UNIVERSIDADE LUSÍADA
LISBOA

Course Unit Program
Elective I - Proof and Appeals in Criminal Procedure

Academic Year 2023/2024

1. Organic Unit

Faculty of Law

2. Course

LAW

3. Cycle

1st

4. Course Unit

Elective I - Proof and Appeals in Criminal Procedure (02375)

5. Scientific Area

6. Curricular Year

4th

7. Type of Curricular Unit / Semester

1st Semester

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8. Class type and workload (work time)

Theoretical classes:	30,00
Practical classes:	
Theoretical-Practical Classes	
Tutorial Guidance:	20,00

9. ECTS Credits

6,00

10. Scientific Area Coordinator

11. Regent

Prof. Doutora ANA BARBARA PINA DE MORAIS DE SOUSA E BRITO

12. Assistants

13. Teaching Language

Portuguese

14. General Objectives

General Objectives: To promote and encourage the development of research, analysis, reflection, critical thinking, decision and presentation skills on the part of the student, as well as their ability to apply the acquired knowledge in practice and their sense of ethics and justice.

15. Specific Objectives

Specific Objectives: To enable students to obtain theoretical and practical knowledge that will enable them to

a) Understand the fundamental principles, concepts and institutes regarding matters that integrate this subject.

b) Understand and critically evaluate the doctrinaire and jurisprudential positions on the various institutes and problems of the subject of the course.

16. Skills to be acquired

Know how to identify and formulate the specific criminal legal-procedural problems raised; know how to find, interpret, and use the framework of relevant principles and norms in the resolution of concrete cases.

17. Teaching Methodology

Teaching will focus on the problematisation, discussion and reasoned resolution of concrete cases, preferably collected using case law databases.

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18. Course Unit Program

Part I. THE PROOF

I. Basics concepts:

A. Concept and function of evidence.

B. Means of evidence, means of obtaining evidence, rules of evidence production.

C. Object of evidence.

II. Principles relating to evidence:

A. The principle of investigation and material truth.

B. The principle of free appraisal of evidence.

C. The principle in dubio pro reu.

D. The principle of freedom and legality of the means of evidence in criminal proceedings.

E. Principles relating to form: publicity, immediacy and concentration of time.

III. Means of evidence:

A. Testimonial evidence

B. The statements of the accused (the new regime of provision and use of prior statements of the accused(2013)), the assistant and civil parties. Right to silence and privilege against self-incrimination.

C. The confrontation

D. The evidence by recognition

E. Reconstitution of the fact

F. Documentary evidence

G. Forensic examinations and the legal regime of forensic and medico-legal examinations.

H. Informal conversations: concept and admissibility of use.

IV. Means of obtaining evidence:

A. The examinations, searches and searches

B. Seizures

C. Recordings, interception of correspondence and telephone tapping. Traffic data, basic data and telecommunications content.

D. Evidence obtained by undercover agents and agents provocateurs.

V. Evaluation of evidence:

A. The free evidence system and the free appraisal of evidence.

B. The rule of immediacy and the prohibition of valuation of evidence.

C. The valuation of expert and documentary evidence.

D. The valuation of evidence obtained by cooperation of defendants and repentants.

E. Valuing evidence obtained in "covert actions".

F. Valuing evidence and the grounds for the decision.

G. Fortuitous knowledge: legal validity and admissibility of use.

VI. Prohibitions of evidence:

A. The principle of legality, freedom, necessity and proportionality of evidence.

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B. Prohibition of production of evidence and prohibition of valuation of evidence.
C. Absolute and relative prohibitions. Special cases of prohibition of evidence.
D. The legal regime of prohibited evidence.
E. Effects of prohibitions of evidence
(i) The distant-effect and the poisoned-tree theory.
(ii) Interruption of the consequential effect of prohibited evidence.

Part II
THE APPEALS
1. Concepts, modalities and functions of appeals.
2. Recorribility and legitimacy.
3. Moment, form and effects of filing an appeal.
4. Scope, grounds, effects and limits of appeals.
5. The processing of the appeal:
(i) Appeals to the Relação (Court of Appeal).
(ii) Appeals to the Supreme Court of Justice.
6. Extraordinary appeals: concept, function and species.
7. The appeal to the Constitutional Court.

19. Assessment Methods

The elements of assessment will be those laid down in the Assessment Regulations of the Lusíada University. In particular, it will be considered the oral intervention of students and the completion of two written tests.

20. Didactic Resources

Constitution of the Portuguese Republic,
Criminal Procedure Code,
Manuals and other doctrinal texts,
Jurisprudence on criminal procedure,
Powerpoint,
Internet

21. Sustainability Objectives

The Theory of Crime aims to contribute to sustainability in the following areas:

General objectives:

1 - Ensure equal access to quality technical, vocational and cultural education.

2 - Substantially increase the number of young people and adults with relevant qualifications, including technical and vocational skills, for employment, decent work and entrepreneurship.

3 - Ensure equal opportunities in university education, including for people in vulnerable situations.

4 - To promo

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22. Keywords

Evidence
Appeals
Procedural Acts

23. Main Bibliography

Author(s):	Silva, Germano Marques da Silva		
Title:	Curso de Direito Processual Penal, vol.II		
Edition:	5.ª	Year:	2011
Local:	Lisboa		
Publisher:	Verbo		

Author(s):	Santos, Manuel Simas/ Leal-Henriques, Manuel		
Title:	Recursos Penais		
Edition:	8º	Year:	2011
Local:	Lisboa		
Publisher:	Rei dos Livros		

Author(s):	Andrade, Manuel da Costa		
Title:	Sobre as proibições de prova em Processo Penal		
Edition:		Year:	1992
Local:	Coimbra		
Publisher:	Coimbra Editora		

24. Complementary Bibliography

Author(s):	Albuquerque, Paulo Pinto de		
Title:	Comentário do Código de Processo Penal		
Edition:	4ª	Year:	2021
Local:	Lisboa		
Publisher:	UCP		

Author(s):	Mendes, Paulo de Sousa. Pereira, Rui Soares		
Title:	Novos desafios da prova penal		
Edition:		Year:	2020
Local:	Coimbra		
Publisher:	Almedina		

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Autor / Author	Prof. Doutora ANA BARBARA PINA DE MORAIS DE SOUSA E BRITO
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