

General Information

Name of Research Unit:

(C/P-LVT-714)

CEDIS - Centro de Investigação & Desenvolvimento sobre Direito e Sociedade

Coordinator:

Jorge Cláudio de Bacerlar Gouveia

Main Scientific Domain:

Ciências Jurídicas e Ciências Políticas

Other Subdomains:

n/a

Host Institutions

Leading Host Institution:

Faculdade de Direito - Universidade Nova de Lisboa

Other Institutions Involved:

Objectives & Achievements

Unit Description

In what concerns administrative structure, the Center is organized according to the following scheme:

- the coordination of CEDIS' activities is performed by a Director elected by the Scientific Council of the School; the Director is assisted by four researchers, appointed both by himself and by the Dean of the School;
- decisions on the scientific activities of CEDIS are taken by a Scientific Council composed by the whole community of its Senior members.
- the annual plan of activities is approved by the plenum of the Council, composed by the whole community of researchers, the juniors included;
- a "Consultative Board", composed by ten distinguished members of the national and international academic and scientific community, appointed by the Scientific Council of CEDIS, produces a written evaluation on the main topics of Center's scientific policy; this board also approves, under the proposal of the Scientific Council, the constitution of a Permanent Evaluation Council (Conselho de Avaliação), in order to get an external validation of the Center's activities and annual reports.

CEDIS shall keep a close institutional relationship not only with other research and educational units (namely those already linked to the school by protocols and special agreements, such as Instituto de Ciências Sociais (ICS), Faculdade de Ciências Sociais e Humanas (UNL), Instituto de Higiene e Medicina Tropical (UNL), Centro de Estudos Literários Comparativos, of the Faculdade de Letras de Lisboa, Universidad Autónoma de Madrid (UAM), Universidade de Alicante, ISCTEM (Maputo), Universidade Agostinho Neto (Angola), Fundação Luso-Americana para o Desenvolvimento (FLAD), Fundação Calouste Gulbenkian (FCG), but also to public and private entities related with law and justice affairs: Ministério do Emprego e da Segurança Social, Instituto do Consumidor (IC), Centro de Estudos Judiciários (CEJ), Associação Protecção e Apoio à Víctima (APAV), Amnistia Internacional (AI), Alto Comissariado da Saúde/Coordenação Nacional para a Infecção VIH/Sida, Instituto de Estudos Superiores Militares (IESM), Observatório sobre Segurança, Instituto Criminalidade organizada e Terrorismo (OSCOT), (inter)national law firms.

General Objectives

The general aim of the Centre has been to implement a new spirit in what concerns both the Portuguese legal research and legal teaching; a spirit guided by the following topics:

- Focusing on law in action, and not only on the formal law in the books;
- Opening to new methodologies of legal analysis (like Law and Economics, Legal Policies, Law and Social Studies, Analysis of legal discourse, Theory of Law, Theory of Legislation);

Objectives & Achievements

- Setting up a new didactic and academic model, based on a) bi-directional communication; b) early participation of students in research projects; and c) service to the community;
- Promoting internationalization, overcoming traditional ideas on the peculiarities of each national legal order;
- Adopting new models of Faculty selection, reserving lecturing for senior professors, and, in some cases, for recognized non-academic legal experts.
- Strategic goals related with this new spirit have been:
 - Reflecting on new or emergent legal forms, subjects and dogmatics, both in international and Portuguese society, according to new models of social, political and cultural interactions and sensitiveness;
 - Promoting inter-disciplinary work, integrating both legal and non legal approaches;
 - Articulating research and teaching, namely through the involvement of students (graduate and undergraduate) in research teams;
 - Broadening the frontiers of research, by establishing networks with foreign centers, namely in the framework of EU and within the Portuguese Speaking World;
- Creating and developing interfaces between research activities and community service, either as consultant of official institutions and charities or by offering humanitarian services of legal aid.

Main Achievements during the year of 2009

CEDIS' main objectives have been:

- (a) to constitute supporting structures to new ways of multidisciplinary/legal research;
- (b) to give a new coherence to the scientific achievements of the new School;
- (c) to develop scientific work focusing subjects to which the Faculty had a special vocation; and to organize research teams also integrated by students, so that they could be introduced in the work routines of scientific legal research;
- (d) to promote academic internationalization.

According to the 1st objective (a):

^[4] a CD-Rom, with the core legal documents on Public Law from CPLP countries (Project "Law and Society in Lusophone Africa") (dir. Prof. Jorge Baceelar Gouveia), as well as a electronic compilation for the history of colonial administration (dir. Prof. Cristina Nogueira da Silva).

^[5] Jurist Thematic Guides on African Law are being enlisted.

^[6] Interdisciplinarity was promoted with the support to the of an international research Seminar on Legal Theory and Theory of Argumentation and in preparing an internet Colloquium on Science of Legislation (see above), as well as the continuation for 2010, of the above cited Seminar on Legal Theory, Theory of Argumentation and a new one on Law and Literature.

