



Comparative Law 2024/2025

Principal Professor: Prof. Doutor Dário Moura Vicente
Practical class lecturer: Catarina Granadeiro, LLM

A) General purpose of the course:

This course aims to explain to students the plethora of functions of Comparative Law. Furthermore, it 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 the comparative analysis and given the seminal relevance of contracts in everyday life as well as in legal theory, halfway throughout the semester classes will focus on the particulars of comparative law of obligations through the discussion of contract definition, formation, performance and breach as well as the tenets of liability.

B) Lecturing system:

English speaking classes will be held in a theoretical/practical setting where the participation of students is expected and encouraged.

C) Syllabus:

Chapter I – Introduction to Comparative Law. Modalities of comparative law, and its main functions.

Chapter II – The Roman-German legal family. In particular, the German, French and Portuguese legal systems. A potential lusophone family of law.

Chapter III – The *Common Law* legal family. English Law and Law in the United States of America.

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.

D) Main Bibliography:

In English:

General comparative law: 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*, 5th 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*, 3rd ed., London/New York, Routledge, 2014; Uwe Kischel, *Comparative Law*, Oxford, Oxford University Press, 2019.

Comparative law of obligations: 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*, 12th. ed., Paris, Dalloz, 2016; Raymond Legeais, *Grands systèmes de droit contemporains. Approche comparative*, 3rd. ed., Paris, Litec, 2016.

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

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

In Portuguese: Dário Moura Vicente, *Direito Comparado*, vol. I, 4th. 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 (Institute of Global Law, University College London).

F) Library VPN

It is very advisable to set up the University's VPN to access the many databases available to students enrolled in our courses. This is of the utmost importance for students who are performing research for their final papers.

E) Evaluation method:

Explained in the Course Assessment Rules document made available separately to students.

EXPLANATORY MEMORANDA – EVALUATION METHOD

DIREITO COMPARADO – ERASMUS CLASS 2nd SEMESTER

24/25

METHOD A

REGULAR AND EXCHANGE STUDENTS:

ARTICLES 11 N.^{ER} 2 AND 22 OF THE EVALUATION REGULATION – in the optional courses an alternative evaluation method may be applicable. The method of evaluation for *Direito Comparado*, as applicable to regular and Erasmus students, as defined by the Principal Professor, is hereby explained:

- 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 or in a topic of their liking provided they obtain prior validation of such choice. If not one of the list presented, the topic should be one meriting a comparative analysis, across different jurisdictions.
- Class participation and attendance will account for 35% of the continuous evaluation grade and the paper the remaining 65%.
- The deadline for the delivery of the investigation paper is TBD at the earliest convenience after the classes initiate (a digital and physical version should be presented).
- This paper should be of original content and have a length of 15 to 20 pages (including first page cover and bibliography). The general rules for the paper will be explained in class.
- If the students do not intend to submit the paper, they must mandatorily seat a written test to take place in the last week of classes (to be scheduled by university services).
- 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 65% to 35%)

dismiss the final written test (*frequência*) for this course.

- The students that have not obtained 12 (twelve) grading points in their continuous evaluation **will have to seat** a final test (*frequência*).
- Students that have a grade below 10 (ten) grading points in this final test (*frequência*) will have to seat the final exam in January/February.
- An oral exam is optional to all students that have been approved but pertain to obtain a higher grade.
- 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.