

**Constitutional Organisation of the State**

Code: 102299  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	FB	1	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: Yes

**Teachers**

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José Carlos Remotti Carbonell  
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**Prerequisites**

The subject Constitutional Organization of the State does not need previous knowledge because it is a subject of the first year of the Degree in Law. However, it is advisable to review knowledge acquired in school, such as historical, political, and legal matters in the field of Social Sciences.

**Objectives and Contextualisation**

The subject Constitutional Organization of the State, has the character of basic and obligatory. It is a subject that contributes to the integral formation of the student by allowing him to know the organization and the limits of the different organs and public powers. For this purpose, the subject has been structured in two large parts that are detailed later in the program.

In the first part, the State will be analyzed in an introductory way (emergence, causes, evolution purposes and functions). Then the Constitution will be studied as a normative framework of democratic coexistence and the structural principles of the State (social and democratic state of law, decentralized and integrated in Europe).

In the second part, the structure, composition and functions of the different public powers will be studied. Among them, we highlight the State Headquarters, the Parliament, the Government, the relations between the Parliament and the Government, the Judicial Power and the Constitutional Court. All this studied from the consideration of the State as a complex constitutional entity.

Constitutional Organization of the State aims to achieve the following achievements:

- Identify, know and apply the basic, structural and general principles of the constitutional and legal system.

- Define the constitutional foundations of the State's institutional organization.

## 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, knowing and applying the basic and general principles of the legal system.
- Integrating the importance of Law as a regulatory system of social relations.
- Orally and clearly defending ideas, works, reports, documents and rulings in a structured way.
- Students must be capable of demonstrating a critical awareness of the analysis of the legal system and development of legal dialectics.
- Students must prove they know and comprehend the main public and private institutions in its genesis and as a whole.

## Learning outcomes

1. Assessing the democracy, constitutional values and fundamental rights as a foundation for the legal and political order.
2. Carrying out an approximation to a legal problem by using the appropriate research methods (authorities, legal databases, instruction websites...).
3. Critically assessing about the State's future as a form of organization of society.
4. Critically understanding the constitutional budgets and foundations of the institutional organization.
5. Defending the role played by the higher values on the configuration and functioning of public authorities.
6. Defining the constitutional foundations of the institutional organization of the State, in their local, autonomic, state and European levels.
7. Defining the developed functions and the ones currently being developed by the State.
8. Defining the structure and function of the Constitution, constitutional values and principles, its regulative efficacy as well as the contents of the Social and Democratic State of Law.
9. Describing the evolution of the State to the present day.
10. Describing the origins of the State, the characteristics that differentiate it from other forms of political organization, the different forms the State can assume and the several functions that carries out.
11. Describing the role of the constitution as a democratic framework of coexistence.
12. Differentiating the different legal position of constitutional values, principles, and regulations.
13. Drawing up and formalising works, reports, documents, rulings.
14. Efficiently managing information, being capable of assimilating a considerable volume of data in a limited amount of time.
15. Explaining the State configuration as a Social and Democratic State of Law and its involvement in the transformation of the State.
16. Explaining why not every political organization of a society implies the existence of a State.
17. Exposing the functioning of the different powers and public institutions from a constitutional legal-democratic perspective.
18. Identifying and describing the constitutional regulations about the structure, composition, limits, regulations, functions, and democratic functioning of the different bodies, institutions and public authorities both from state order and autonomic territorial order.
19. Identifying the constitutional role being developed by every of the public authorities in their different levels.
20. Identifying which ones are the elements that form the state and which ones differ from other political organisations of society.
21. Integrating in every carried out analysis the institutional and legal complexity from an autonomic, state and European perspective.
22. Interpreting the interrelation, separation and cooperation rules, between the several powers and institutions of the different autonomic, state and European areas.

23. Interpreting the legal-institutional complexity that integrates local, autonomic, state, and European interrelating and self-limited bodies.
24. Knowing the role developed by the higher values of the legal order as opening and closing clauses of the legal and political system.
25. Orally and clearly defending ideas, works, reports, documents and rulings in a structured way.
26. Understanding the needs of every society to provide themselves with a concrete political organization that guarantees some minimums of coexistence.
27. Using a sensible and critical analysis methodology from a legal-constitutional perspective.

## **Content**

Part one. - Constitutional principles

Lesson 1. The State The historical origins of the State and the theoretical foundations of the liberal-democratic State. - The State as a form of political organization. - The elements of the State

Lesson 2. Constitutionalism and Constitution. - Origin and evolution of constitutionalism: from the liberal state to the democratic and social state. - Concept and typologies of Constitution. - The Constituent Power.

Lesson 3. Historical framework of the Spanish Constitution. - The Spanish historical constitutionalism. - The political transition and the constituent process. - The meaning of the 1978 Constitution: comparative influences.

Lesson 4. The structural principles of the Constitution. -The form of State: the Social and Democratic State of Law. - Territorial organization: the State of the autonomies - Constitutional implications of integration in the European Union.

Part two. -The constituional powers.