Regarding the 2nd objective (of developing an institutional coherent doctrinal corpus) (b), the Centre:

- Funded the future (2010) publication of a collective book collecting texts written by doctorate students on Theory of Law; financial support of another book, written by younger students, being an introductory guide to Theory of Argumentation.
- Seminars on "legal and political studies" (SPEED) and "Espaço Público" (Public Space; graduate students) are still regularly hold at the School.
- Funded the initial research on a new project "Inclusion and exclusion in 19th century's citizenship concepts".

Regarding the 3rd objective (to develop scientific work focusing subjects to which the Faculty had a special vocation and to organize research teams also integrated by students) (c), the Faculty created newly and CEDIS support:

- Observatório de Legislação Portuguesa (dir. Prof. João Caupers, <http://www.fd.unl.pt/default.asp>).

Objectives & Achievements

- Centre de Estudos em Propriedade Intelectual e Concorrência (dir. Profª Cláudia Trabucco, <http://www.fd.unl.pt/Anexos/CPIC.pdf>);
- Centre “Antígona” (dir. Profª Teresa Beleza, <http://www.fd.unl.pt/Anexos/2722.pdf>), for the study and legal handling of legal problems related to discrimination and inequality;
- Laboratory for Alternative Dispute Resolution, whose teaching extension will be the newly created master on New frontiers of Justice (dir. Profª Mariana Gouveia, <http://laboratorial.fd.unl.pt/>);

According to the 4th objective (to promote academic internationalization) (d), CEDIS joined the School opening 6 courses given in English (2009), went on supporting the invitation of foreign visiting professors (2009: Manuel Atienza, Juan Manero, Angeles Rodenas Catalunya, Juan Perez-Lledó, Josep Aguiló, Marta Llorente, Hörst Dippel).

Activities

Integrative/multidisciplinary activities during the year of 2009

The initial decision of creating a unique Centre instead of giving space to an atomistic multiplication of specialized units was a deliberate strategy of, on the one hand, gathering a sufficient critical mass of senior academic staff around an only research focus; and, on the other hand, of creating a melting pot of scientific transversal skills.

Secondly, in the constitution of the Centre, a place was given to external researchers, coming from other schools, either from our or other universities, as well as with legal or non legal background. We must stress that this attitude is very far from being common in Portuguese legal schools.

Thirdly, the combination of several levels of research personal, which was also an early decision, allowed the combination of experienced experts with post-graduate students and even young students in their first approach to research.

A concrete sign of this all embracing spirit were the SPEED Seminars, participated by all the members of the School, without discrimination, listening professors, external experts or Ph. D Students.

Also in concrete projects – such as the Observatories on legislation or on the informal dispute compositions - , non legal experts, coming from other institutions, were involved, contributing to the richness of the results with their sociological or economical approaches. Also projects on legal history incorporated successfully Portuguese and foreigner general historians. Finally, the texts produced on the field of the African studies combined a large array of scientific domains, from law to political science and anthropology.

As a result of this generous openness, several students became able to a quite autonomous scientific intervention, although at their proper level.

In promoting this participation of students in research activities, the Centre developed not only their specialized knowledge but also promoted a new attitude of scientific entrepreneurship and new communicational competences, which are worthy assets to their integration in the professional life.

Outreach activities during the year of 2009

CEDIS was stick together with the School in the decision of opening 6 courses given in English (2009), went on supporting the invitation of foreign visiting professors (2009: Manuel Atienza, Juan Roiz Manero, Angeles Rodenas, Juan Antonio Perez-Lledó, Josep Aguiló, Marta Llorente, Hörst Dippel), for short stays of joint research and lecturing.

Other outreach activities during the year of 2009

The outreach activities can be systematized as follows:

General Indicators

	2007	2008	2009	2010	2011	Total
Training PhDs (PhD thesis completed)	0,00	0,00	4,00	0,00	0,00	4,00

Researchers Hired

Name	Start Date	End Date	Other Institution
No researchers found...			

Technical Personnel Hired

Name	Start Date	End Date	Other Institution
No technical personnel found...			

Additional Comments**Research Groups****Reference** **Title / Principal Investigator**

RG-LVT-714-1108	<u>Law and society in african portuguese speaking countries</u> (Armando Manuel de Barros Serra Marques Guedes)
RG-LVT-714-1210	<u>Emerging legal and political issues</u> (Helena Maria Matias Pereira de Melo)
RG-LVT-714-1211	<u>Surveys on legal issues</u> (Cláudia Maria Salsinha Trabuco)
RG-LVT-714-1212	<u>Discourses on law</u> (Cláudia Maria Salsinha Trabuco)
RG-LVT-714-1213	<u>Pedagogic innovation on legal education</u> (Ana Cristina Fonseca Nogueira da Silva)

Group Description

Title of Research Group:

(RG-LVT-714-1108)
Law and society in african portuguese speaking countries

Principal Investigator:

Armando Manuel de Barros Serra Marques Guedes

Main Scientific Domain:

Ciências Jurídicas e Ciências Políticas

Group Host Institution:

