

**COURSE DATA****Data Subject**

<b>Code</b>	34957
<b>Name</b>	Constitucional law
<b>Cycle</b>	Grade
<b>ECTS Credits</b>	9.0
<b>Academic year</b>	2022 - 2023

**Study (s)**

<b>Degree</b>	<b>Center</b>	<b>Acad. year</b>	<b>Period</b>
1300 - Degree in Political and Public Administration Sciences	Faculty of Law	2	Annual
1924 - D.D. in Political and Public Admin. Sciences-Sociology	Faculty of Law	2	Annual
1925 - D.D. in Sociology-Political and Public Admin. Sciences	Faculty of Social Sciences	2	Annual

**Subject-matter**

<b>Degree</b>	<b>Subject-matter</b>	<b>Character</b>
1300 - Degree in Political and Public Administration Sciences	5 - Law	Basic Training
1924 - D.D. in Political and Public Admin. Sciences-Sociology	2 - Year 2 compulsory subjects	Obligatory
1925 - D.D. in Sociology-Political and Public Admin. Sciences	2 - Year 2 compulsory subjects	Obligatory

**Coordination**

<b>Name</b>	<b>Department</b>
DURBAN MARTIN, IGNACIO	55 - Constitutional Law, Political and Administrative Sciences



## SUMMARY

The subject of Constitutional Law is a matter of basic training that is taught in its second year of the Degree in Political Science and Public Administration.

Its objective is to train students in our constitutional system. For this, in a first part of the program will be an introduction to the Theory of the Constitution (the foundations and principles basics of our Supreme Standard, paying special attention to the principle of equality), and those aspects basics regarding the organic part of the Constitution from an indispensable legal perspective for the full comprehension of the system of rights and freedoms designed therein. This basic legal approach to the institutional framework of the State is complementary to that in greater detail and a political perspective they will be offered in the next course of the Degree.

Contents of the first part: Introduction to the origin of constitutionalism and its evolution. Concept of Constitution and the analysis of its main contents. Constituent power and guarantees that the system establishes to safeguard the primacy of the Constitution itself. Basic institutional design gathered in the Constitution, with special attention to the Constitutional Court.

The knowledge acquired in that first part of the program is necessary to address the second, where the student will be trained in the rights and freedoms recognized in the Constitution (part dogmatic) and in the system of guarantees established for its safeguard, both at the national level as in the supranational.

Contents of the second part: The fundamental rights in the Spanish Constitution, with special attention to the principle of equality as a subjective right and as an inspiring principle of public policies. A detailed analysis of each of the fundamental rights will be carried out and freedoms of individuals, highlighting the elements common to all of them and the mechanisms that they exist to guarantee their effectiveness vis-à-vis the public authorities and in the face of individuals (guarantees jurisdictional and non-jurisdictional).

This subject is a basis for further discussion and in depth in other subjects the different public policies, among them those of equality, and the organs and Institutions of the State (Spanish Political System, which will be taught in the third year of the Degree).

## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

### Other requirements



## OUTCOMES

### 1300 - Degree in Political and Public Administration Sciences

- Be able to relate and structure information from diverse sources and to integrate relevant ideas and knowledge in the field of political science and public administration.
- Be able to effectively communicate, both in writing and orally, knowledge, procedures, results and ideas to both specialised and non-specialised audiences.
- Have knowledge and ability to understand essential facts, concepts, principles and theories relating to political science and public administration, and to the spectrum of other reference disciplines.
- Be able to use the theories, procedures and tools of political science and public administration in real-life professional practice (specification, design, implementation, deployment and evaluation of solutions).
- Develop the learning skills needed to complete further studies or training with some degree of autonomy.
- Know the main theories and approaches of political science and public administration, as well as ideas and forms of political organisation.
- Know and be able to analyse the structure and functioning of public administrations.
- Know and be able to analyse administrative and financial planning, management and assessment in public services, and be able to design strategies for organisational improvement and quality assurance.
- Know and be able to interpret historical political and social frameworks so as to have a better understanding of current reality and future prospects; be able to manage historical documentary sources and to conduct comparative analyses of continuity and discontinuity in situations of change.

