

**Fundamental Laws**

Code: 102214  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OT	4	2

## Contact

Name: Jose Carlos Remotti Carbonell

Email: josecarlos.remotti@uab.cat

## Teaching groups languages

You can check it through this [link](#). To consult the language you will need to enter the CODE of the subject. Please note that this information is provisional until 30 November 2023.

## Prerequisites

The subject "Fundamental Rights" does not require any prior knowledge, but it is recommended to have passed the subjects of Constitutional Organization of the State, Constitutional Law I (in the first year) and, particularly, Constitutional Law II (in the second year) within the Law Degree curriculum. This course is also offered to students of International Mobility Programs, as well as students from other related Social Sciences Degrees.

## Objectives and Contextualisation

Fundamental Rights is an optional subject taught in sessions of three hours each, during the second semester. This course aims to deepen the knowledge on fundamental rights specifically through the study of a selection of topics and current issues in this area.

In a globalized and Europeanized world, the Fundamental Rights recognized in the Constitutions and on a supranational level must face the 21<sup>st</sup> century new conflicts and respond to new realities, such as the impact of scientific advances, the problems of multiculturalism, the irruption of new information and communication technologies (ICTs and especially the Internet), the impact of the global economic and financial crisis and the emergence of a constantly open catalogue of social, cultural and legal situations and problems that need to be addressed from Fundamental Rights.

Within this context, characterized by new scientific, technological, economic and social and cultural realities, this subject aims to address both its contents and its development from a significant degree of internationalization. Then, along with the selection of topics, the analysis of the Spanish Constitutional Court case law will be accompanied by the study of the case law of other comparable national jurisdictions and the European level one, as well as documentation of national and supranational interest.

The main objectives of the subject are that the student achieves:

- A specialized training on Fundamental Rights.
- The capacity of studying through cases and finding the legal response on current and / or emerging issues with proven future projection.
- A knowledge of legal sources, especially and diverse documentation of national and supranational scope, and the capacity to use them.
- A critical attitude, reflective and aware of the new problems and challenges of Fundamental Rights.

## Competences

- Defending and promoting the essential values of the social and democratic State of Law.
- 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.
- 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.
- Managing bibliographic and documentary resources: databases, browsing, etc.
- Students must be capable of demonstrating a critical awareness of the analysis of the legal system and development of legal dialectics.
- 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. Analysing the content of legal standards from a constitutional perspective.
3. Assessing the diversity and plurality of society.
4. Defining the different mechanisms of defence and guarantee of rights.
5. Demonstrating knowledge from the basic contents on the subject.
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. Integrating in every carried out analysis an integrated vision of the complexity of legal regulations that includes a joint and systematic perspective of autonomic, state and European standards.
11. Knowing different constitutionally valid methods and paths in order to find a way out for the different current problems of society.
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. Knowing the role of the Constitution as a democratic framework of cohabitation and as a basis and foundation of the legal system.
16. Managing bibliographic and documentary resources: databases, browsing, etc.

17. 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.
18. Understanding the link of the public authorities and people to the constitutional values, principles and laws, assuming their repercussion on the legislation.
19. Understanding the need for efficiency of the fundamental rights, their mere statement not being enough.
20. Understanding the needs of every society to provide themselves with a concrete political organization that guarantees some minimums of coexistence.
21. Understanding the risks towards rights that might arise from the new technologies.
22. Use different information and communication technologies.

## Content

### Lesson 1: Fundamental Rights in 21<sup>st</sup> Century

Historical evolution and comparative perspective. -The shaping elements of the rights. -Fundamental rights in the Spanish Constitution, the European Union Law and other systems of protection. -Globalization and global justice. Rights, values and guarantees. -Challenges of fundamental rights for the constitutionalism of the 21<sup>st</sup> Century: rights in situations of conflict.

### Lesson 2: Fundamental Rights in multilevel constitutionalism

Protection in the Council of Europe. The European Court of Human Rights. -Protection in the European Union: The Court of Justice and other protection bodies. -International protection: The International Criminal Court and other protection courts within the United Nations. -The binding of Spanish law to the international and European legal framework.

### Lesson 3: Equality and non-discrimination in the global legal multilevel

Gender equality in a global world. -The overall configuration and the specific manifestations of equality and non-discrimination. -The protection of minorities. -The protection of vulnerable individuals.

### Lesson 4: The information society in the legal multilevel

Freedom of expression and information. General and specific manifestations. -Data protection: right to be forgotten on the Internet, video surveillance, biometric data and "cloud" computing. -Secret of communications and official secrets. -New technologies in the workplace.

### Lesson 5: Multilevel effective guarantee of rights and freedoms

General and specific defining elements. -The access to justice. -Procedural guarantees of the right to a fair trial. -Multilevel jurisdictional interrelations.

## 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 them in this task by providing information and showing them 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 classes/ theoretical classes: where students achieve through the transmission of knowledge of the teacher the conceptual bases of the subject and assume 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 files 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.

Annotation: Within the schedule set by the centre or degree programme, 15 minutes of one class will be reserved for students to evaluate their lecturers and their courses or modules through questionnaires.

## Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Discussion on practical cases	22.5	0.9	2, 1, 21, 19, 20, 18, 17, 11, 15, 13, 4, 5, 7, 6, 16, 9, 12, 10, 22, 3
Theoretical classes	22.5	0.9	2, 1, 21, 19, 20, 18, 17, 11, 15, 13, 4, 5, 7, 6, 16, 9, 12, 10, 22, 3
Type: Supervised			
Preparation of a written work on a monographic issue of the subject	17	0.68	2, 1, 21, 19, 20, 18, 17, 11, 15, 13, 4, 5, 8, 7, 6, 16, 9, 10, 22, 3
Tutorials: individual or group face-to-face activities oriented to the development of knowledge and the resolution of learning problems	5	0.2	2, 1, 21, 19, 20, 18, 17, 11, 15, 13, 4, 5, 8, 7, 6, 16, 9, 10, 22, 3
Type: Autonomous			
Completion of written work	20	0.8	2, 1, 21, 19, 20, 18, 17, 11,

			15, 13, 4, 5, 7, 6, 16, 9, 12, 10, 22, 3
Evaluation	5	0.2	2, 1, 21, 19, 20, 18, 17, 11, 14, 15, 13, 4, 5, 8, 7, 6, 16, 9, 12, 10, 22, 3
To study. Search of bibliography, jurisprudence and documentation. Readings, analysis and synthesis of texts	30	1.2	2, 1, 21, 19, 20, 18, 17, 11, 15, 13, 4, 5, 8, 7, 6, 16, 9, 10, 22, 3

## Assessment

### 1. Continuous evaluation.

The evaluation system will consist of the following items:

- Final Exam with a weight on the final grade of 50%.
- An individual or group research project on a subject indicated by the teacher. Its weight on the final grade will be 20%.
- Individual or group performance of specific practical activities (solution of cases, preparation of reports, reviews, legal writings, opinions...) with a weight on the final grade will be 30%.

At the beginning of the course, the professor or professor will present the program of the subject provided in this guide, indicating the topics that will be covered. Thus, it will also present the schedule of teaching activities (theories and practices), and specify the topics of the research work and indicate the number and form of practical activities, as well as their date of completion.

The student body that fails the continuous evaluation may appear for the re-evaluation on the date, time and place that is established by the direction of the School of Law. The reevaluation can only be carried out if the student has followed the continuous evaluation.

### 2. Single evaluation

The student that has applied it and it has been granted may take a single evaluation.

The single evaluation will consist of three parts and seeks that the student can certify having achieved the objectives and learning results, and the skills and competencies established for the subject. The first part will consist a exam of the full subject with characteristics similar to those carried out in the final exam of the continuous assessment that will have the weight of 50% of the grade. The second part will refer to an activity or practical case with a weight of 30% of the final grade. The third part may revolve around the preparation of opinions, legal documents, analysis of legislation or jurisprudence with a weight of the remaining 25%.

This single evaluation will have, as a whole, a degree of difficulty similar to that required in the continuous evaluation.

These indications will also be displayed on the virtual campus /Moodle.

A student who cheats or tries to cheat in a final exam will have a 0 on the exam. A student who presents a practice in which there is plagiarism will get a 0 and receive a warning. In case of reiteration of the behavior, the student will fail the subject.

## Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Carrying out individual or group practices	30%	13	0.52	2, 1, 19, 18, 17, 14, 15, 13, 4, 5, 8, 7, 6, 16, 9, 12, 10, 22
Realization of a written individual or group research work on a topic of the subject indicated by the teacher	20%	13	0.52	2, 1, 21, 19, 20, 18, 17, 11, 14, 15, 13, 4, 5, 8, 7, 6, 16, 9, 10, 22, 3
final exam	50%	2	0.08	2, 1, 21, 19, 20, 18, 17, 11, 14, 15, 13, 4, 5, 8, 7, 6, 16, 9, 12, 10, 22, 3

## Bibliography

CASSESE, Sabino: *El Derecho global: Justicia y democracia más allá del Estado*. Ed. Derecho Global, Sevilla, 2010.

FREIXES, Teresa: "La Constitución y el sistema de derechos fundamentales y libertades públicas". En E. Alvarez (Coord.) *Administraciones Públicas y constitución. Copnmemoración del XX aniversario de la Constitución*. Instituto Nacional de Administración Pública, Madrid, 1998.

*Constitución y derechos fundamentales*. Promociones y Publicaciones Univesitarias, Barcelona, 1992.

*Maletín de Recursos Género y Ciencia*. Con M.Sales, M.A. Gensana, F. Zapata e I. Sánchez de Madariaga. UAB - Ed. Experimenta, Madrid 2013.

GAVARA, Juan Carlos, DE MIGUEL, Josu y RAGONE, Sabrina: *El control de los cybermedios*. Bosch, Barcelona, 2014.

GOMEZ, Yolanda: *Constitucionalismo multinivel: Derechos fundamentales*. Sanz y Torres, 2011.

REMOTTI, José Carlos: *La Corte Interamericana de Derechos Humanos*. Instituto Europeo de Derecho, Barcelona 2003.

## Software

The subject does not require any specific software.