Lesson 5. The crown. The parliamentary monarchy as a form of government. - Democratic Legitimacy of the Crown. - The legal status of the Crown. - The functions of the King.

Lesson 6. The democratic State and political participation. -Democratic and direct democracy. - The political parties. - The representative mandate and the right electoral. - The forms of direct democracy: the referendum.

Lesson 7. The Parliament. The bicameral structure: the composition of the Congress and the Senate. - Parliamentary autonomy and standing orders. - The statute of parliamentarians. - The organization and operation of the cameras. - The functions: legislative, budgetary and control and government impulse.

Lesson 8. The Government. -The executive power and the Government. - The Government as a constitutional body and its functions. - The Government and the Public Administration. - Relations between the Parliament and the Government: the relationship of trust, political responsibility and parliamentary control. - The dissolution of the cameras.

Lesson 9. The judicial power. -The jurisdiction and the resolution of conflicts. - The judicial power as an organ. - The judicial power as a function: the jurisdictional power. - The government of Justice: the General Council of the Judiciary.

Lesson 10. The Constitutional Court. -Composition, organization and operation of the Constitutional Court. - The functions of the Constitutional Court. - Conflicts between constitutional bodies of the State.

## **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.

Supervised activities: 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
<b>Type: Directed</b>			
Discussion and resolution of practices, text comments, debates and seminars	22.5	0.9	4, 24, 5, 25, 8, 7, 10, 9, 11, 12, 15, 16, 17, 14, 20, 21, 23, 13, 27, 3, 1
Practical classes	4	0.16	4, 24, 5, 8, 7, 10, 9, 11, 12, 15, 16, 17, 14, 20, 21, 23, 2, 13, 27, 3, 1
Theoretical classes	18.5	0.74	4, 24, 5, 8, 7, 10, 9, 11, 12, 15, 16, 17, 20, 21, 23, 27, 3, 1
<b>Type: Autonomous</b>			
To study. Writing of works. Reading of texts. Search of documents and bibliography	65	2.6	4, 24, 5, 8, 7, 10, 9, 11, 12, 15, 16, 17, 14, 20, 21, 23, 2, 13, 27, 3, 1

**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. The reevaluation can only be done if the student has followed the continuous evaluation.

## Evaluation activities

Title	Weighting	Hours	ECTS	Learning outcomes
Realization of practices: correction and evaluation of the classroom. Continuous evaluation	30-40%	20	0.8	4, 24, 5, 25, 8, 7, 10, 9, 11, 12, 15, 16, 17, 14, 20, 21, 23, 2, 13, 27, 3, 1
Realization of work or review of books	20-40%	16	0.64	4, 24, 5, 25, 8, 7, 10, 9, 11, 12, 15, 16, 17, 14, 20, 21, 23, 2, 13, 27, 3, 1
Written test - Final Exam	30-50%	2	0.08	4, 26, 24, 5, 25, 6, 8, 7, 10, 9, 11, 12, 15, 16, 17, 14, 18, 19, 20, 21, 23, 22, 2, 13, 27, 3, 1
Written test - Partial Exam	30-50%	2	0.08	4, 24, 5, 25, 8, 7, 10, 9, 11, 12, 15, 16, 17, 14, 20, 21, 23, 2, 13, 27, 3, 1

## Bibliography

### A) Handbooks:

- \* ARAGÓN REYES, Manuel. (ed.) *Temas básicos de Derecho Constitucional*, Civitas, Madrid.
- \* APARICIO PÉREZ, Miguel Angel. (dir.)- BARCELÓ, M., *Manual de Derecho Constitucional*, Atelier, Barcelona.
- \* BALAGUER CALLEJÓN, Francisco (y otros) *Derecho Constitucional*, 2 vols., Tecnos. Madrid.
- \* CASTELLÀ, Josep María (ed.): *Derecho constitucional básico*, Hygens, Barcelona.
- \* FOSSAS, E.- PÉREZ FRANCESC, Joan Lluís *Lliçons de Dret Constitucional*, Proa, Barcelona.
- \* MOLAS, Isidre. *Derecho Constitucional*, Tecnos. Madrid.
- \* PÉREZ ROYO, Javier. *Curso de Derecho Constitucional*, Marcial Pons, Madrid.

### B) Legal Texts:

- \* ALBERTÍ, Enoch - GONZALEZ, Markus. *Leyes políticas del Estado*, Civitas, Madrid.

### C) Comments to the Constitution

- \* CASAS BAAMONDE, María Emilia- RODRIGUEZ-PIÑERO, Manuel. *Comentarios a la Constitución*, Wolkers Kluwer, 2008
- \* GARRIDO FALLA, Francisco (dir.) *Comentarios a la Constitución*. Civitas, Madrid.

\* ALZAGA VILLAAMIL, Oscar. *Comentarios a la Constitución Española* Edersa, Madrid.

### **Web pages**

<http://www.der.uva.es/constitucional/verdugo/matriz.htm> Materials de Dret Constitucional.

<http://www.iustel.com> Informació normativa, jurisprudencial i doctrinal.

[www.westlaw.es](http://www.westlaw.es). Base de dades westlaw.