

Curricular Unit

Master in L&M 4E 2024/2025

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Office Hours	9.00-13.00

Introduction

Commercial companies are the leading actors of economic life. The aim of this course is to deepen knowledge in Corporate Law, focusing on the organization of commercial companies, namely the company's liability, as well as its directors' liability.

Goals

This course deals with the corporate law major issues and themes. It is divided into two large blocks: the first deals with basic concepts regarding corporations and liability; and the second is dedicated to the foundations of corporate law. Starting with the basic structure of a commercial company, several issues, as the corporate bodies, the corporate financing, the status of the shareholders, delicate issues of corporate liability will be dealt, namely undercapitalization, mingling of assets and liability of corporate groups.

Methods

Classes will be lectured aiming to achieve in-depth treatment of cutting-edge issues in a pragmatic perspective, combining both "legal" and "economic" reasoning and stimulating research, analysis, critique, and argumentation capabilities, making the discipline suitable to a broad range of attendants. To this extent, despite centered on the Portuguese legal framework, the themes will be dealt in a comparative manner, bearing in mind, namely US and German Law.

This course uses the flipped classroom design. Hence, students will be required to prepare before class, namely through reading of selected materials. Since the course has a practical nature – with sound theoretical background - analysis of case law or contractual clauses will play a pivotal role.

Course Contents

I. Basic concepts

1.1. Liability.

1.1.1.. The basic legal framework of liability:

- *Mora debitoris*
- Breach of contract
- *Mora creditoris*

2. Corporation

2.1. US Corporate law *versus* Portuguese Corporate Law

2.2. The purpose of a corporation

2.3. The concept of separate legal personality

2.3.1. The corporate veil

2.3.2. Piercing the corporate veil – an introduction

3. Corporations and liability

3.1. Limited liability and corporate veil

II. Foundations of corporate law

1. Corporate forms

2. Corporate capital

3. Corporate financing

4. Shareholders' agreements

5. Directors' duties, fiduciary principle and business judgement rule

6. Shareholders

7. Stakeholders

8. Corporate groups

9. Specific situations of liability

8.1. Undercapitalization

8.2. Mingling of assets

8.3. Circumventing legal or contractual provisions

8.4. Corporate groups and liability

Assessment

- a) Written exam (24 hours take-home exam): 50%
- b) Participation in class (50%)

References

Bainbridge, Stephn M.; Henderson, M. Todd – Limited liability – A legal and economic analysis, Cheltenham, Edward Elgar, 2016.

Blumberg, Philip I. – The multinational challenge to corporation law – The search for a new corporate personality, New York, Oxford University Press, 1993.

Birds et alii – Boyle and Birds' company law, 10.^o ed., Bristol, Jordan Publishing, 2019.

Davies, Paul; Worthington, Sarah – Gower and Davies principles of modern company law, 11.^a ed., Londres, Sweet & Maxwell, 2021.

Easterbrook, Frank; Fischel, Daniel – The economic structure of corporate law, Cambridge, Harvard University Press, 1991.

Hansmann, Henry; Kraakman, Reinier et Alii – The anatomy of corporate law – A comparative and functional approach, 3rd edition, Oxford, Oxford University Press, 2017.

Micheler, Eva – Company law: a real entity theory, Oxford, Oxford University Press, 2021.

Micklethwait, John; Wooldridge, Adrian – The company: a short history of a revolutionary idea, New York, The Modern Library, 2003.

Singleton, Susan – Joint ventures and shareholders agreements, 6th ed., Bloomsbury Professional.

Watson, Susan – The making of the modern company, London, Hart Publishing, 2022.

Wells, Harwell – Research Handbook on the History of Corporate and Company Law, Cheltenham, Edward Elgar, 2018.

For specific references the student should contact the lecturer.