



Faculdade de Direito da UFMG

Programa de Pós-Graduação em Direito

PLANO DE ENSINO

ANO E SEMESTRE					
2023/2					
PROFESSOR(ES)					
TÍMEA DRINÓCZI					
CÓDIGO DA DISCIPLINA					
DIP DIR873					
TEMA					
TEMAS DE DIREITO COSTITUCIONAL					
SUBTEMA					
COMPARATIVE LEGISLATIVE STUDIES					
AUTORIZA OFERTA DE MATRÍCULA NA MODALIDADE DISCIPLINA ISOLADA?					
(+) Sim (..) Não					
AUTORIZA OFERTA DE MATRÍCULA DE GRADUANDO NA MODALIDADE DISCIPLINA ELETIVA?					
(+) Sim () Não					
DIA DA SEMANA	HORÁRIO	CARGA HORÁRIA	CRÉDITOS	VAGAS	TIPO DA DISCIPLINA
Segunda-feira	18.30	60	4	20	REGULAR
A DISCIPLINA É MINISTRADA EM IDIOMA ESTRANGEIRO: CASO SIM, QUAL IDIOMA?					
() Não (X) Sim Qual: INGLÊS					

PARTICIPAÇÃO DE PROFESSOR(ES) CONVIDADO(S)?		
() Sim (X) Não		
NOME(S) DO(S) PARTICIPANTE(S)	CPF	INSTITUIÇÃO

EMENTA
<ol style="list-style-type: none"> 1. Introduction; About the class; requirements; Assignments; Introductory questions and answers session 2. Legislation and regulation. Better regulation and the quality of legislation. Due process of law-making and democratic law-making. The legislative process as a cyclic process. 3. Legal sources and legislation in parliamentary and presidential systems. Publication and accessibility. 4. Participation 5. Impact assessments 6. Legislative drafting, the language, and style of drafting. 7. Measuring the quality of legislation and the role of international and other actors in this process. 8. Emergency legislation during COVID-19 crisis. Emerging trends in legislation in Europe and elsewhere 9. Legislation in Brazil: lawmaking process as a cyclic process 10. Participation in the law-making process in Brazil 11. Impact assessment in the law-making process in Brazil 12. The quality of drafting and the language of Brazilian statutes 13. Technology in the law-making process in Brazil 14. Consultation for finalizing the paper. 15. Submission of the finalized papers. Feedback from students.



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BIBLIOGRAFIA

All literature will be available/provided by the lecturer.

General

Books and book chapters

Helen Xanthaki and Ulrich Karpen, eds, *Legislation in Europe-A Country to Country Guide*. Bloomsbury, Hart Publishing 2020

Ittai Bar Siman Tov, *Beyond Neglect and Disrespect: Legislatures in Legal Scholarship*, in *HANDBOOK OF PARLIAMENTARY STUDIES: INTERDISCIPLINARY APPROACHES TO LEGISLATURES* (Cyril Benoît & Olivier Rozenberg eds., 2019)

Maria Mousmouti, *The ‘mechanics’ of effective legislation* (chapter of her book: *Designing effective legislation*, Edward Elgar, 2019)

Ulrich Karpen, Helen Xanthaki, eds, *Legislation and Legisprudence in Europe. A comprehensive guide for scholars and legislative practitioners*. Hart Publishing, 2017

Special Issues of the Theory and Practice of Legislation

The Theory and Practice of Legislation, Volume 10, Issue 3 (2021) *Illiberal tendencies in legislation*

The Theory and Practice of Legislation, Volume 5, Issue 1 (2017) *Crowdsourcing Legislation: New Ways of Engaging the Public*

The Theory and Practice of Legislation, Volume 8, 2020 - Issue 1-2: *Legislatures in the Time of Covid-19*

The Theory and Practice of Legislation, Volume 9, Issue 1 (2021) *Regulating Diversity*

The Theory and Practice of Legislation, Volume 9, Issue 2 (2021) *Parliamentary scrutiny of the quality of legislation*

Articles and research papers

Aaron Martin, Gosia Mikołajczak, Raymond Orr, [Does process matter? Experimental evidence on the effect of procedural fairness on citizens’ evaluations of policy outcomes, *International Political Science Review*, 2022, Vol. 43\(1\) 103–117](#)