Faculdade de Direito - Universidade Nova de Lisboa

Funding, source, dates

Funding, source, dates

FACC-FCT

3 000 Euros

FCT - CEDIS

c. 9 000 Euros

FD (Law Faculty), General budget of the School

2009 Secretariat, c. 3 000 Euros

Objectives & Achievements

Objectives

The aim of this sub-project was to provide scientific infra-structures to the study of the law of Portuguese speaking countries, by compiling relevant data on both contemporary and historical lusophone African legal systems in social and political context. This includes not only the systematic collection of relevant legal texts and documents (legislation, jurisprudence, court decisions," historical" legal data), but also material on its embeddedness in local cultural and socio-political environments. At the same time, we intended to proceed with ongoing studies on the law and politics of former Portuguese colonies, Brasil included, in order to get an overview of the post-colonial evolution of formal legal systems, namely in what concerns legal hybridism in Brazil and lusophone Africa and its role in post-colonial legal changes.

There are no systematic data bases on lusophone African legal systems in Portugal. There are very few overviews of the post-colonial evolution of such systems, and still fewer on the local legal expressions in lusophone African populations. As a result, much of what has been carried out is of great novelty.

Main Achievements

The Project leader co-organized a Conference in Instituto da Democracia Portuguesa (IDP), at the Universidade Lusitana - "Portugal: que papel na Lusoesfera?" (3 de Março de 2009), in which he also presented a paper on "The Portuguese Role in the Lusoesfera".

2. The Project leader co-organized a Conference, at Instituto Superior de Ciências Sociais e Políticas, with the Asociación Española de Profesores de Derecho Internacional y Relaciones Internacionales and the Sociedade Portuguesa de Direito Internacional, which he Chairs (12 de Dezembro de 2009), on Ibero-América, no quadro da Cimeira Ibero-Americana em 2009 realizada em Portugal. In this, he presented an academic paper on "A formação de diplomatas em paisagens ibero-americanos", which will be published by the Asociación de Profesores de

Objectives & Achievements

Derecho Internacional y Relaciones Internacionales, in Madrid.

3. The Project leader profered a Conferência Inaugural at the Museu do Mar Rei D. Carlos, Cascais, in a larger event which he Co-Organized with the Câmara Municipal de Cascais, the Comissão de Relações Internacionais da Sociedade de Geografia de Lisboa and the Sociedade Portuguesa de Direito Internacional, entitled "A Pirataria no século XXI", his opening talk was devoted to "A Pirataria no século XXI: o caso da costa da Somália e do Corno de África" (10 de Julho de 2009).

4. The Project leader organized a Conference at the Faculdade de Direito da Universidade Nova de Lisboa, with Professora Helena Pereira de Melo – and the collaboration of the Sociedade Portuguesa de Direito Internacional (SPDI) – entitled A Pirataria na Costa Africana no Século XXI. Aspectos jurídicos, políticos, económicos e militares do ressurgimento da 'pirataria' no Corno de África. He Presided the proceedings and gave the Opening Conference on "Introdução à geopolítica da 'pirataria' contemporânea na África Oriental" (11 de Novembro de 2009).

5. The Project leader travelled to East-Timor as a Consultant to a project financed by FCT e and PTDC, entitled O debate sobre State-building e State Failure nas Relações Internacionais: análise do caso de Timor-Leste/ State-building/State-failure debate in International Relations: the case of East Timor (PTDC/CPO/71659/2006), coordinated by Professor Doutor Nuno Canas Mendes, Instituto Superior de Ciências Sociais e Políticas (ISCSPI). There, at the Universidade de Timor-Leste, he profered a Conference on "Power-sharing in the Tropics and the ubiquitous 'Presidential drift': the mechanics and dynamics of unstable equilibrium in the semi-presidentialism of East Timor", peer-reveiwed and published by the University of Swinburne, in Australia.

6. The Project Leader was a Consultant, at the Instituto da Defesa Nacional to a Grupo de Estudos Peacemaking em África, coordenated by Major-General Carlos Martins Branco.

7. A data bank containing classified documents produced by the Conselho Ultramarino (Council for Overseas Matters, 1860-1953), a central institution in the government of Portuguese "Colonial Empire", had been constituted, in order to get historical information about both the way Portuguese metropolitan laws were enforced in African colonies and the emergence of Portuguese colonial law. The transcription of previous selected documents of high legal value (c. 500 pages) is available in the data bank.

8. Constitutional texts from Portuguese speaking countries are being scanned in order to provide the public with the digital versions easing the access to this information, through the internet.

9. Within the framework of the project "Formas jurídicas do colonialismo português", a list of the whole deputies elected in the colonial territories is being built, in order to work out a prosopographic study on that group.

10. One of the member of the group is carrying out a pluri-approach inquiry and theoretical reflection on political dynamics of post-colonial State in former Portuguese colonies. An array of books and articles is being the outcome of this sub-project.

11. Also the Brazilian post-colonial constitutional process – under a constitutional text which was quite similar to the Portuguese (till 1891) – has been considered in the work of one of the members of Centre who goes on studying the legal and constitutional structures of both Portugal and Brazil. More expressive results of this comparative enterprise will appear in 2009 and 2010.

