

Constitutional Law II

Code: 102215
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	2	1

The proposed teaching and assessment methodology that appear in the guide may be subject to changes as a result of the restrictions to face-to-face class attendance imposed by the health authorities.

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

Mercè Barceló Serramalera
Montserrat Gispert Bosch
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.

Competences

- 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.
- Managing bibliographic and documentary resources: databases, browsing, etc.
- Use different information and communication technologies.
- 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. Defining the different mechanisms of defence and guarantee of rights.
4. Drawing up and formalising works, reports, documents, rulings.
5. Efficiently managing information, being capable of assimilating a considerable volume of data in a limited amount of time.
6. Establishing that those current social problems do not only have one valid solution, but that there might be other democratically and constitutionally valid solutions.
7. Establishing the cases where it might be a suspension of rights, both in exceptional and individual assumptions of suspension of rights.
8. Identifying the different procedural mechanisms for the protection and guarantee of rights.
9. Knowing different constitutionally valid methods and paths in order to find a way out for the different current problems of society.
10. 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...
11. Knowing that rights are not unlimited and as such, knowing the legitimate and constitutional sources of limits to the rights.
12. 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.
13. 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.
14. Managing bibliographic and documentary resources: databases, browsing, etc.
15. 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.
16. Understanding the insufficiency of formal elements to provide a system the status of democratic.
17. Understanding the need for efficiency of the fundamental rights, their mere statement not being enough.
18. Understanding the risks towards rights that might arise from the new technologies.
19. Use different information and communication 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 working individually and in groups, the mission of the teaching staff being to help him in this task by providing information and showing him the techniques and sources where it can be obtained.

The development of teaching of the subject and student training is based on the following activities:

1. Directed activities:

1.1. Lectures: where students achieve through the transmission of knowledge of the teacher the conceptual bases of the subject and set the legal, regulatory and jurisprudential framework.

1.2. Seminar / practical classes: as a learning space where students assume a preferably active role, together with the teacher, to analyze and interpret previously elaborated questions, issues or cases in order to develop and consolidate the essential content explained in the theoretical classes. .

2. Supervised activities: These are activities that students will develop in the classroom, with the supervision and support of the teacher. It is the solution of some practical assumption in the classroom, the elaboration of some records of sentences and / or regulations, or the realization of outlines or written drafting of some epigraphs of the subject or of complementary readings of monographs or doctrinal articles.

3. Autonomous activities: these are activities in which the student organizes time and effort autonomously, either individually or in groups.

3.1 Study of the subject.

3.2 Preparation of documents of practical activities: which will be delivered and analyzed in the classroom. These are practical cases proposed in advance by the teacher or the preparation of critical reviews of books and readings or sheets of jurisprudence, regulations or films.

3.3 Search of bibliography, jurisprudence and materials for the resolution of practical cases, complementing theoretical questions

3.4. Preparation of course work, reports, etc.

The teaching of the subject will be mixed: The master classes will be virtual and the classroom seminars / practices will be face-to-face.

Attendance at seminars, except in justified cases, will be compulsory for students

The teaching methodology and the evaluation may have some modification depending on the circumstances and especially on the restrictions to the attendance established by the health authorities.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Discussion and resolution of practices, text comments, debates and seminars	22.5	0.9	1, 18, 16, 15, 9, 13, 10, 3, 7, 6, 5, 8, 4, 11, 19, 2
Practical classes	4	0.16	1, 18, 16, 15, 9, 13, 10, 3, 7, 6, 5, 8, 4, 11, 19, 2
Theoretical classes	18.5	0.74	1, 18, 16, 15, 9, 13, 10, 3, 7, 6, 8, 11, 2
Type: Autonomous			
To study. Writing of works. Reading of texts. Search of documents and bibliography	65	2.6	1, 18, 16, 15, 9, 13, 10, 3, 7, 6, 5, 8, 4, 11, 19, 2

Assessment

The competences of these subjects may be evaluated through: (1) exams; (2) the preparation of individual or group works whose presentation may be oral or in writing at the teacher's discretion; (3) resolution of practical cases and (4) class participation.

The evaluation system will take into account:

- The realization of practical cases (reports, reviews, legal writings, opinions ...) will have a global weight between 20% and 40%.
- The realization of course works (and the possible public presentation) will have an approximate global weight between 10% and 30%.
- The written exams will have a maximum of up to 50% of the final grade. Among them, there will be a final exam. There may be a partial exam. The subject cannot be passed through a single global exam.
- Attendance and participation in class. It is about active participation throughout the subject, of quality, legally grounded, adequate and relevant to the topics covered, and different from that carried out in the practical classes. It may have an overall weight between 0 and 10%.
- Preparation of reviews, book reviews, case files, regulations, videos or movies. They may have an overall weight of between 0 and 10%.

The coordinating teacher of each group at the beginning of the course will present the program of the subject provided in this guide, indicating the topics that will be discussed. It will also present the schedule of teaching and practical activities, and will specify the continuous evaluation system and will set the percentage assigned to each of the selected activities, as well as the re-evaluation system for suspended activities. The reevaluation can only be carried out if the student has followed the continuous evaluation. Such indications will be exposed in the virtual campus / Moodle.

A student who cheats or try to cheat an exam will have a 0 as a mark. A Student who submits a paper o practical in which there is evidence of plagiarism will have a 0 as a mark and will receive a warning. In case of repetition, the students will fail the subject.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Active participation and quality of interventions in class, tutoring, debates and discussions different from that carried out in seminars / practices	0-10%	4	0.16	1, 18, 16, 17, 15, 9, 13, 10, 3, 7, 6, 5, 14, 8, 4, 11, 19, 2
Preparation of recensions, book reviews, reading control, jurisprudence, legislation or videos or films files or papers, carried out individually or in groups	0-10%	7	0.28	1, 18, 16, 17, 15, 9, 13, 10, 12, 3, 7, 6, 5, 14, 8, 4, 11, 19, 2
Realization of course work on a topic related to the subject and assigned by the teacher (and the possible public presentation)	10-30%	10	0.4	1, 18, 16, 15, 9, 13, 10, 3, 7, 6, 5, 14, 8, 4, 11, 19, 2
Realization of practices: correction and evaluation of the classroom. Continuous evaluation	30-40%	15	0.6	1, 18, 16, 15, 9, 13, 10, 3, 7, 6, 5, 14, 8, 4, 11, 19, 2

Written Exam - Partial Exam	0-25%	2	0.08	1, 18, 16, 17, 15, 9, 13, 10, 12, 3, 7, 6, 8, 11, 2
Written test - Final Exam	0-50%	2	0.08	1, 18, 16, 17, 15, 9, 13, 10, 12, 3, 7, 6, 8, 11, 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.