## LEARNING OUTCOMES

This subject is oriented so that the student has the following competences as a result of the learning:

- CA1: To know the individual rights and its guarantee system.
- CA2: To know and to know how to analyze the substantive content of the different rights.
- CA3: To know how to analyze the mechanisms to resolve the collision of rights.

CA4: To know how to apply the mechanisms for guaranteeing fundamental rights in the Spanish legal system and in the international field.



## DESCRIPTION OF CONTENTS

### 1. 1. INTRODUCTION TO THE THEORY OF THE CONSTITUTION.

#### Lesson 1- CONSTITUTIONAL LAW

- 1.- The amplitude of the term Constitution.
- 2.- Origin and evolution of constitutionalism.
- 3.- The content of a Constitution: material and formal notes.
- 4.- The Constitution as a set of principles, norms and legal concepts.

### 2. Lesson 2 - THE EVOLUTION OF THE CONSTITUTIONAL STATE

- 1.- The Constitutions of the liberal democratic State.
- 2.- The constitutionalism of the Social State.
- 3.- The constitutional implications of the declaration of the Social and Democratic State of Law in Spain.
- 4.- The evolution of Spanish constitutionalism.

### 3. Lesson 3 - THE ELEMENTS OF A CONSTITUTION

- 1.- Formal constitution and material constitution.
- 2.- Types of constitutions.
- 3.- The constituent power.
- 4.- Functions of the Constitution
- 5.- The Constitution as a primary legal provision: basic aspects of the system of sources of law and its relation to the protection of fundamental rights

### 4. Lesson 4 - THE DEFENSE OF THE CONSTITUTION

- 1.- Ordinary defense and extraordinary defense of the Constitution.
- 2.- The control of constitutionality of the activities of the public authorities.
- 3.- The different models of control of constitutionality of the action of the legislative power.
- 4.- The reform of the Constitution.
- 5.- The extraordinary defense of the Constitution. Exceptional powers and states of exception.

### 5. Lesson 5- PUBLIC POWERS AS A GUARANTEE OF FUNDAMENTAL RIGHTS

- 1.- Parliament as its guarantor of fundamental rights.
- 2.- The fundamental rights against the Administration.
- 3.- The Judicial Power as an ordinary guarantor of fundamental rights.
- 4.- The Public Prosecutor's Office and fundamental rights.
5. Constitutional principles on the performance of public powers and the safeguarding of rights.



## **6. 2. THE FUNDAMENTAL RIGHTS AND FREEDOM.**

### **Lesson 6 - THE PROCESS OF DEFENSE OF THE RIGHTS AND THE CONSOLIDATION OF THE HUMAN FREEDOM**

- 1.- Evolution in the recognition and protection of rights and freedoms: First Declarations of rights
- 2.- The generations of rights.
- 3.- The universalization of rights and freedoms.

## **7. Lesson 7 - FUNDAMENTAL RIGHTS AND PUBLIC LIBERTIES IN THE SPANISH CONSTITUTION**

- 1.- The system of fundamental rights and public liberties in the Spanish Constitution of 1978. The First Title of the EC.
- 2.- The limits of fundamental rights.
- 3.- The interpretation of fundamental rights.
- 4.- The conditions for the exercise of fundamental rights.

## **8. Lesson 8- GENERIC GUARANTEES OF FUNDAMENTAL RIGHTS**

- 1.- Generic guarantees: the direct application of fundamental rights. The law reserve. The essential content of fundamental rights.
- 2.- Other generic guarantees.
- 3.- The administrative (non-jurisdictional) way of protection of rights.
- 4.- The Ombudsman.
- 5.- The suspension of fundamental rights.

