

Constitutional Law II

Code: 102215
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	2	1

Contact

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Use of languages

Principal working language: catalan (cat)
Some groups entirely in English: No
Some groups entirely in Catalan: Yes
Some groups entirely in Spanish: No

Teachers

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José Algarrada Mengual
Ricard Brotat Jubert

Prerequisites

The subject of Constitutional Law II does not require prior knowledge or requirements. However, it is a subject of the same range of knowledge of the Degree in Law, and this is why it is recommended to refresh the knowledge and

competences acquired in the subjects of "Constitutional Organization of the State" and "Constitutional Law" taught in the first year.

Objectives and Contextualisation

Constitutional Law II is a subject being taught in the first half of 2nd year in the Degree of Law. It's a subject used for students to learn basic notions about the framework of fundamental rights in the Spanish Constitution of 1978. This subject is helpful as introduction to other topics being later developed in several subjects of the Constitutional Law area as well as in other areas being taught at the Degree in Law.

From a perspective of formative education, Constitutional Law II aims to further several goals, specially among them:

- The constitutional system of fundamental rights. Rights and duties. Setting elements of rights.
- Guarantees and defence mechanisms of rights. Limits and suspension of rights.
- Rights of personal autonomy. Participative rights. Social, Economic and Cultural rights.

Skills

- Carrying out an approximation to a legal problem by using the appropriate research methods (authorities, legal databases, instruction websites...).
- Defending and promoting the essential values of the social and democratic State of Law.
- Drawing up and formalising works, reports, documents, rulings.
- Efficiently managing information, being capable of assimilating a considerable volume of data in a limited amount of time.
- Identifying the underlying conflicts of interest in disputes and real cases.
- Orally and clearly defending ideas, works, reports, documents and rulings in a structured way.
- Using the main constitutional principles and values as a working tool in the interpretation of the legal system.

Learning outcomes

1. Analysing and assessing in a legal-constitutional way several current problems of society.
2. Assessing the diversity and plurality of society.
3. Carrying out an approximation to a legal problem by using the appropriate research methods (authorities, legal databases, instruction websites...).
4. Defining the different mechanisms of defence and guarantee of rights.
5. Drawing up and formalising works, reports, documents, rulings.
6. Efficiently managing information, being capable of assimilating a considerable volume of data in a limited amount of time.
7. Establishing that those current social problems do not only have one valid solution, but that there might be other democratically and constitutionally valid solutions.
8. Establishing the cases where it might be a suspension of rights, both in exceptional and individual assumptions of suspension of rights.
9. Identifying the different procedural mechanisms for the protection and guarantee of rights.
10. Knowing different constitutionally valid methods and paths in order to find a way out for the different current problems of society.
11. Knowing in depth the constitution configuration of certain important rights nowadays, such as liberty and personal security, inviolability of the home, secrecy of communications, honour, intimacy and personal image, freedom of speech, right to effective judicial protection and procedural safeguards...
12. Knowing that rights are not unlimited and as such, knowing the legitimate and constitutional sources of limits to the rights.
13. Knowing the legitimating role of the fundamental rights in the system, in every democratic society, and also that the acknowledgement, guarantee and efficacy of the fundamental rights constitute the material element of the democratic system.
14. Knowing the regulatory, objective and institutional nature of rights, their configurational elements, the limits to the rights and their possible suspension, as well as their defence and guarantee mechanisms.
15. Orally and clearly defending ideas, works, reports, documents and rulings in a structured way.
16. Understanding that the several current problems of society must be addressed from tolerance and respect for diversity, fundamental rights and free development of the personality, which are characteristic of a Social and Democratic State of Law.
17. Understanding the insufficiency of formal elements to provide a system the status of democratic.
18. Understanding the need for efficiency of the fundamental rights, their mere statement not being enough.
19. Understanding the risks towards rights that might arise from the new technologies.

Content

Lesson 1.- Fundamental Rights.

Historical evolution, foundation and concept of Fundamental Rights. The distinction between Human Rights and Fundamental Rights - Problems and general characteristics of Fundamental Rights in the Spanish Constitution. The constitutional duties.- Subjective and objective dimension of Fundamental rights as legal relationships- Fundamental rights classification. Fundamental rights Object. Fundamental rights: Defense rights and Rights of provision

Lesson 2.- Fundamental rights framework.

Entitlement, recipients and effectiveness of private relationships - Fundamental rights entitlement - Fundamental rights recipients - Effectiveness of rights in front of private persons

Lesson 3. - Regulations on fundamental rights.

The binding force of rights and freedoms in the 1st Title of Spanish Constitution- Matters reserved to law in the field of fundamental rights- Delimitation and limits of fundamental rights- Core content of fundamental rights and constitutional control. Principle of proportionality

Theme 4. - Fundamental rights guarantees.

Judicial guarantee of fundamental rights. The sense of judicial guarantee of fundamental rights: remedy of amparo with the Constitutional Court. - The Ombudsman - European framework of protection: European Court of Human Rights - Suspension of Fundamental Rights

Lesson 5. - The principle of equality.

Function and organisation of the principle of equality in the Spanish Constitution - Distinction between equality before the law and equality in the application of law - Non-discrimination clauses

Lesson 6. - Rights in the field of personal sphere.

