

## **SUCCESSION LAW**

Degree in Legal Studies (Solicitors)

Degree in Legal Studies (Solicitors)

---

Code: 16608

Main Scientific Area: Private Law

Lecturer: Luiz Fernando Guia de Carvalho

Language of Instruction: Portuguese

Regime: S1

Contact Hours: 60h Total Workload: 108h

ECTS: 6,0

---

### **Objectives**

This Unit intends to develop the students's critical senses and to contribute to a better understanding of the phenomenon of succession to provide the students with the appropriate legal assimilation of knowledge to solve concrete problems of succession law.

Provide students with the theoretical, methodological and technical resources to enable their future lives as solicitors to intervene effectively in the interpretation, prevention and resolution of future succession law conflicts.

### **Learning Outcomes**

Use theoretical knowledge to identify successors and their modes of inheritance vocation.

- Being able to run the operations of the partition with a view to calculating the value of the inheritance.
- Know how to determine the partition of the estate and the subjective legitimate as well as the subjective inheritance of each successor.
- Be qualified to carry out the allocation of donations.
- Know how to treat the various regimes to restore or account for gifts, proceeding to equalizing when possible and applicable statutory default regime.
- Being able to identify the need for reduction of donations inoficiosas, proceeding to its implementation through its operation of partition of the estate.
  
- Being able to identify concrete problems and give their eventual solutions in practice life.
  
- Being able to understand the future evolution of this area of the Law.

### **Course Contents**

Preliminary Notions

Concept of succession: Succession in life and mortis causa succession

Subject of succession

Intransmissibility by death of certain legal situations

Designation of succession: concept and modalities

Designation of succession according to the source (or designation fact)

The legitimate succession: the heirs; concept of legitimate quota and imperative nature of the legitimate succession; calculation of the legitimate quota  
The legitimate succession: concept and its suppletive nature  
The contractual succession: its exceptional admissibility  
The inheritance: concept, characteristics of the will, the ability to test, relative unavailability of the will  
Designation succession by object  
Heir and legatee: concepts  
Notion of quota  
Determination, determinability and specification  
The legal classification of the remaining leaves, and leaves of the enjoyment of all or a part of the inheritance  
Differences in the legal heir and legatee  
II. - The legal and inheritance phenomenon  
Death as the assumption of succession  
Death as legal fact  
The presumed death  
The simultaneous death  
Opening of the succession  
Concept  
Time  
Place  
Vocation succession  
Concept  
Assumptions  
The titularship of the prevalent designation  
Existence of the successor  
Capacity of succession: disinheritance and indignity  
Terms of vocation: right of representation; entitled to accrue and direct replacement (or vulgar)  
Acquisition of the succession  
Estate in abeyance  
Acceptance and rejection of the inheritance  
Administration and settlement of the inheritance  
Beginning and end of administration  
Powers and duties of the board  
Responsibility for the liabilities of the estate  
The partition of the heritage  
The right to require the partition  
Form of partition  
Operations of partition:  
Calculating the value of heritage  
Imputation of donations  
The restore or account for gifts  
Reduction of donations inoficiosas. Pactial succession.

### **Recommended Bibliography**

CAPELO de SOUSA, Rabindranath – Lições de Direito das Sucessões, volume I, Coimbra: Coimbra Editora, 2013, 4.ª edição  
CAPELO de SOUSA, Rabindranath – Lições de Direito das Sucessões, volume II, Coimbra: Coimbra Editora, 2012, 3.ª edição renovada  
PEREIRA COELHO, Francisco M. - Direito das Sucessões, 4ª edição, Coimbra, 1992  
CARVALHO FERNANDES, Luís A. - Lições de Direito das Sucessões, Lisboa: Quid Juris, 2012  
ROCHA, Patrícia, MENDES CLARO, Nuno, MARQUES CEBOLA, Cátia - Casos Práticos Solicitadoria, Direitos da Família e das Sucessões, Almedina, 2019, 1.ª edição.

MENEZES LEITÃO, Luís Manuel, Direito das Sucessões, Almedina, 2021

LEITE DE CAMPOS, Diogo e MARTINEZ DE CAMPOS, Mónica - Lições de Direito das Sucessões, Almedina, agosto 2019, 2.<sup>a</sup> edição

MORAIS, Daniel - Direito das Sucessões e Direito da Família: Eternas Questões, Respostas Atuais, AAFDL Editora, Lisboa, 2023

### **Learning and Teaching Methods**

The program resulted of the application of the proper goals of the Course, shaping these goals, as it not only aims to provide theoretical and conceptual knowledge to the students as well as to give them, through many practical exercises, the possibility to find themselves able to solve succession problems.

The intention of providing students with tools and succession knowledge that allow them to identify problems in the life of ordinary citizens and any legal tools that aim to avoid such problems or mitigate them in their consequences require knowledge, as wide as possible, of the succession institutes and of the answers they provide, forcing the programmatic content to be as broad as possible. This resulted in a vast program as comprehensive as the available time and workload allow.

### **Assessment Methods**

The learning assessment process by which the performance levels of students are measured (in terms of the internalization of knowledge, skills and attitudes) in relation to the expected learning results will make use of:

1. continuous assessment, by means of two written tests, with the first test having the weight of the final grade of 40% and the second the weight of the final grade of 60%, and will be subject to the following conditions:

- successive access to the second test depends on obtaining a grade equal to or greater than 8.0 in the previous test; Obtaining a grade lower than 8.0 in any of the tests makes it impossible for continuous assessment to take place and does not allow admission to the next assessment period in this type of assessment;

- approval in continuous assessment implies the completion of two written tests with a final average grade of not less than 9.5, rounded to 10.0 in the final grade, with a grade of not less than mandatory for approval 8.0 values in each of the evaluation moments;

- each of the continuous assessment tests will cover all the material taught from the beginning of the course until the moment in which the assessment period in question elapses.

2. alternative completion of the final exam, covering all the material taught in classes, with a weight in the final grade of 100%; approval depends on obtaining a grade of not less than 9.5 values, rounded to 10.0 in terms of the final grade.

3. Students on the Erasmus or Mobility route will preferably follow — unless the Teacher decides in view of specific circumstances, linguistic or otherwise, which occur on a case-by-case basis — the assessment method provided for other Portuguese language students, and may, by case-by-case and free decision of the Teacher, to complement or alternatively present and/or defend an original written work on a topic to be defined by the Teacher. If this written work coexists, the written tests will have a weighting in the final grade of 20% and 30% for the 1st and 2nd test, respectively, and 50% for the written work and, eventually, its defense

4. the grade-up assessment requires the completion of a written exam, combined or not, according to the teacher's decision, with an oral exam, with weight, each one of them, in the case of double assessment, of 50% in the final grade. Taking the oral exam will depend on obtaining, in the written part of the exam, a grade equal to or higher than that obtained in the test in which the Student was approved in the Curricular Unit.