## **9. Lesson 9 - THE JURISDICTIONAL PROTECTION OF FUNDAMENTAL RIGHTS**

- 1.- The fundamental right to effective judicial protection
2. The special processes of protection of the rights in the administrative, criminal, labor and civil fields.
- 3.- The Constitutional Court: composition, organization and functions
- 4.- Individual remedy (recurso de amparo)
- 5.- International protection of rights. The European Court of Human Right

## **10. Lesson 10 - THE GENERAL CLAUSE OF EQUALITY**

- 1.- The configuration of the right to equality.
- 2.- The transversality of equality
- 3.- Discrimination and differentiation. Suspicious categories of discrimination
- 4.- Material equality: positive actions.



**11. Lesson 11- FREEDOM OF EXPRESSION AND INFORMATION AND THE RIGHTS OF SOCIAL AND POLITICAL PARTICIPATION**

- 1.- Freedom of expression and information freedoms
- 2.- The right of assembly.
- 3.- The right of association.
- 4.- The right of active suffrage
- 5.- Right of passive suffrage and access to public office.
- 6.- Right of access to public functions.
- 7.- The right to petition.

**WORKLOAD**

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	90,00	100
Development of group work	5,00	0
Development of individual work	5,00	0
Study and independent work	90,00	0
Preparation of evaluation activities	5,00	0
Preparing lectures	15,00	0
Preparation of practical classes and problem	15,00	0
<b>TOTAL</b>	<b>225,00</b>	

**TEACHING METHODOLOGY**

The student must acquire the skills and abilities indicated in points 4 and 5 above the subjects that appear in the contents of the program (point 6). You must also acquire the capacity to analyze them, interpret them and apply them to various theoretical-practical assumptions.

To achieve this objective, in the Plan for which the Degree in Political Science was approved, Constitutional Law attributes 9 ECTS credits, which involve 225 hours. of student's dedication to it length of the academic year.

The activities to be developed by the student will be basically of three types:

- Face-to-face activities (in the classroom or indicated place) 90 hrs.
- Guided activities (outside the classroom) 45 hrs.



- Self-contained student work (outside the classroom) 90 hs.

The methodology to be used and its time dedication is established as follows:

#### **PRESENTIAL ACTIVITIES:**

The presential activities will take place two days a week throughout the first and second four-month period. Theoretical activities will be carried out (teacher's presentation of the contents of the course) program), practices / dynamics and complementary activities, some in the usual classroom and others outside of it.

From the schedule set for each subject in the teaching planning plan (POD) one must be subtracted Percentage of class time that is intended for complementary activities, presential ones too. In the event that these are not carried out, the entire temporary space set in the Schedule must be exhausted.

Thus, presential activities are of three types:

#### **Attendance activities:**

They will consist in the transmission of theoretical knowledge by a teacher in a dynamic way, with approaching the assumptions of current reality and anchoring in its historical reason. (45 hs, see schedule attached to the teacher's guide)

#### **Applied activities:**

They may consist of: problem solving, computer practices, project development, case studies and resolution, simulations, examination of press clippings, public exhibitions, collective jobs, etc. With sufficient anticipation, each teacher will give the students the instructions necessary on its realization. (30 hs. See attached academic guide)

#### **Complementary activities:**

These are activities of a different nature that will be carried out in the usual classroom during the time reserved for the subject or in another schedule and different day, essentially in the case of attendance to days, conferences, visits to institutions, etc.



The complementary activities also include the tests of dynamics and knowledge that are carried out (eg, partial test or examination, global final test), individual or group tutorials. (15 hours)

TOTAL presential activities 90 hrs

#### DIRECTED ACTIVITIES:

It refers to those non-classroom activities that the students will do outside of the classroom, as well as preparatory work to reach the classroom in conditions to be an active part in the development of the class so that they know beforehand the contents that are going to work with the rest of the classmates in the classroom, well to help consolidate knowledge and skills that have been previously worked in class (lesson reading, seminar attendance, preparation of material for the applied activities, search of data and information in Internet ...)