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Irmgard Anglmayer, [Better Regulation practices in national parliaments, EPRS 2020](#)

Paul Kendal Cooper, [Is there a case for the abolition of ‘shall’ from EU legislation? RGSL RESEARCH PAPERS, NO. 1, 2011](#)

Tímea Drinóczi, Concept of quality in legislation – revisited: matter of perspective and a general overview. 3 Statute Law Review 2015, 36: 211-227

Tímea Drinóczi, Quality control and management in legislation: a theoretical framework. KLRI Journal of Law and Legislation 2017/1. 57-86

OECD, Venice Commission, and OSCE ODIHR documents

[Assessment of the law-making in Bosnia and Hercegovina](#), 2020-2023

[Assessment of the legislative process in Georgia](#), 2015, Warsaw, Legis paper-nr: 256/2014 (MARCH 2014 – JANUARY 2015), <https://www.osce.org/odihr/138761?download=true>

[COMPILATION OF VENICE COMMISSION OPINIONS AND REPORTS ON LAW-MAKING PROCEDURES, AND THE QUALITY OF THE LAW](#) Endorsed by the Venice Commission at its 126th Plenary Session (online, 19 - 20 March 2021)

Guidelines of democratic lawmaking and good laws, OSCE ODIHR, 2023

OECD, [Citizens participation, Brazil, 2019](#)

On Brazil

Constitution and the Rules of Procedures of the Senate and Chamber of Representatives

Book

Fabiana de Menezes Soares, Cristiane Silva Kaitel, Esther Kulkamp Eyng Prete, [Estudos em legística, Tribo da Ilha, Florianópolis \(2019\)](#)

Articles and research papers

Andréa Marcondes de Freitas, [Unboxing the Active Role of the Legislative Power in Brazil, Brazilian Political Science Review, \(2016\) 10 \(2\)](#)

Fábio de Barros Correia Gomes, [Lawmaking by the Brazilian National Congress: Cooperation, leadership, and impasse between Brazil’s Legislative and Executive branches, Translating the Americas, Volume 4, 2016](#)

Felipe de Paula (2016) [Does Brazil have a Legislative Policy? The Theory and](#)



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[Practice of Legislation, 4:3, 329-353](#)

Leonardo Avritzer, Participation in democratic Brazil: from popular hegemony and innovation to middle-class protest, Opin. Pública 23 (1) • Apr 2017

Leonardo Avritzer, The different designs of public participation in Brazil: deliberation, power sharing and public ratification, Critical Policy Studies, 6:2, 113-127

Luis Otavio Barroso da Graca, JUDICIAL REVIEW OF THE LEGISLATIVE PROCESS IN BRAZIL, DOI: 10.14324/111.2052-1871.096

MICHELLE HOLPERIN, KATIA ROCHA, [E se o Poder Legislativo fizesse como as agências reguladoras?](#)

Victor Marcel Pinheiro, [3 sentidos do devido processo legislativo e o julgamento do RE 1.297.884 pelo STF](#)

Victor Marcel Pinheiro, [Por que a análise de impacto legislativo ainda não é realidade no Brasil?](#)

More literature will be indicated for individual research topics, if needed

TEXTOS E DOCUMENTOS DISPONÍVEIS NA WEB

See above

INFORMAÇÕES ADICIONAIS

All students must be able to read all the bibliography, participate in the debates and make their presentations in English. Methodology: the students shall make presentations of the selected bibliography, critically analyze them, and compare them with the Brazilian theory and practice.

Exam: one paper submission: 50%. It consists of i) Presentation of the (preliminary) research results (20 mins; slides; 20%), and submission of the finalized paper based on the discussion (no more than 5000 words; 30%). Papers should be sent to drinoczi.timea@gmail.com or dropped of in the common folder (to be discussed) by 21/11/2023.

