

Degree programme	Type	Course
Law	OP	4

Contact lecturer

Name : Ivan Aybar Jimenez

Email : ivan.aybar@uab.cat

Teaching staff

Josep Cañabate Perez

Group languages

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

Prerequisites

Multiculturalism and religious freedom. Prof. Iván Aybar Jiménez. Prof. Josep Cañabate Pérez (Phd).

Subject language: Spanish. Notice: any question that students ask in Catalan, verbally or in writing, will be answered in Catalan.

It is recommended a special predilection for the study of multiculturalism, the relevance of religions in our society and the human rights, as well as learn how to defend them at the Courts of Justice.

Although it is not essential, it is recommended to have previously completed the "Contemporary Legal Systems" subject.

The teaching of the subject will be carried out taking into account the Sustainable Development Goals.

Objectives

- 1.- Study the concept, basis and development of the right of religious freedom in the context of human rights.
- 2.- Analyze the challenges of multiculturalism and diversity of religions from the legal perspective.
- 3.- Study of the legal regulation of religious freedom in Europe from a comparative perspective.
- 4.- Exercise legal actions in different national and european jurisdictional instances (European Court of Human Rights), through REAL cases about religious freedom.
- 5.- Learn how to work in a legal team though the method of the real case and the ficticial trials.

6.- Promoting collective learning in the classroom through the "flipped classroom" methodology.

Learning outcomes

1. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
2. Students must be capable of communicating their points of view in a compelling way.
3. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.
4. Students must be capable of perceiving the impact and implications of the decisions taken.
5. Describing from a theoretical perspective the Law institutions that guide axiologically the legal applicable solutions.
6. Contextualising in a hermeneutic level the different general institutions of the legal system.
7. Defining the religious diversity and the community and individual reasons underlying in the exercise of freedom of religion.
8. Associating the demands of multiculturalism with the constitutionally recognised rights.
9. Technically summarising the acquisition of theoretical knowledge through oral reflection.
10. Critically reasoning the legal discourse explained in the ad casum resolution of the different factual cases.
11. Showing the existing connections between political power, constitutional tradition, religious tolerance, and its later stage: religious freedom and equality.
12. Describing the historical trajectory of the modern State and its progressive deconfessionalisation in connection with the religious institutional factor.

Contents

1.- Management models of multiculturalism in modern societies: integration, assimilation, coexistence, accommodation, etc.

2.- Models of relationship between the State and religious confessions in modern societies: accommodation in the USA and Canada, non-denominationalism and cooperation in Spain and Italy, secularism in France, etc.

3.- Religious freedom in the context of international legal protection of human rights.

4.- Religious freedom in Spain: from tolerance to freedom of worship.

5.- Religious freedom in the 1978 Constitution: the difficult balance between the principles of secularism and cooperation.

6.- The competences of the autonomous communities and municipalities in the field of religious freedom. Special reference to the Statute of Autonomy and the Catalan Law on Centers of Worship.

7.- Freedom of expression and hate / discriminatory speech based on race, religion, ethnic and national origin, etc. Special reference to speeches and political propaganda in electoral campaigns.

8.- The manifestations of religious freedom in the public sphere and its legal problems: the use of the Islamic

veil at school and in identity documents; the use of the full veil (burka, nikab) in public spaces; the controversy over the construction of places of worship (Islamic mosques and cemeteries, evangelical churches, etc.) and the "NIMBY effect" (Not In My Back Yard), etc.

9.- The conciliation between work life and the practice of religion: use of religious symbols at work (Islamic veil, Jewish kippah), leave of absence from work to pray or to celebrate religious holidays, etc. Study of real cases.

10.- Religious marriages and their legal efficacy: the "public order clause": its special impact on polygamous marriages. Study of real cases.

11.- Religious beliefs and disobedience of the law: conscientious objection: for example, the refusal of the Jehovah's Witnesses to blood transfusions. Study of real cases.

12.- Religious freedom and animal rights: ritual sacrifices, religious freedom or animal abuse? Study of real cases.

13.- Radicalism and terrorism of religious origin and their relationship with the right to religious freedom. Study of real cases.

14.- The legal protection of religious freedom in criminal, civil and contentious-administrative areas. The appeal for amparo and the appeal before the European Court of Human Rights. Work on real cases: mock trials.

Learning activities and methodology

Title	Hours	ECTS	Learning outcomes
Legal opinion	21	0.84	5, 7, 8, 10
Classroom practices	22	0.88	5, 7, 8, 10
Judicial appeal	22.5	0.9	5, 7, 9, 10
Master classes	22	0.88	5, 6, 7, 11, 12
Work outside of aula	12.5	0.5	1, 3, 4, 8, 10
Trial	40	1.6	5, 7, 8, 9, 10
Drafting of a written complaint to the Spanish Ombudsman or Catalan Catalan Ombudsman (or equivalent institution)	5	0.2	5, 7, 8, 10

1.- The distinction between theory and practice will only be formal, and not material, since the theory will be explained while working on the real cases that Professor Dr. Iván Aybar will propose.

2.- The methodology is based on the concept of 'practical classroom', in which each one of the epigraphs of the agenda (contents) will be introduced by one or several real cases, culled from the daily reality generated by the coexistence of different cultures and religions in the public space of democratic societies. From them, the theoretical knowledge necessary to find the most appropriate solution to Law in each of them will be extracted and explained. Because we must not forget that all practice begins with a good theory.