Group Productivity

Other publications International

Guedes, Armando Marques: "Portugal, o Brasil, e o Atlântico Sul. Globalização e Interdependências", in 1808-2008. O Futuro das Relações Económicas Portugal-Brasil, BES e Governo do Estado da Bahia, S. Salvador da Bahia, 2009

Guedes, Armando Marques: "Power-sharing in the Tropics and the ubiquitous 'Presidential drift': the mechanics and dynamics of unstable equilibrium in the semi-presidentialism of East Timor", in (ed.) Michael Leach et al., Understanding Timor-Leste, pp. 131-139, Hawthorn, Swinburne Press, Australia.

Group Productivity

Guedes, Armando Marques; "Raising Diplomats as Fit in the Ibero-American Realm", in Asociación Española de Profesores de Derecho Internacional y Relaciones Internacionales, Madrid (no prelo).

Silva, Cristina Nogueira da; "Nação federal ou Nação bi-hemisférica ? . O Reino Unido de Portugal, Brasil e Algarves e o «modelo» colonial português do século XIX", Almanack Brasileiro, nº 9, Maio de 2009 (www.almanack.usp.br).

Silva, Cristina Nogueira da; "«Modelos coloniais» no século XIX (França, Espanha, Portugal)", in E-legal History Review, nº 7, 2009 (http://www.iustel.com/v2/revistas/detalle_revista.asp?id=).

Other publications National

Guedes, Armando Marques; "Semi-Presidencialismo e Diferenças nos Processos de Presidencialização nos Estados Lusófonos da África e da Ásia", in Actas do I Congresso de Direitos Lusófonos, (eds. Jorge Bacelar Gouveia e Assunção Cristas), Almedina (no prelo).

Silva, Cristina Nogueira da; "Constitucionalismo e Império. A cidadania no Ultramar português", Coimbra, Almedina, 2009.

Silva, Cristina Nogueira da; "Fotografando o mundo colonial africano (Moçambique, 1929)", in Revista VARIA História, Dossiê Imagens: escravidão, mestiçagens (org. Eduardo França Paiva), Nº 41, 2009. (To be indexed on SciELO - Scientific Electronic Library Online (<http://www.scielo.org/php/index.php>)).

Silva, Cristina Nogueira da; "Conceitos otocentistas de cidadania. Liberalismo e igualdade", *Análise Social*, Vol.XLIV (192), 2009.

Master and Ph.D. thesis completed

Orientation (with Professor Jan Michiel Otto) in Van Vollenhoven Institute, Leiden University, Ph.D. in Legal Studies by graduated Maria José Lopes – "Legal Drafting and the Land Act in Angola."

Organization of conferences

ARMANDO MARQUES GUEDES (Co-org.) - 3 March – Conference in "Instituto da Democracia Portuguesa" (IDP), Univ. Lusitana - in which he also presented a paper on "The Portuguese Role in the Lusosphere". ("Portugal, Angola, o Brasil e o Atlântico Sul: Comércio e Migrações, Política e Segurança".)

ARMANDO MARQUES GUEDES (Co-org.) - 10 July - "Conferência Inaugural" at the Museu do Mar Rei D. Carlos, Cascais, in a larger event which he Co-Organized with the Câmara Municipal de Cascais, the Comissão de Relações Internacionais da Soc. de Geografia de Lisboa and the Soc. Portuguesa de Direito Internacional, entitled "A Pirataria no século XXI", his opening talk was devoted to "A Pirataria no século XXI: o caso da costa da Somália e do Corno de África"

ARMANDO MARQUES GUEDES (Co-org. with Professora Helena Pereira de Melo) - 11 November - Conference at the EDUNL, collaboration of the Soc. Portuguesa de Direito Internacional (SPDI) – entitled "A Pirataria na Costa Africana no Século XXI. Aspectos jurídicos, políticos, económicos e militares do ressurgimento da pirataria no Corno de África. He Presided the proceedings and gave the Opening Conference on "Introdução à geopolítica da pirataria contemporânea na África Oriental"

CRISTINA NOGUEIRA DA SILVA (Coord.) - 19 - 20 November, International Seminar "Escravos, Libertos e Trabalho Forçado na Era das Abolições" – Faculdade de Direito da UNL

ARMANDO MARQUES GUEDES (Co-org.) - 12 December - Conference at Instituto Superior de Ciências Sociais e Políticas, with the Asociación Española de Profesores de Derecho Internacional y Relaciones Internacionales and the Sociedade Portuguesa de Direito Internacional, which he Chairs,, on Ibero-America (under summit "Cimeira Ibero-Americana" 2009, in Portugal. In this, he presented an academic paper on "A formação de diplomatas em paisagens Ibero-americanas", which will be published by the Asociación de Profesores de Derecho Inetrnacional y Relaciones Internacionales, in Madrid.

