

**Constitutional Law II**

Code: 102215  
ECTS Credits: 6

**2024/2025**

Degree	Type	Year
2500786 Law	OB	2

## Contact

Name: Maria Jesus Garcia Morales

Email: mariajesus.garcia@uab.cat

## Teachers

Maria Jesus Garcia Morales

Jose Carlos Remotti Carbonell

## Teaching groups languages

You can view this information at the [end](#) of this document.

## 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.

The teaching of the subject will be taught taking into account the perspective of the Sustainable Development Goals.

Professors:

Law

Constitutional Law II (01). Dra. María Jesús García Morales (cat.)

Subgroup 11: *To determine*

Subgroup 12: *To determine*

Subgroup 13: *To determine*

Constitutional Law II (02). Dr. J. C. Remotti (cast.)

Subgroup 21: *To determine*

Subgroup 23: *To determine*

Subgroup 23: *To determinate*

Constitutional Law II (51). Dr. María Jesús García Morales (cat.)

Subgroup 51: *To determinate*

Subgroup 52: *To determinate*

Subgroup 53: *To determinate*

ADE+ Law

Constitutional Law II (70). *To determinate*

Subgroup 701: *To determinate*

Subgroup 702: *To determinate*

Subgroup 703: *To determinate*

## **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.
- 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.
- 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. Demonstrating knowledge from the basic contents on the subject.

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. Knowing the role of the Constitution as a democratic framework of cohabitation and as a basis and foundation of the legal system.
15. Managing bibliographic and documentary resources: databases, browsing, etc.
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 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 risks towards rights that might arise from the new technologies.
21. Use different information and communication technologies.

## Content

This is a framework program of the subject where its contents are indicated. But each professor, coordinator of group, can adapt it according to what is established in the Virtual Campus

### 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

### Fundamental rights framework.

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

### 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

### 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

The principle of equality

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

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 - Theright to personal freedom and security. Habeas corpus - The right to private life: honour, privacy and own image. Personal data protection

Individual rights

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

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

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

Cultural, economic and social rights

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

## Activities and Methodology

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Seminar	22	0.88	
Theoretical classes	22	0.88	1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 17, 20
Type: Supervised			
Assestement	0	0	4, 14, 18
Tutorships	5	0.2	5
Type: Autonomous			
To study. Writing of works. Reading of texts. Search of documents and bibliography	101	4.04	1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 16, 17, 20, 21

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: responds to a predetermined time schedule, which requires the face-to-face direction of the teaching staff and is developed in groups

1.1. Theoretical class: where the student acquires through the transmission of knowledge from the professor the conceptual bases of the subject and establishes the doctrinal, normative and jurisprudential legal framework.

1.2. Seminar: they will occupy the assigned hours. The student individually or in small groups, analyzes and solves, together with the professor, questions, practical cases or news related to the topic just developed in the theoretical class. Attendance at the seminars, except if there is just cause, is mandatory.

1.3 Assessment.

2. Supervised activities: it can be developed autonomously, although it requires more or less punctual supervision from teaching staff

Tutorials

3. Autonomous activities: these are activities in which students organize their time and effort independently, either individually or in groups.

3.1 Study of the subject.

3.2 Reading of documents that will be analyzed in the classroom.

3.3 Search of bibliography, jurisprudence and materials for the resolution of practical cases.

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.

## Assessment

### Continuous Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Final theoretical exam	50%	0	0	3, 4, 7, 8, 10, 11, 12, 13, 14, 17, 18, 19
Partial exam, practical cases, reports, reviews, legal writings, opinions, preparation of research papers, reviews, book reviews, attendance, participation	50%	0	0	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21

### Continuous evaluation:

- Final theoretical exam to be carried out on the date officially indicated by the academic secretary. You will receive 50% of the note. The teaching team corresponding to each of the groups will indicate the format of this exam.
- A minimum of two other evaluation activities with a total weight in the mark of 50% and with the following percentages:
  - evaluation activities 25 % (e.g., non-releaseable midterm, case studies or seminar activities)
  - evaluation activities 25% (e.g. reviews, book reviews, research papers, scheme of case law or rules, reports and opinions, or active and quality participation).

The list of these possible activities will be specified by each teaching team at the beginning of the course and on the Virtual Campus. The selected activities may be carried out individually or in groups, depending on what the teaching team decides

The teaching team of each group, at the beginning of the course, will specify the framework program of the subject provided in this guide, explaining the order and the topics to be discussed. It will also present the schedule of teaching activities (theory and seminars), specify the continuous evaluation system that has been selected and set the percentage assigned to each of the selected activities and their date of completion, as well as the re-evaluation system for suspended activities . Such indications will be displayed on the virtual campus.