3.- Some of these real cases will only serve to introduce and serve as a script to explain the theoretical concepts (subject content). Others, however, will also be resolved in class, working in groups based on documentation of real (and current) cases that Professor Dr. Iván Aybar - who combines his research and teaching work with the practice of law - is leading. at that moment. It worked; They will act as if it were a large law firm, first exposing the facts, and then identifying the object of the litigation and the right or rights affected. Afterwards, each of the groups will be assigned a specific role, depending on the jurisdictional order in question - plaintiffs or defendants, accusation or defense, etc. - Once the roles have been assigned, each group will have to search and analyze the jurisprudence it considers of application, to later prepare in writing the arguments that will be presented in the subsequent oral trial, which will take place in the courtroom of our Law School. Of course, Prof. Dr. Iván Aybar will accompany and advise each of the groups throughout the process.

By way of example, in recent years real cases such as the following have been worked on in class: denials of licenses for places of worship to mosques (contentious-administrative); prohibition of the use of the Islamic headscarf at school (contentious-administrative); patrimonial liability of the Administration for refusal to carry out an operation without blood transfusion to a Jehovah's Witness (contentious-administrative); violation of the right to honor and religious freedom through news that appeared in the media (civil lawsuit against a national newspaper); denial of permission, by the employer, so that two workers can go to pray on Fridays (social jurisdictional order); accusation for animal crime against members of the Santeria religion (criminal process); accusation for apology of terrorism against young woman of Muslim religion (criminal process).

4.- Likewise, students will also be asked to work on two cases individually, by writing a complaint (or administrative appeal) and preparing an opinion.

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	Weight	Hours	ECTS	Learning outcomes
4.- Ficticial trial.	40 %	2	0.08	1, 2, 3, 4, 8, 9, 10
1.- Appeal to Defensor del Pueblo or Síndic de Greuges	30 %	1.5	0.06	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12
2.- Preparation and oral presentation of a report in a group	30 %	1.5	0.06	1, 2, 3, 4, 8, 10

1.- The purpose of this activity is to teach the student how to report a violation of a fundamental right to these two institutions. Individual work.

2.- The objective of this activity is for students to learn to reflect, develop arguments and debate about a real case that will be presented and explained in class. Group work.

3.- The purpose of this activity is to teach the students how to prepare the legal arguments, the procedural strategy and the conclusions about a real case. Group work.

The specific date or week of the evaluable activities will be published on the Virtual Campus before the start of

the teaching, without prejudice to the fact that, exceptionally and for reasons of force majeure, these may be modified with sufficient notice and in advance.

A Student who submits a paper or 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.

The use of artificial "intelligence" technologies is not recommended for searching for case law and legal doctrine (high-quality databases have existed for years), and even less so for drafting legal documents, as this is detrimental to the acquisition of the basic skills required by lawyers to practice law, as well as to developing the most basic critical thinking.

There will be no reevaluation.

Attendance to classes is not compulsory. However, active and constant participation in classes throughout the course will be highly valued. On the other hand, students are asked responsibility when enrolling in this subject: if you know in advance that the course schedule will never allow you to attend, please do not take the place of a colleague who could have attended.

SINGLE ASSESSMENT:

Those students who choose the single evaluation system -prior approval of the Faculty-, must carry out the following activities, to be delivered at the end of the course:

- 1.- Course work, according to the list of topics that will be provided at the beginning of the course (50%).
- 2.- Presentation of an oral presentation according to the list of topics that will be provided at the beginning of the course (20%).
- 3.- Presentation and resolution of three practical cases that the teachers will facilitate at the beginning of the course (30%).

Students will be assessed whenever they complete the three continuous assessment activities. To pass the subject, they must obtain a minimum of five out of ten in each one.

Bibliography

León Benítez, María Reyes / Leal Adorna, María del Mar: Derecho y factor religioso. Editorial Delta. Madrid 2008.

Consell de l'Audiovisual de Catalunya / Universitat Autònoma de Barcelona: Mitjans de comunicació i pluralisme religiós. Barcelona 2010.

Seglers Gómez-Quintero, Àlex: Libertad religiosa y Estado autonómico. Editorial Comares. Granada 2005.

Seglers Gómez-Quintero, Àlex (coord.): Pluralisme confessional i laïcitat. Els reptes de la llibertat religiosa en les societats modernes. Revista de temes contemporanis. Abril/setembre 2005.

Jiménez Aybar, Iván: El Islam en España. Aspectos institucionales de su estatuto jurídico. Navarra Gráfica Ediciones. Pamplona 2004.

Rodríguez Blanco, Miguel / Cano Ruiz, Isabel: La libertad religiosa en el ámbito de las relaciones de trabajo; Observatorio del pluralismo religioso en España, abril de 2021:
https://www.observatorioreligion.es/informes/la_libertad_religiosa_en_el_ambito_de_las_relaciones_de_trabajo/in

Rodríguez Blanco, Miguel: Código de Libertad Religiosa, BOE, junio 2022: www.boe.es/biblioteca_juridica/

Castro Jover, Adoración / Uriarte Ricote, Maite: La situación urbanística de los lugares de culto; Observatorio del pluralismo religioso en España, enero de 2021:
https://www.observatorioreligion.es/informes/la_situacion_urbanistica_de_los_lugares_de_culto/index.html

Software

The subject does not require any specific software.

Course groups and languages

The information provided is provisional until November 30. After this date, you will be able to consult the language of each group through this [link](#). To access the information, you will need to enter the course CODE

Type of teaching	Group	Language	Semester	Shift
(TE) Theory	1	Spanish	second semester	morning-mixed
(PAUL) Classroom practices	1	Spanish	second semester	morning-mixed