Individual notes on the literature and opinions on the presentations of fellow students in advance (using bullet points; focusing on the strength and weaknesses of the presentation and own opinion): 15-15%

Participation: 20%

Total: 100%

Students are invited to

- lead the discussion on their selected topic
- finalize and submit their paper by the end of the semester
- evaluate the presentation of fellow students in advance
- participate in the discussions

Assessment criteria

- demonstrated comprehension of minimum reading material and other reading material;
- ability to criticize, compare, evaluate, justify and/or dispute
- quality of the paper, the presentation and individual notes
- participation: evaluation of works of others, offering their own views, participation in the discussion part of classes



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PLANO DE CURSO

The aim of the course is to discuss the state of the art of legislative studies (legistics) from a comparative perspective and assess the quality of legislation in the Brazilian context. Therefore, students are asked to do their own research, critically analyse the literature, present their preliminary findings, discuss them with others, and after considering the feedback, finalise their research paper.

The week-by-week breakdown of the course is as follows.

14/8/2023

Introduction; About the class; requirements; Assignments; Introductory questions and answers session

Literature for next week:

- Ittai Bar Siman Tov, Beyond Neglect and Disrespect: Legislatures in Legal Scholarship, in HANDBOOK OF PARLIAMENTARY STUDIES: INTERDISCIPLINARY APPROACHES TO LEGISLATURES (Cyril Benoît & Olivier Rozenberg eds., 2019)
- Maria Mousmouti, The 'mechanics' of effective legislation (chapter of her book: Designing effective legislation, Edward Elgar, 2019)
- Ulrich Karpen, Helen Xanthaki, eds, Legislation and Legisprudence in Europe. A comprehensive guide for scholars and legislative practitioners. Hart Publishing, 2017 (Chapter on regulation, Voermans)
- Tímea Drinóczi, Concept of quality in legislation – revisited: matter of perspective and a general overview. 3 Statute Law Review 2015, 36: 211-227
- Guidelines of democratic lawmaking and good laws, OSCE ODIHR, 2023

21/8/2023

Presentation and discussion of the literature

Presentation by lecturer: Legislation and regulation. Better regulation and the quality of legislation. Due process of law-making and democratic law-making. The legislative process as a cyclic process
Discussion of the literature by students based on a half-page-long summary of each

Literature for next week:

- Helen Xanthaki and Ulrich Karpen, eds, Legislation in Europe-A Country to Country Guide. Bloomsbury, Hart Publishing 2020 (selected chapters)
- Ulrich Karpen, Helen Xanthaki, eds, Legislation and Legisprudence in Europe. A comprehensive guide for scholars and legislative practitioners. Hart Publishing, 2017 (Chapter on Legislative process, Drinóczi)
- [COMPILATION OF VENICE COMMISSION OPINIONS AND REPORTS ON LAW-MAKING PROCEDURES, AND THE QUALITY OF THE LAW](#) Endorsed by the Venice Commission at its 126th Ple-



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nary Session (online, 19 - 20 March 2021)

- Guidelines of democratic lawmaking and good laws, OSCE ODIHR, 2023

Deadline for submission of the Notes on the literature: before the next class

28/8/2023

Presentation and discussion of the literature

Presentation by lecturer: Legal sources and legislation in parliamentary and presidential systems.

Publication and accessibility.

Discussion of the literature by students based on a half-page-long summary of each

Literature for next week:

- Ulrich Karpen, Helen Xanthaki, eds, Legislation and Legisprudence in Europe. A comprehensive guide for scholars and legislative practitioners. Hart Publishing, 2017 (Chapter on Participation, Uhlmann and Konrath)
- Aaron Martin, Gosia Mikołajczak, Raymond Orr, [Does process matter? Experimental evidence on the effect of procedural fairness on citizens' evaluations of policy outcomes, International Political Science Review, 2022, Vol. 43\(1\) 103–117](#)
- [COMPILATION OF VENICE COMMISSION OPINIONS AND REPORTS ON LAW-MAKING PROCEDURES, AND THE QUALITY OF THE LAW](#) Endorsed by the Venice Commission at its 126th Plenary Session (online, 19 - 20 March 2021)
- Guidelines of democratic lawmaking and good laws, OSCE ODIHR, 2023

Deadline for submission of the Notes on the literature: before the next class

4/9/2023

Presentation and discussion of the literature

Presentation by lecturer: Participation

Discussion of the literature by students based on a half-page-long summary of each