The right to life and physical and moral integrity - The right to freedom of thought and the freedom of religion - The right to personal freedom and security. Habeas corpus - The right to private life: honour, privacy and own image. Personal data protection

Lesson 7. - Individual rights.

The right to inviolability of the home - The right to secrecy of communication - The right to freedom of movement and freedom of residence.

Lesson 8. - Informative freedoms and rights of political participation.

The right to freedom of expression and information - The right to freedom of assembly - The right to freedom of association - The right to freedom of political participation. The right to petition

Lesson 9. - The right to effective remedy.

- Meaning and problems on article 24 of the Spanish Constitution - The right of access to the courts and to a judicial body laid down by law - General procedural guarantees. Reference to the evidence obtained with violation of fundamental rights - Specific guarantees of criminal proceeding

Lesson 10. - Cultural, economic and social rights.

- Academic freedom and the right to education. - The right to property and entrepreneurial freedom - Labour and professional rights

Methodology

The learning process focuses on the work of the student, who learns by working, being the teacher's mission to help in this task by providing information and showing the sources where it can be obtained. The development of the teaching of the subject and the training of the student is based on the following activities

Directed activities:

Lectures: the student reaches the conceptual bases and sets the normative and jurisprudential legal framework. The master classes are the activities in which less interactivity is required and are conceived as a one-way method of transmitting the teacher's knowledge to the student.

Practical classes: where the students analyze and solve together with the teacher practical cases previously elaborated. The basis of the practical work is the understanding and critical application of the regulations and jurisprudence related to the essential content explained in the theoretical classes.

These are activities that students will develop in the classroom, with the supervision and support of the teacher. It is about the elaboration of some practical supposition in classroom: analysis of sentences and realization of schemes of the subject and summaries of doctrinal articles or books.

Autonomous activities:

Preparation of practical activity documents that will be delivered and analyzed in the classroom. These are practical cases proposed in advance by the professor, critical reviews of books or readings of jurisprudence or regulations.

Search of bibliography and instrumental jurisprudence for the resolution of practical cases. In some cases students must perform the autonomous search of the documentation.

Activities

Title	Hours	ECTS	Learning outcomes
Type: Directed			
Discussion and resolution of practices, text comments, debates and seminars	22.5	0.9	1, 19, 17, 16, 10, 14, 11, 4, 8, 7, 6, 9, 3, 5, 12, 2
Practical classes	4	0.16	1, 19, 17, 16, 10, 14, 11, 4, 8, 7, 6, 9, 3, 5, 12, 2
Theoretical classes	18.5	0.74	1, 19, 17, 16, 10, 14, 11, 4, 8, 7, 9, 12, 2
Type: Autonomous			
To study. Writing of works. Reading of texts. Search of documents and bibliography	65	2.6	1, 19, 17, 16, 10, 14, 11, 4, 8, 7, 6, 9, 3, 5, 12, 2

Evaluation

The skills of these subjects can be evaluated through: (1) exams, (2) the presentation of individual and group work that can be oral or written and (3) the performance of papers and (4) practical cases.

The evaluation system will take into account:

The realization of practical cases (reports, reviews, legal writings, opinions ...) will have a global weight between 30% and 40%.

The realization of works (and the possible public presentation) will have an approximate global weight between 20% and 40%. The written tests will have an approximate overall weight between 30% and 50%. Among them, there will be a final exam of the whole subject to check the global acquisition of skills, abilities and knowledge). You can not pass the subject through a single global test.

Each teacher at the beginning of the course will establish the system of continuous evaluation (campus virtual/moodle) and the percentage assigned to each of the activities, as well as the system of reevaluation of the suspended activities.

To participate in the re-evaluation the students must have been previously evaluated in a group of activities whose weight equals to a minimum of two third parts of the total qualification. The total required score can not exceed three points.

Evaluation activities

Title	Weighting	Hours	ECTS	Learning outcomes
Realization of practices: correction and evaluation of the classroom. Continuous evaluation	30-40%	20	0.8	1, 19, 17, 16, 10, 14, 11, 15, 4, 8, 7, 6, 9, 3, 5, 12, 2
Realization of work or review of books	20-40%	16	0.64	1, 19, 17, 16, 10, 14, 11, 15, 4, 8, 7, 6, 9, 3, 5, 12, 2
Written test - Partial Exam	30-50%	2	0.08	1, 19, 17, 18, 16, 10, 14, 11, 13, 4, 8, 7, 9, 12, 2
Written test - Partial Exam	30-50%	2	0.08	1, 19, 17, 18, 16, 10, 14, 11, 13, 4, 8, 7, 9, 12, 2

Bibliography

- * ÁLVAREZ CONDE, Enrique *Curso de Derecho Constitucional*, 2 vols, Tecnos, Madrid.
- * ARAGÓN REYES, Manuel (ed.) *Temas básicos de Derecho Constitucional*, Civitas, Madrid.
- * APARICIO PÉREZ, Miguel Angel. (dir.)- BARCELÓ, Merce., *Manual de Derecho Constitucional*, Atelier, Barcelona.
- * BALAGUER CALLEJÓN, Francisco (y otros) *Derecho Constitucional*, 2 vols., Tecnos. Madrid.
- * MOLAS, Isidre. *Derecho Constitucional*, Tecnos. Madrid.
- * PÉREZ ROYO, Javier. *Curso de Derecho Constitucional*, Marcial Pons, Madrid.