Group Description

Title of Research Group:

(RG-LVT-714-1210)
Emerging legal and political issues

Principal Investigator:

Helena Maria Matias Pereira de Melo

Main Scientific Domain:

Ciências Jurídicas e Ciências Políticas

Group Host Institution:

Faculdade de Direito - Universidade Nova de Lisboa

Funding, source, dates

Funding, source, dates

FCT - CEDIS

2 310 Euros

FD (Law Faculty), General budget of the School

2009 Secretariat, 3 000 Euros

Objectives & Achievements

Objectives

The sub-project aimed to build bridges between "pure" research and social demand. On the one hand, legal research deals as well with normative elements as with empirical social issues, so that research shall necessarily be oriented to problems (problem solving approach). This has actually been a secular trend in legal knowledge, which justifies the very classification of legal knowledge as a prudential (practical science). The proper way of incorporating praxis into academic theory is to bring social problems inside the schools, rather than to extrude Faculty members in order to grasp praxis out there. On the other hand, Portuguese society is ravaged by huge social problems with which law has urgently to cope. Disclaiming any intend of competing with established legal professionals (professors and student under their guidance), plural leveled academic teams will handle practical issues brought by citizens, within specific ranges of legal and social praxis. Upon the experience extracted from cases, new models of legal response will be tuned. Such ranges will be:

1. New legal models of conflict resolution
2. Mapping new institutional tools for granting fundamental rights
3. legal tools for a post-state governance
4. New challenges to private law

In each domain, practical work arises from theoretical models and shall provide social and practical feedback to the assessment of these models.

Main Achievements

At the moment, the Law School has already a fruitful experience of a legal clinic, upon which the new ones will be modelled and launched, UMAC (Unit for mediation of petty conflicts on consumer's plaints). This unity went on with its activity, engaging professors and students in legal

Objectives & Achievements

aid on the domain of consumers' law.

Group Productivity

Other publications International

Beleza, Teresa Pizarro, Melo, Helena Pereira de: "Portugal: Human Rights Guidelines from the Constitution to Sugar Bars", in 60 Years of the Universal Declaration of Human Rights in Europe (coord.: Vinodh Jaichand and Markku Suksi), Oxford: Intersentia, 2009

Hespanha, António Manuel: "Corporativismo e Estado de Polícia como modelos de governo das sociedades euro-americanas do Antigo Regime", (colab. with José Subtil), a publicar em Fátima Gouvêa e João Fragoso (coords.) O Brasil Colonial. 3 vols collection - 2008/9 by Editora Civilização Brasileira.

Hespanha, António Manuel: "Razões de decidir na doutrina portuguesa e brasileira do século XIX: Um ensaio de análise de conteúdo", to be published in "Atas do 4º Congresso do Instituto Brasileiro de História do Direito", São Paulo, Faculdade de Direito da USP, 16/9/2009 - 18/9/2009

Hespanha, António Manuel; (colab. with Teresa Pizarro Beleza, "On witches, fairies and univorns: Perplexitis about na apparently neat idea (Are Human Rights a dire illusion ?), in Julio Pinheiro Faro (ed.), "O tempo e os direitos humanos: entre a eficácia pretendida e a conquistada": (to be published)

Other publications National

Beleza, Teresa Pizarro, Melo, Helena Pereira de: "Of Bodies and Souls: Legal Issues of Human Cloning", in Liber Amicorum de José de Sousa Brito em Comemoração do 70.º Aniversário, (coord.: Augusto Silva Dias, João António Raposo, João Lopes Alves, Luís Duarte d'Almeida e Paulo de Sousa Mendes), Coimbra, Almedina, 2009

Beleza, Teresa Pizarro, Melo, Helena Pereira de: "Prostituição, Lenocínio, HIV A Regulamentação da Actividade de Trabalhadoras do Sexo", in A Infeccção VIH e o Direito, (coord.: André Dias Pereira e Vítor Manuel Duque), Sidanet, Associação Lusófona, 2009

Gouveia, Jorge Bacelar: "Vida humana pré-natal, aborto e Constituição", EdIUAL, Lisboa, 2009

Melo, Helena Pereira de, Nunes, Rui: "Directivas Antecipadas de Vontade", in Eutanásia e Outras Questões Éticas no Fim da Vida, (coord.: Rui Nunes, Guilhermina Rego e Ivone Duarte), Porto: Serviço de Bioética e Ética Médica, 2009

Melo, Helena Pereira de: "A Pessoa Surda e o Direito", in O Gesto e a Palavra, (coord.: Maria Bispo, André Couto, Maria do Céu Clara e Luís Clara), Editorial Caminho, 2009

Melo, Helena Pereira de: "As Gerações Futuras e o Direito à Água", in Direito, Cidadania e Desenvolvimento XIX Encontro da Associação das Universidades de Língua Portuguesa, (coordinator: Cristina Montalvão Sarmento), Lisboa: Associação das Universidades de Língua Portuguesa, 2009

Melo, Helena Pereira de; Nunes, Rui: "Deficiência e Igualdade de Oportunidades", in Eutanásia e Outras Questões Éticas no Fim da Vida (coord.: Rui Nunes, Guilhermina Rego e Ivone Duarte), Porto: Serviço de Bioética e Ética Médica, 2009

Hespanha, António Manuel: "Ideias sobre a interpretação", in Liber amicorum de José Inácio de Sousa Brito, Coimbra, Coimbra Editora, 2009; Sequência (?).