Literature for next week:

- Ulrich Karpen, Helen Xanthaki, eds, Legislation and Legisprudence in Europe. A comprehensive guide for scholars and legislative practitioners. Hart Publishing, 2017 (Chapter on Regulatory evaluation, Naundorf and Claudio M. Radaelli)
- [COMPILATION OF VENICE COMMISSION OPINIONS AND REPORTS ON LAW-MAKING PROCEDURES, AND THE QUALITY OF THE LAW](#) Endorsed by the Venice Commission at its 126th Plenary Session (online, 19 - 20 March 2021)
- Guidelines of democratic lawmaking and good laws, OSCE ODIHR, 2023

Deadline for submission of the Notes on the literature: before the next class



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11/9/2023

Presentation and discussion of the literature

Presentation by lecturer: Impact assessments

Presentation and discussion of the literature

Literature for next week:

- Ulrich Karpen, Helen Xanthaki, eds, Legislation and Legisprudence in Europe. A comprehensive guide for scholars and legislative practitioners. Hart Publishing, 2017 (Chapters on drafting and language, Höfl er, Nussbaumer and Xanthaki, Duprat and Xanthaki)
- Paul Kendal Cooper, [Is there a case for the abolition of 'shall' from EU legislation? RGSL RESEARCH PAPERS, NO. 1, 2011](#)
- [COMPILATION OF VENICE COMMISSION OPINIONS AND REPORTS ON LAW-MAKING PROCEDURES, AND THE QUALITY OF THE LAW](#) Endorsed by the Venice Commission at its 126th Plenary Session (online, 19 - 20 March 2021)
- Guidelines of democratic lawmaking and good laws, OSCE ODIHR, 2023

Deadline for submission of the Notes on the literature: before the next class

18/9/2023

Presentation and discussion of the literature

Presentation by lecturer: Legislative drafting, the language, and style of drafting.

Presentation and discussion of the literature

Literature for next week:

- Tímea Drinóczi, Quality control and management in legislation: a theoretical framework. KLRI Journal of Law and Legislation 2017/1. 57-86
- The Theory and Practice of Legislation, Volume 9, Issue 2 (2021) Parliamentary scrutiny of the quality of legislation
- [Assessment of the law-making in Bosnia and Hercegovina](#), 2020-2023
- [Assessment of the legislative process in Georgia](#), 2015, Warsaw, Legis paper-nr: 256/2014 (MARCH 2014 – JANUARY 2015), <https://www.osce.org/odihr/138761?download=true>
- [COMPILATION OF VENICE COMMISSION OPINIONS AND REPORTS ON LAW-MAKING PROCEDURES, AND THE QUALITY OF THE LAW](#) Endorsed by the Venice Commission at its 126th Plenary Session (online, 19 - 20 March 2021)
- Guidelines of democratic lawmaking and good laws, OSCE ODIHR, 2023

Deadline for submission of the Notes on the literature: before the next class



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25/9/2023

Presentation and discussion of the literature

Presentation by lecturer: Measuring the quality of legislation and the role of international and other actors in this process.

Presentation and discussion of the literature

Literature for next week:

- The Theory and Practice of Legislation, Volume 10, Issue 3 (2021) Illiberal tendencies in legislation
- The Theory and Practice of Legislation, Volume 5, Issue 1 (2017) Crowdsourcing Legislation: New Ways of Engaging the Public
- The Theory and Practice of Legislation, Volume 8, 2020 - Issue 1-2: Legislatures in the Time of Covid-19
- The Theory and Practice of Legislation, Volume 9, Issue 1 (2021) Regulating Diversity

Deadline for submission of the Notes on the literature: before the next class

2/10/2023

Presentation and discussion of the literature

Presentation by lecturer: Emergency legislation during COVID-19 crisis. Emerging trends in legislation in Europe and elsewhere

Presentation and discussion of the literature

Literature for next week:

