

THE MULTILEVEL PROTECTION OF FUNDAMENTAL SOCIAL RIGHTS

ACADEMIC YEAR 2022/2023



LEARNING OUTCOMES

The objective of this seminar is to cement knowledge about fundamental social rights, from a constitutional, international and European perspective. Thus, all the relevant normative instruments for the protection of social rights will be covered and the jurisprudential decisions that apply social rights will be analyzed.

Some of the topics to be addressed in the classroom will be:

- (i) to discuss whether the fundamental rights perspective should be dichotomous (ie rights of freedom versus social rights), unitary or differentiated;
- (ii) the challenges of the social rights immediate applicability;
- (iii) social rights in crisis / austerity contexts and the legitimacy of legislative measures that regress in previously guaranteed levels of social protection;
- (iv) consider whether the role of the courts in defending social rights could / should be an activist one or whether magistrates should demonstrate greater self-restraint in this area.

SYLLABUS

I – Introduction: multilevel protection of human rights' challenges and the complex interaction between the various judicial bodies in human rights protection

II – Fundamental social rights in the Portuguese Constitution

III – Universal international protection of social rights: the ICESCR and the United Nations Committee for its protection

IV – International regional protection of social rights:

1. The ECHR and the case-law of Strasbourg
2. The European Social Charter (Revised) and the European Committee of Social Rights

V – Protection of social rights in the European Union: the indivisibility of fundamental rights in the Charter of Fundamental Rights of the European Union and the jurisprudence of the ECJ.