Organization of conferences

14 - 15 May, International Seminar "Segurança Nacional e Direitos Fundamentais" – Assembleia da República – Coord. by Professor Jorge Bacelar Gouveia

Group Description

Title of Research Group:

(RG-LVT-714-1211)
Surveys on legal issues

Principal Investigator:

Claudia Maria Salsinha Trabuco

Main Scientific Domain:

Ciências Jurídicas e Ciências Políticas

Group Host Institution:

Faculdade de Direito - Universidade Nova de Lisboa

Funding, source, dates

Funding, source, dates

FCT - CEDIS

c. 14 500 Euros

FD (Law Faculty), General budget of the School

2009 Secretariat, c. 3 000 Euros

Objectives & Achievements

Objectives

This project comprises five sub-projects:

Non-performance to frustration of contracts (sub-project 1);

Observatory of Portuguese legislation (sub-project 2);

Evaluation of the Arbitration Stature (subproject 3);

Regulation of Intellectual Property Licensing Contracts in Portuguese Law (sub-project 4);

Judicial Practices in Early Modern Portugal (sub-project 5).

Sub-project 1 aims to clarify and assess the legal framework of non-performance of contracts in order to answer two specific questions. Does this legal framework promotes performance or, to the contrary, breach of contracts? Besides that, under an economic efficient perspective, does it or does it not fit the model of optimum social non-performance? By answering these questions we are able to assess positively the Portuguese legal framework or to propose adjustments in order to make it a true ally on social and economical development.

Considering that, nowadays, the regulation as a public policy became an important subject of interest and study and that the European Commission recommended the adoption of a Better Regulation Action Plan to all Member-States, sub-project 2 aims to develop analysis concerning the law-making methodology and procedure, namely: identify the frequency of legislative amendments – laws and decree-laws; analyze the duration of regulation procedure; identify forms of participation in the legislative procedure.

Sub-project 3 aims at evaluating the Portuguese legislation about alternative dispute resolutions methods (ARD), namely the arbitration Portuguese stature. This stature has 20 years and the government plans to modify it. The project wants to study the law in an international basis

Objectives & Achievements

and comparison and present a proposal of what could be a new Portuguese statute for this area.

Sub-project 4, based on the analysis of the underlying principles of the regulation of intellectual property licenses of use and on a careful consideration of their practical application, intends to: identify the rules applicable to the grant of authorization to exploit the economic potential of intellectual works or simply to use the works; conclude if the present legal framework contribute protects the author's interests; if necessary, propose legislative reforms.

Sub-project 5 aims at the study of judicial practices and litigation in early modern Portugal. Two axes will be set: the professional practice of justice; the demand of justice by the different bodies that form the Portuguese society. The first line of research aims to understand the role of magistrates through a microanalysis approach that is focused on the way they executed their function. The second line of research will focus on the different forms that litigation could have in early modern Portugal, namely in the demand for learned justice, from the view point of their users. By treating the processes, we will try also to reconstruct solidarity or conflict networks in a slow transformation society.

Main Achievements

Observatory of Legislation's relational database is still collecting data concerning the legislation published in the Official Gazette. The data concerning the years from 2002 to 2008 is now available, and a new issue of its annual publication "Boletim do Observatório de Legislação Nacional" was published in November 2009.

The evaluation of Portuguese regime of breach of contract is still active, with new reports being prepares to be published with 2009 finding a concerning the analysis of superior court decisions

CEDIS granted financial support to 3 FD-UNL's students to academic stays in the UN's International Law Commission. The activities they developed there were supervised by Prof. Paula Escaramela, herself a member both of our Faculty and of that Commission.

Group Productivity

Other publications International

Abrantes, José João: "A reserva da intimidade da vida privada do trabalhador e o dever de boa fé das partes na relação de trabalho", in O novo regime das relações de trabalho, Centro de Formação Jurídica e Judiciária de Macau (no prelo).

Gouveia, Jorge Barcelar: "Rule of Law in Constitutional State: mais features and the experience of Portugal," ed. Korea Legislation Research Institute, Seoul, 2009, pp. 65-98

Gouveia, Jorge Barcelar: "O Direito Internacional Público no Direito de Portugal e dos Estados de Língua Portuguesa", in AAVV, Constituição e Democracia: fundamentos, (coord. de MARCELO CAMPOS GALUPPO) (ISBN 978-85-7700-268-9), Belo Horizonte, 2009, pp. 143-183

Gouveia, Mariana França, Garoupa, Nuno: "Class Actions in Portugal" in Class Actions for Europe, Perspectives from Law and Economics, Cheltenham, Camberley e Northampton, Edward Elgar Publishing.

