

## **DIREIRO DO URBANISMO**

Degree in Legal Studies (Solicitors)

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Code: 16812

Main Scientific Area: Administrative and Tax Law

Lecturer: Eva Cristina da Silva Gonçalves Macedo

Language of Instruction: Portuguese

Regime: S2

Contact Hours: 45h Total Workload: 95h

ECTS: 5,0

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### **Objectives**

The main purpose of this class is to provide the students with a broad knowledge of Urban Planning Law, that allows them to acquire the main skills necessary to understand the most important concepts and principles that apply to land planning, with special focus on the Bases of Land Planning Policy Law - Law nº 31/2014, of May 30th) and on the legal frameworks of Land Management Instruments (RJIGT - Law nº 80/2015, of May 14th) and urbanization and edification(RJUE - Decree-Law nº 555/99, of December 16th, in the version of Law nº 79/2017, of august 18th), developing their research skills and critical capacities as well as being able to solve problems and act in real case scenarios related to these areas.

The regulations will be updated with the changes introduced by the recent publication of Decree-Law nº 10/2024, of 08.01 (SIMPLEX Urbanístico) systematizing and analyzing the main changes that it introduced in the current legal regime.

### **Learning Outcomes**

Students will be lead to master the concepts and legislation of Portuguese urbanism. At the end of this syllabus they shall be able to act in real case scenarios and solve problems about Urban Planning Law:

Characterize Urban Planning Law, in international and national contexts (object, nature and scientific autonomy) being able to distinguish it from similar disciplines and knowing its historical evolution;

Knowing public entities with legal powers in the area of Urbanism and Edification, as well as the competences of their organs;

Knowing and applying the Land Management and Occupation Legal Regimes: Bases of Land Management and Urbanism Policy (Law nº 48/98, 08/11) Land Management Instruments Legal Regime (Law nº 80/2015, 05/14) and Urbanization and Edification Legal Regime (Decree-Law nº 555/99, 12/16, as in the Decret nr. 10/2024);

Knowing the dynamics of Land Management Plans (creation, revision, execution and litigation);

Knowing the dynamics of Urbanization and Edification Regime, particularly the previous control, execution and fiscalization procedures.

### **Course Contents**

INTRODUCTION

1. Urbanism and Urbanistic Policies.
2. Urbanistic Law as a special Administrative Law. Concept, object, nature and importance
3. Similar fields of the Law: land management law and environmental law. Distinguishing criteria.
4. Urban Planning Law historical evolution
5. Urban Planning Law sources

#### PART I - URBAN PLANNING ADMINISTRATIVE ORGANIZATION

1. Models of Urban Planning Administrative Organization.
2. Portuguese Urbanistic Public Administration: organs and administrative services that operate in urban planning law
  - 2.1. Organs and services of the State (XXI Constitutional Government organics - Decree-Law nº 251-A/2015, of december 17th)
3. Articulation between levels of decision: state, region and county

#### PART II - Urbanistic Activity

Chapter I Land Management Instruments: Law nº 31/2014, of may 30th, in the Law nº 74/2017, of august 16th version and Law nº 80/2015, of may 14th)

1. Characterization of the system. Functions, types and legal efficiency of territorial plans. Plans for land regulation and urbanistic plans.
2. Legal nature of the plans
3. Urbanistic plan, right to private property and ius aedificandi
4. Territorial Plans and its scope
  - 4.1. Territorial development instruments
    - 4.1.1. National land management policy program (PNPOT)
    - 4.1.2. Regional land management plans;
    - 4.1.3. Intermunicipal land management plans
  - 4.2 Land planning instruments:
    - 4.2.1 Municipal Plans (PDM);
    - 4.2.2 Urbanization Plans (PU);
    - 4.2.3 Detail Plans (PP).

4.3. Sectorial Plans.

4.4. Special Land Management Plans.

5. Relations between Plans and principles that apply.

6. Plans legal dynamics: formation, revision and suspension.

7. Plans precautionary measures: preventive measures and urbanistic permits suspension

## Chapter II Plans execution

1. Plans execution and the equality principle.

2. Systems of plan execution: compensation, cooperation and administrative imposition. Compensatory equalization mechanisms.

3. Compensation and its subsidiary character as towards compensatory equalization mechanisms. Special cases of "plan expropriation" compensation

4. Plans Execution Instruments: preference right, demolition, expropriation, restructuring of property and reparcelling

## Chapter III RJUE (Decree-Law n.º 555/99, of december 16th, in the Law nº 136/2014, of september 9th version)

1. Prior control and successive control. The new paradigm of control brought by Licenciamento Zero

2. Public initiative urbanistic operations and private initiative urbanistic operations

1.1. License;

1.2. Urbanization construction;

1.3. Edification construction.

2. Urbanistic operations administrative control

2.1. Prior information

2.2. License

2.3. Authorization

2.4. Communication

3. Procedure, legality and efficiency of urbanistic operations prior control administrative acts

3.1. License supporting document

3.2. Administration civil liability

3.3. Regime of nullity, lapse and revocation

4. Execution of urbanistic operations and supervision.

4.1. Urbanistic legality enforcement measures: embargo, demolition and coercive execution

4.2. Sanctions

5. Particular warranties. Specially, judicial intimation to produce a legally due act and tacit deferment.

### **Recommended Bibliography**

Principal

CORREIA, Fernando Alves, Manual de Direito do Urbanismo, Vol. I, Almedina, 2012;

CORREIA, Fernando Alves, Manual de Direito do Urbanismo, Vol. II, Almedina, 2010;

OLIVEIRA, Fernanda Paula, NEVES, Maria José Castanheira e LOPES, Dulce, Regime Jurídico da Urbanização e Edificação - Comentado, 4ª Edição, Almedina, 2017;

OLIVEIRA, Fernanda Paula, Mais uma Alteração ao Regime Jurídico da Urbanização e Edificação. O Decreto-Lei nº 136/2014, de 9 de setembro, Almedina, 2015.

### **Learning and Teaching Methods**

The program was developed according to the goals set for this course, as well as the skills that students are intended to acquire. With that purpose, students will be provided with a program that consists on a broad overview of portuguese constitutional law, and the remain legislation and judicial verdicts on the matter. The students will also be encouraged to solve cases and to develop group talks, as well as to participate in group sessions, as a way to improve their critical and research skills, and to consolidate their knowledge.

### **Assessment Methods**

The evaluation is continuous.

The students' apprenticeship will be rated at the end of the unit, in a scale from 0 to 20.

The final score will be obtained based on the following components:

Written tests: 70%

One group practical activity: 30%

Continuous evaluation:

The final score will be the result of the average classifications, according to the following formula:

$FS = a70\% + b30\%$

Being:

FS = Final score;

a = Final tests average score;

b = Paper score.

The minimum score to approve in this unit is 9.50 and the written test score cannot be inferior to 6.50

(in a scale from 0 to 20).

The aforementioned evaluation model complies with ESG Regulations.