Elaboration individual works (5 hs)

Elaboration group work (5 hours)

Preliminary lesson weekly (30 min. Week x 30 weeks = 15 hours).

Preparation of applied / dynamic activities (30 min. Week x 30 weeks = 15 hours)

Study and preparation of evaluable tests and global examination (5 hours)

Total: 45 hours

#### STUDENT EMPLOYMENT WORK:

It refers to the work that the student performs individually, outside the classroom and without the direction of the teacher . Study of the contents and dynamics for the acquisition of skills, abilities and





knowledge of the subject.

3 hs per week x 30 weeks = 90 hs.

TOTAL: 9 Cr ECTS x 25 hs = 225 hs.

Throughout the course, the teacher can use the virtual platform "Aula Virtual" (<http://aulavirtual.uv.es/>) to deposit the necessary materials so that the students can work in class or outside classroom and to communicate with students about issues related to the subject.

## EVALUATION

It will be used the following procedure for assessing competencies:

- Written and/or oral test/sl, consisting of one or more exams that may be objective type tests, including theoretical-practical questions and/or problems. In case of final oral test, it must be recorded.
- Assessment of individual and/or group practical from the preparation, delivery of papers, memos/reports and/or oral presentations, and student attendance at seminars.
- Continuous evaluation of each student, based on regular attendance and active participation in classroom activities proposed, level of involvement in the process of teaching and learning and skills and attitudes displayed during the development of activities. The activities of continuous evaluation, by their nature, are not recoverable in second call.

For the accomplishment of the applied and complementary activities, the lecturer of the subject will be able to use the methodology of the Learning-Service

The overall grade will be distributed as follows:

CONTINUOUS EVALUATION	
Evaluable activity	10%
Evaluable activity	10%



Evaluable activity	10%
Total continuous evaluation	30%
<b>GLOBAL TEST (theoretical-practical examination). A partial qualifying examination with a value of 35% of the grade will be made in which case the final test will have a value of 35% for students who have passed the qualifying exam.</b>	<b>70%</b>
<b>TOTAL</b>	<b>100%</b>

## REFERENCES

### Basic

- ÁLVAREZ CONDE, E.: Curso de Derecho Constitucional, 2 vols. Tecnos, Madrid, última edición.
- ALZAGA VILLAAMIL, O. y otros: Derecho político español: según la Constitución de 1978, Madrid, Centro de estudios Ramón Areces, 2007
- ARAGÓN REYES, Manuel y AGUADO RENEDO, Cesar: Constitución. Estado Constitucional y Fuentes del Derecho. Temas básicos. Vol I, Civitas, última edición.
- BALAGUER CALLEJÓN, F. (coord.), CÁMARA VILLAR, G. y otros: Derecho Constitucional, vol. I, Tecnos, Madrid, última edición.
- BALAGUER CALLEJÓN, F. (coord.), CÁMARA VILLAR, G. y otros: Derecho Constitucional, vol. I, Tecnos, Madrid, última edición.
- BALAGUER CALLEJÓN, F. (Coord.): Derechos y deberes fundamentales, deberes constitucionales y principios rectores (vol. II), Madrid, Tecnos, última edición.
- BASTIDA FREIJEDO, F: Teoría general de los derechos fundamentales en la Constitución Española de 1978, Tecnos, 2004.
- CASTELLÁ ANDREU, J. M. (ed.), COTINO HUESO, L. y otros: Derecho Constitucional Básico, 3.ª ed., Huygens Editorial, Barcelona, última edición.
- DE OTTO PARDO, I.: Derecho Constitucional. Sistema de fuentes, Ariel, Barcelona, 1987.
- DIETER, G.: Constitucionalismo y derechos fundamentales, Ed. Trotta, 2006.
- DÍEZ-PICAZO, Luis María: Sistema de derechos fundamentales, Madrid, Civitas, 2008.
- GARCÍA-ATANCE GARCÍA DE MORA, María Victoria; Aurora GUTIÉRREZ NOGUEROLAS, Antonia; NAVAS CASTILLO, Lucrecio REBOLLO DELGADO, Carlos VIDAL PRADO: Derecho constitucional III: derechos y libertades, COLEX, Madrid, 2003.
- GARCIA COTARELO, R. (comp.), Introducción a la Teoría del Estado, 2ª ed., Teide Barcelona, 1981.
- GÓMEZ SÁNCHEZ, Yolanda: Los derechos en Europa, UNED, 2001.
- GÓMEZ SÁNCHEZ, Yolanda: Derechos y libertades, Sanz y Torres, Madrid, 2006.
- JIMENA QUESADA, Luis: Sistema europeo de derechos fundamentales, Ed. Constitución y Leyes,