In the final overall test, students must obtain a minimum of 5 to pass the subject. In this case, if this minimum grade is not achieved, the subject will be suspended. The reevaluation can only be carried out if the students have followed the continuous evaluation.

Re-evaluation: no minimum grade is required to appear.

Non-evaluable students: this situation occurs when the student has not been able to provide sufficient evidence for evaluation of the subject (art 266.9 UAB Academic Regulations).

Students will be evaluable as long as they have carried out a set of activities whose weight is equivalent to a minimum of 2/3 of the total grade for the subject. If the value of the activities carried out does not reach this threshold, the subject teacher may consider the student as non-evaluable.

### Unique evaluation:

The teaching team of each group will establish the system and the unique evaluation activities that will be applicable to the student body that has requested and has been granted this system. Students who have taken the unique evaluation will only be entitled to reevaluation if they have obtained a grade equal to or greater than 3.5 points out of 10.

The teaching team of each group will establish the unique evaluation system and activities that will be applicable to students who have requested and have been granted this unique evaluation system. This unique assessment will consist of three parts and aims to enable students to accredit that they have achieved the objectives and learning outcomes, skills and competences established for the subject. The first part will consist of a test or exam of the whole subject with similar characteristics to the one taken in the final exam of the continuous evaluation, which will have a weight of 50% of the mark. The second part will refer to what has been done in the seminars and practicals with a weight of 25% of the final mark, while the third part will focus on one or more of the activities carried out in accordance with the list mentioned above with a weight of the remaining 25%.

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

Reevaluation: the same criteria will be applied as for continuous evaluation.

Non-evaluable students: the same non-evaluable criteria will be applied as for continuous evaluation.

3. In any case, specific instructions on the single evaluation and reevaluation will also be given at the beginning of the course and will be displayed on the virtual campus of the subject of each group.

4. Fraudulent practices: Students who copy or try to copy on a final exam will have a 0 on the exam. A student who presents a plagiarized practice will obtain a 0 and receive a warning. In case of repetition of the behavior, the student will fail the subject.

## Bibliography

### Compulsory Bibliography

To determine the professorat of each group.

### Recommended Bibliography

#### Reference Books:

\* APARICIO PÉREZ, Miguel Angel. (dir.)- APARICIO PÉREZ, Miguel A.; BARCELÓ, Mercè (coords.), *Manual de Derecho Constitucional*, Atelier, Barcelona, 2016 (3a ed.).

\* BALAGUER CALLEJÓN, Francisco (y otros) *Derecho Constitucional*, 2 vols., Tecnos, Madrid, 2020 (15a ed.).

\* DÍEZ-PICAZO, Luis María, *Sistema de derechos fundamentales*, Tirant lo Blanch, Valencia, 2021 (1a ed.) [recurs digital]

\* GARCÍA ROCA, Javier, *Lecciones de Derecho Constitucional*, Civitas, Madrid, 2023 (1ª ed)

\* LÓPEZ GUERRA, Luis et. al., *Derecho Constitucional*, volumen I, Tirant lo Blanch, Valencia, 2018 (11.ed.) [recurs digital]

\* LÓPEZ GUERRA, Luis, *El Convenio Europeo de Derechos Humanos. Según la jurisprudencia del Tribunal de Estrasburgo*, Tirant lo Blanch. Valencia, 2021 (1a ed.) [recurs digital]

\* PÉREZ ROYO, Javier, CARRASCO DURÁN, Manuel, *Curso de Derecho Constitucional*, Marcial Pons, Madrid, 2018 (16 ed.)

#### B) Legal Text:

\* DE CARRERAS SERRA, Francesc.- GAVARA, Juan Carlos, *Leyes políticas*, Aranzadi, Pamplona.

#### C) Commentaries on the Constitution:

\* PÉREZ TREMPES, Pablo; SÁIZ ARNÁIZ, Alejandro, *Comentario a la Constitución Española. 40 Aniversario. 1978-2018*. 2 tomos, Tirant lo Blanch, Valencia, 2018 [recurs digital]

#### D) Links:

Selección y comentario de la jurisprudencia constitucional e internacional más relevante en relación con los principios y derechos fundamentales.

[https://www.boe.es/legislacion/derechos\\_fundamentales.php](https://www.boe.es/legislacion/derechos_fundamentales.php)

## Software

The subject does not require any specific software.

## Language list

Name	Group	Language	Semester	Turn
(TE) Theory	1	Catalan	first semester	morning-mixed
(TE) Theory	2	Spanish	first semester	morning-mixed
(TE) Theory	51	Catalan	first semester	afternoon
(TE) Theory	70	Catalan/Spanish	first semester	morning-mixed

PROVISIONAL