URBAN AND ENVIRONMENTAL LAW

MSc Degree in Municipal Management

Code: 21102

Main Scientific Area: Administrative and Tax Law

Lecturer: Eva Cristina da Silva Gonçalves Macedo

Language of Instruction: Portuguese

Regime: S2

Contact Hours: 30h Total Workload: 124h

ECTS: 5,5

Objectives

The main purpose of this class is to provide the students with a broad knowledge of Environmental and 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.

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 Environmental and 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 Law nº 79/2017, 08/18);
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 fiels 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 anda legal eficiency of territorial plans. Plans for land regulation and urbanistic plans.

2. Lega 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 managemet polity program (PNPOT)

4.1.2. Regional land managemet 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 dinamics: 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. Sistems 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, restructuration 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. Comunication

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 cohercive execution

4.2. Sanctions

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

Recommended Bibliography

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 legisation and judicial veredicts on the matter. The students will also be encouraged to solve cases and to develope 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.

The silabus stands on 3 pilars of laws that also holde the stucture of portuguese Urban Planing: the Bases of Urban Planing Law, the Urban Planning Instruments Law and the Urban Plannning and Construction Law. The silabus evolves from general to particular, providing the students with a fully view of Urban Planning Legal Sistem. The students are therefore given the tool to fully understand the origins, goals and principles that guide Urban Planning Law, in a way that allows them to keep ut with the transformation of the law that abounds in this legal area.

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:

Group practical activity (could be individual if previously authorized): 70%

Oral presentation: 30%

To get approval in continuous evaluation period, the students must undergo every eveluation element, except for justified impossibility.

The minimum score to aprove in this unit is 10 (in a scale from 0 to 20).

The aforementioned evatuation model complies with RA IPCA.