Other publications National

Duarte, Rui Pinto: "A Societas Privata Europaea: uma Revolução Viável" in Direito das Sociedades em Revista, Março 2009, Ano 1, vol. 1

Duarte, Rui Pinto: "A Reforma do Registo Predial de Julho de 2008" in Revista do Notariado, n.º 1, Maio 2009

Duarte, Rui Pinto: "Dois Apontamentos sobre Acesso Industrial Imobiliária" in Estudos em Homenagem ao Prof. Doutor M. Henrique Mesquita, vol. 1, Coimbra, Coimbra Editora, 2009 (n.º 95 da coleção Studia Iuridica do BFDUC)

Gouveia, Mariana França, Cristas, Assunção: "A violação de ordem pública como fundamento de anulação de sentenças arbitrais. Anotação ao Acórdão do STJ de 10.7.2008, Proc. N.º 08A1698", in Cadernos de Direito Privado, 2010 (no prelo)

Group Productivity

- Gouveia, Mariana França; "A Novíssima Acção Executiva - Análise das mais importantes alterações", in Revista da Ordem dos Advogados, 2010 (no prelo)
- Gouveia, Mariana França; O dever de independência do árbitro de parte, in Themis – Revista da Faculdade de Direito UNL, 2009 (n.º 16), Coimbra, Almedina, p. 319-326;
- Gouveia, Mariana França; O reconhecimento de sentenças arbitrais nos países lusófonos, in Actas do III Congresso do Centro de Arbitragem Comercial da Associação Comercial de Lisboa, 2010 (no prelo)
- Gouveia, Mariana França; Trabuco, Cláudia; "Arbitrabilidade das questões de concorrência", in Estudos em Homenagem ao Prof. Doutor Carlos Ferreira de Almeida, 2010 (no prelo)
- Gouveia, Jorge Bacelear; "As alterações do Estatuto da Carreira Docente dos Educadores de Infância e dos Professores do Ensino Básico e Secundário e a Constituição Portuguesa", in Revista de Direito Público, Ano I, n.º 1, Janeiro-Junho de 2009, pp. 281-297

Group Description

Title of Research Group:

(RG-LVT-714-1212)
Discourses on law

Principal Investigator:

Cláudia Maria Salsinha Trabuco

Main Scientific Domain:

Ciências Jurídicas e Ciências Políticas

Group Host Institution:

Faculdade de Direito - Universidade Nova de Lisboa

Funding, source, dates

Funding, source, dates

FCT - CEDIS

c. 8 800 Euros

FD (Law Faculty), General budget of the School
2009 Secretariat, 3 000 Euros

Objectives & Achievements

Objectives

The main achievement expected from the three projects included in this research group is the acquisition of solid experience by young researchers, stimulating their interest by scientific activities in the field of law and related branches of knowledge. The intersection of these fields of research and the programs of the disciplines taught in the Faculty of Law will foster interdisciplinarity as an essential tool within Law studies.

The research group on discourses on law encompasses three main projects with the following objectives:

- 1) The first project aims at fostering effective debate between literature and law in the Portuguese University. The paths of literature and law often meet, intersecting each other, whilst at the same time becoming enmeshed in the very enduring world-creating fabric that they pursue. Representing two different modes of acting upon the human realm by means of language and discourse, both the methodological and the epistemological diversity, which constitute the distinguishing mark of Literary Studies vis-à-vis Law Studies, circumscribes the disciplinary boundary.
- 2) The second project is mainly concerned with the analysis of the Law discourse and is constructed as a survey on the linguistic practices of legal practitioners.
- 3) The third project aims at studying the legal devices of the liberal model of Governance in Portugal, from 1851 to 1926, in a comparative perspective.

The concern with law as a discourse was also the reason why CEDIS organized a sustained presence in FD-UNL academic activities – research and lectures – of a internationally distinguished team of experts on Theory of argumentation, inviting for a period of two months – to be continued in the following years – the group of Theory of Law of Alicante's Facultad de Derecho, headed by Prof. Manuel Aienza, one of the leading European experts on Theory of argumentation applied to Law. Besides giving lectures to graduate and post-graduate students, 5 Professors supervise research at different levels.

Objectives & Achievements

Main Achievements

- Opening to new methodologies of legal analysis (like Law and Economics, Legal Policies, Law and Social Studies, Legal discursive analysis);
- International Seminar "Mundos em Diálogo, Colóquio Internacional sobre Literatura e Direito", organized by "Centro de Estudos Comparatistas" of the Faculdade de Letras da Universidade de Lisboa and CEDIS.
- Law and Literature

One of the main outputs of this project during 2008 was the integration of this theme among the subjects of the so-called "extracurricular work" to be prepared by undergraduate students as part of their degree.

We've concentrated in the analysis of Portuguese novelists from the XIX and XX centuries and established the goal of reading these novels from a different perspective, i.e. trying to discover and qualify legal institutes present in the literary works under analysis. Each student was supposed to select 3/4 works of the same author and fill in reading forms outlined in advance.

Several students took the opportunity of working in this field, which made possible the selection of 6 Portuguese authors whose works were to be read and examined from the described perspective. Up until this moment, we've collected reading forms from all the novels by Eça de Queirós, José Saramago, José Cardoso Pires, Ferreira de Castro, Vergílio Ferreira and from about half of the novels by Camilo Castelo Branco. We are now preparing the second stage of this project, making the results available for researchers wanting to precede studies in this area and trying to involve students (mostly graduate students) in an analysis from a Law and Literature perspective of some of the legal subjects raised by the novels.