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LÓPEZ GUERRA, L. y otros: Derecho Constitucional, 2 vols., Tirant lo Blanch, Valencia, última edición.

LÓPEZ GUERRA, L.: Introducción al Derecho Constitucional, Tirant lo Blanch, Valencia, 1994.

PÉREZ LUÑO, Antonio Enrique: Los derechos fundamentales, Madrid, Tecnos, 2007.

PÉREZ ROYO, J.: Curso de Derecho Constitucional, Madrid, Marcial Pons, 2007.

- SÁNCHEZ FERRIZ, R. y ROLLNERT LIERN, G.: El Estado Constitucional, Tirant lo Blanch, Valencia, 2020.
- SÁNCHEZ FERRIZ, Remedio: Estudio sobre las libertades, Valencia, Tirant lo Blanch, 1995.
- REY MARTÍNEZ, Fernando (dir.): Los derechos humanos en España, un balance crítico, Tirant lo Blanch, Valencia, 2015.
- TORRES DEL MORAL, Antonio: Constitucionalismo histórico español, Dykinson, 2004.
- Código de leyes políticas, de cualquier editorial salvo indicación específica del profesor del grupo.

#### **Additional**

- Constitución española comentada, <http://narros.congreso.es/constitucion/index.htm>
- Derecho Constitucional I, OCW Universidad de Oviedo, <http://ocw.uniovi.es/course/view.php?id=770>.
- COTINO HUESO, Lorenzo: Asignatura completa en OCW con todo el material: <http://cort.as/0ra2> y manual en PDF en <http://cort.as/0ra0>
- ESCOBAR ROCA, Guillermo, Introducción a la teoría jurídica de los derechos humanos, Trama, Madrid, 2005.
- GIMENO SENDRA, Vicente: Los procesos de amparo. Civil, penal, administrativo, laboral, constitucional y europeo, Colex, Madrid, 2010.
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- RUBIO LLORENTE, Francisco. (dir.): Derechos fundamentales y principios constitucionales (doctrina jurisprudencial), Barcelona, Ariel, 1995.
- VV.AA.: Derecho Constitucional I, en Base de Conocimiento Jurídico, [www.iustel.com](http://www.iustel.com) (solo accesible desde un ordenador conectado a la red de la Universidad o mediante conexión VPN)
- VV.AA.: Derecho Constitucional II en Base de Conocimiento Jurídico, [www.iustel.com](http://www.iustel.com) (solo accesible desde un ordenador conectado a la red de la Universidad o mediante conexión VPN)
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- TORRES DEL MORAL, Antonio: Prácticas y Esquemas de Derecho Constitucional Español, Madrid, 2008.

La jurisprudencia del Tribunal Constitucional se halla disponible a texto completo en su sitio web [www.tribunalconstitucional.es](http://www.tribunalconstitucional.es), que cuenta además



- MARTIN CUBAS, J. (coord.): Constitución, Política y Administración: repensando la Constitución + 4 décadas después, Tirant lo Blanch, Valencia, 2020.

