of Constitutional Law*. 10. 1. 69-105.

Lopes, Pedro Moniz

- 2017. The Syntax of Principles: Genericity as a Logical Distinction Between Rules and Principles. *Ratio Juris*. 30. 4. 471-490.

Möller, Kai

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Moreso, Josep Joan

- 2017. Marry Me a Little. How Much Precision is Enough in Law? *Droit & Philosophie*. 9. 1. 45-69.

- 2002. Conflitti tra Principi Costituzionali. *Diritto & Questioni Pubbliche*. 2. 19-34.

- 1998. Legal Indeterminacy and Constitutional Interpretation. Dordrecht: Springer.

Raz, Joseph

- 1972. Legal Principles and the Limits of Law. *Yale Law Journal*. 81. 823-854.

Sandro, Paolo

- 2015. To Whom Does the Law Speak? Canvassing a Neglected Picture of Law's Interpretative Field. Problems of Normativity, Rules and Rule-Following. Edited by Tomasz Gizbert-Studnicki and Krzysztof Pleszka. Cham: Springer. 265-280.

Sartor, Giovanni

- 2013. The Logic of Proportionality: Reasoning with Non-Numerical Magnitudes. *German Law Journal*. 14. 8. 1419-1456.

Schauer, Frederick

- 1991. Playing by the Rules. Oxford: Oxford University Press.

- 1997. Legal Theory and Value Judgments. *Law and Philosophy*. 16. 447-477.

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## 12. Observações:

- X

## Curricular Unit Sheet



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## Masters Course

### 1. Curricular Unit Name:

Administrative Law

### 2. Complementary Information:

Duration: Semester  Annual

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

David Duarte

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

- X

### 5. Learning outcomes of the curricular unit:

- X

### 6. 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

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

- X

### 8. Teaching methodologies (including evaluation):

- classes will follow a workshop model;

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

- X

### 10: Evaluation:

- one research project at the end of the first semester and paper at the end of the second;

- final evaluation is the average of the paper (80%) with an assessment on class participation (20%);

### 11: Main Bibliography:

- see above

### 12: Remarks:



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