- Review all of the relevant literature read so far
- Constitution and the Rules of Procedures of the Senate and Chamber of Representatives
- Fabiana de Menezes Soares, Cristiane Silva Kaitel, Esther Kulkamp Eyng Prete, [Estudos em le-gística, Tribo da Ilha, Florianopolis \(2019\)](#)
- Andréa Marcondes de Freitas, [Unboxing the Active Role of the Legislative Power in Brazil, Brazilian Political Science Review, \(2016\) 10 \(2\)](#)
- Fábio de Barros Correia Gomes, [Lawmaking by the Brazilian National Congress: Cooperation, leadership, and impasse between Brazil's Legislative and Executive branches, Translating the Americas, Volume 4, 2016](#)
- Felipe de Paula (2016) [Does Brazil have a Legislative Policy? The Theory and Practice of Legislation, 4:3, 329-353](#)
- Luis Otavio Barroso da Graca, JUDICIAL REVIEW OF THE LEGISLATIVE PROCESS IN BRAZIL, DOI: 10.14324/111.2052-1871.096
- Victor Marcel Pinheiro, [3 sentidos do devido processo legislativo e o julgamento do RE](#)



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[1.297.884 pelo STF](#)

Deadline for submission of the presentation: Friday

Deadline for submission of the Notes on the literature: before the next class

09/10/2023

Presentation by students and discussion of the literature

Legislation in Brazil: lawmaking process as a cyclic process

Presentation and discussion of the preliminary research results

Discussion of the main findings of the literature, their critical analyses, and assessment of the preliminary research findings

Literature for next week:

- Review all of the relevant literature read so far
- Constitution and the Rules of Procedures of the Senate and Chamber of Representatives
- OECD, [Citizens participation, Brazil, 2019](#)
- **Leonardo Avritzer, Participation in democratic Brazil: from popular hegemony and innovation to middle-class protest, Opin. Pública 23 (1) • Apr 2017**
 - Leonardo Avritzer, The different designs of public participation in Brazil: deliberation, power sharing and public ratification, Critical Policy Studies, 6:2, 113-127

Deadline for submission of the presentation: Friday

Deadline for submission of the Notes on the literature: before the next class

16/10/2023

Presentation by students and discussion of the literature

Participation in the law-making process in Brazil

Presentation and discussion of the preliminary research results

Discussion of the main findings of the literature, their critical analyses, and assessment of the preliminary research findings

Literature for next week:

- Review all of the relevant literature read so far
- Constitution and the Rules of Procedures of the Senate and Chamber of Representatives
- MICHELLE HOLPERIN, KATIA ROCHA, [E se o Poder Legislativo fizesse como as agências reguladoras?](#)
- Victor Marcel Pinheiro, [Por que a análise de impacto legislativo ainda não é realidade no Bra-](#)



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Deadline for submission of the presentation: Friday

Deadline for submission of the Notes on the literature: before the next class

23/10/2023

Presentation by students and discussion of the literature

Impact assessment in the law-making process in Brazil

Presentation and discussion of the preliminary research results

Discussion of the main findings of the literature, their critical analyses, and assessment of the preliminary research findings

Literature for next week:

- Review all of the relevant literature read so far
- Constitution and the Rules of Procedures of the Senate and Chamber of Representatives
- Own research on drafting guidelines and the quality of the drafting (language, style, structure) of Brazilian laws

Deadline for submission of the presentation: Friday

Deadline for submission of the Notes on the literature: before the next class

30/10/2023

Presentation by students and discussion of the literature

The quality of drafting and the language of Brazilian statutes

Presentation and discussion of the preliminary research results

Discussion of the main findings of the literature, their critical analyses, and assessment of the preliminary research findings

Literature for next week:

- Review all of the relevant literature read so far
- Constitution and the Rules of Procedures of the Senate and Chamber of Representatives
- Own research on the use of technology in lawmaking in Brazil (process, accessibility, publication, participation, websites, etc)

Deadline for submission of the presentation: Friday

Deadline for submission of the Notes on the literature: before the next class



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06/11/2023

**Presentation by students and discussion of the literature
Technology in the law-making process in Brazil**

Presentation and discussion of the preliminary research results
Discussion of the main findings of the literature, their critical analyses, and assessment of the preliminary research findings

13/11/2023

Consultation for finalizing the paper

20/11/2023

Submission of the finalized paper.