In order to provide this project with novels to be analysed, and keep them available to be used when it may be convenient, CEDIS is supporting the purchase of either the most well known novels written by the authors who are being studied, as well as some of their less known works which, nevertheless, have significant interest for this project due to its legal references. These books are the backbone of what is intended to be a "corpus" of XIX century/Portuguese library of novels that address legal subjects.

An investigation group in Argumentation Theory (analysis of the Law discourse) composed by Ph.D. Law Studies Professors and Students, was created, being co-coordinated by CEDIS and "Instituto de Filosofia da Linguagem" of the FCSH/UNL.

Group Productivity

Other publications International

Trabuco, Cláudia: "Repetir nunca é repetir: reflexões sobre a reprodução e o plágio de obras de arquitectura", in Actas de Derecho Industrial y Derecho de Autor, Vol. 29, 2008-2009, pp. 573-598.

Other publications National

Organization of conferences

6 - 7 May, "I Congresso do Direito de Língua Portuguesa" – Retórica da UNL – Coord. by Professor Jorge Bacelar Gouveia and Professor Assunção Cristas

Group Description

Title of Research Group:

(RG-LVT-714-1213)
Pedagogic innovation on legal education

Principal Investigator:

Ana Cristina Fonseca Nogueira da Silva

Main Scientific Domain:

Ciências Jurídicas e Ciências Políticas

Group Host Institution:

Faculdade de Direito - Universidade Nova de Lisboa

Funding, source, dates

Funding, source, dates

FCT - CEDIS

c. 13 300 Euros

FD (Law Faculty), General budget of the School
2009 Secretariat, c. 3 000 Euros

Objectives & Achievements

Objectives

This research group will carry on the development of the works already started within the framework of the research group related with the program Sources and foundational databases. Therefore, its main objectives during the period under evaluation (2003-2006) are described in the respective section of this report.

The main outcomes expected for the next three years are the following:

- 1) To create and develop a system of e-learning for the students. It is the aim of this Project to favour the application of new teaching and learning technologies, according to the spirit of Bologna charter
- 2) To develop a digital library with digital archives collecting the legal classical texts from XX th. Century
- 3) To develop the web site Jurist Portugal, where legal students and professors, as well as other people, can find on line law information and data

This research group was created to inaugurate a new line of studies. Nevertheless two of the sub-projects (2) and 3)) are the development of previous ones, which were included within the framework of the research group related with the "Sources and foundational databases".

Main Achievements

The conclusion and improvement of a program of digital transcription of the whole of Portuguese legal academic literature of the 19th century (Project "Arquivos Digitais do Direito e do Estado"). In the whole, more than 600 books have been digitalized and published in FDUNL's internet website (www.fd.unl.pt).

Development of Jurist Portugal's portal: its thematic legal guides were reviewed and completed, legal news were made available in an organized

Objectives & Achievements

way and new dossiers were organised on the legal handling of themes which are being the object of intensive debated in Portuguese society (voluntary pregnancy interruption, corruption of civil servants or in public affairs and religious freedom).

Implementation, using the University's e-Learning platform, of an e-learning program comprising two graduation courses, coordinated by António Hespanha: "Direito e Pensamento Jurídico", e "História Constitucional e do Estado".

Group Productivity

Other publications International

Hespanha, António Manuel; «Hércules Confundido». Sentidos Improváveis e Variados do Constitucionalismo Oitocentista. O Caso Português", Curitiba, Juruá, 2009, 378 pp.

Other publications National

Prata, Ana; "Dicionário Jurídico, Vol. II — Direito Penal e Direito Processual Penal" (coord. e co-aut.) 2ª. Ed. rev., act. e aumentada, Coimbra, Almedina, 2009.

Caupers, João; "Introdução ao Direito Administrativo", 10.ª Ed., Lisboa, Âncora Editora, 2009.

Gouveia, Jorge Bacelar; "Manual de Direito Constitucional", I & II vol, Livraria Almedina, 3ª ed., 2009

Hespanha, António Manuel; "O caleidoscópio do direito. O direito e a justiça nos dias e no mundo de hoje", Almedina Editores, 2007, 674 pp.: 2ª ed. 2009

Master and Ph.D. thesis completed

31 Março - Margarida Ramalho de Lima Rego; "Contrato de Seguro e Terceiros – Estudo de Direito Civil"

9 de Outubro - João Sérgio Feio Antunes Ribeiro; "Tributação Presuntiva do Rendimento – Um contributo para reequacionar os métodos indirectos de determinação da matéria tributável"

5 de Novembro - Rita Sofia Martins Calçada Pires; "Tributação Internacional do Rendimento Empresarial Gerado através de Comércio Electrónico. Desvendar mitos e construir realidades."

17 de Dezembro - Francisco Maria Gil Fernandes Pereira Coutinho; "Os Tribunais Nacionais na Ordem Jurídica Comunitária. O caso português."