

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

<b>Code</b>	35244
<b>Name</b>	Comparative constitutional law
<b>Cycle</b>	Grade
<b>ECTS Credits</b>	4.5
<b>Academic year</b>	2020 - 2021

**Study (s)**

<b>Degree</b>	<b>Center</b>	<b>Acad. Period</b>
1303 - Degree in Law	Faculty of Law	4 First term

**Subject-matter**

<b>Degree</b>	<b>Subject-matter</b>	<b>Character</b>
1303 - Degree in Law	37 - Comparative constitutional law	Optional

**Coordination**

<b>Name</b>	<b>Department</b>
FLORES JUBERIAS, CARLOS	55 - Constitutional Law, Political and Administrative Sciences

**SUMMARY**

The Teaching Guide proposed for this subject proposes a journey through the historical evolution and the constitutional actuality of the main political regimes of the present time, capable of complementing the knowledge -obviously more profound- that the student will already possess regarding historical evolution and the constitutional structure of our own country, and that which other subjects of this Degree will provide on our most immediate environment, the Valencian Community.

In such a journey -following the suggestion of García Pelayo- the double technique of studying in an individualized way the "diverse constitutions that are considered as the most genuine and exemplary representation of a kind or genre of constitutional-juridical organization", and reducing "the constitutions of particular States to collective groups, but each of them endowed with its own singularity with respect to the others, so that it operates through the reduction of individual singularities to collective singularities" have been combined. The first of these criteria -the individualized study of specific regimes has been followed, among others, in the cases of the United Kingdom, Germany, Italy, France, the United States, Japan or China. The second, on the contrary, is the one that has been preferred when dealing with the constitutional models of the Latin American countries, or those of the Islamic world, on the Law understanding that -with varying intensity- each of these groups of countries framed



constitutional realities endowed of estimable and differentiated similarities, in turn, as a whole of the models of their environment.

The selection of the cases to be analyzed is confessedly "Eurocentric". And it is so because we understand that the objectives we have listed as justifying the use of comparison are likely to be much better satisfied when the elements with respect to which this operation arises are close elements -comparability is a prerequisite for comparison- than when they are remotely related. But it is, certainly, to a much lesser extent than other programs or manuals to use, as can be deduced by seeing lessons or pigraphs often absent in other forums. Such an option for a "moderate Eurocentrism" derives from a conviction in the need to overcome cultural, historical and ideological barriers in our task of understanding the world around us, especially when that external world surrounds us from as close as the Arab countries or the nations of Latin America.

## PREVIOUS KNOWLEDGE

### Relationship to other subjects of the same degree

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

### Other requirements

The proposed program is based on the assumption that students who complete it have already passed the two subjects that in the first and second year of the Degree are devoted to the study of Spanish Constitutional Law and, consequently, have a reasonably finished idea what is a state, what is the function and what the content of a constitution, and what elements are those that define a political regime.

## OUTCOMES

### 1303 - Degree in Law

- Recognise the importance of law as a system for regulating social relations.
- Know the content and application of each of the branches of the legal system.
- Understand the constitutional regulatory framework, the political institutions of the State and their functioning.
- Know the community and international regulatory framework, its institutions and their functioning.
- Be able to use legal sources (legal, jurisprudential and doctrinal).
- Be able to read and interpret legal texts.
- Be able to communicate correctly both orally and in writing in the field of law.
- Develop critical awareness for the analysis of the legal system and develop the legal dialectic.
- Acquire basic knowledge of legal arguments.



- Be able to use information and communication technology to obtain and select legal information.
- Know, understand and know how to apply the interrelation between law and other non-legal disciplines.

## LEARNING OUTCOMES

In view of the foregoing, the general objective of this subject is to provide students with the basic knowledge that will enable them to understand in their most essential lines the political and territorial organization of several of the States most geographically and politically close to us, most influential in the development of democratic constitutionalism, or of greater weight in the international community. Having this in mind, the lessons of this subject will be directed more specifically:

- To understand the concept of the State, to be able to identify its basic political institutions, distinguish the different phases in the evolution of the State up to the present day, and to critically evaluate its degree of democratic quality.
- To understand the institutional dynamics which define the parliamentary, presidential and semipresidential systems and their practical application, and more specifically, to understand what is the constitutional position of the Head of State and its responsibilities, how elections are carried out, what is the function of the Parliament, as is the backbone - if it exists - of the confidence relationship between the Government and Parliament; what is the composition and competence of the Constitutional Court or equivalent body, and how the country in question is territorially organized.
- To become familiar with contemporary democratic constitutions. Be able to locate, use, understand and interpret them. To gain critical awareness in legal analysis and develop adequate legal reasoning in the context of an increasing trend towards convergence between systems. To be able to communicate, orally and in writing, in the legal language, and analyze legal problems and be able to synthesize and solve them. To be able to use the new information and communication technologies in the location and selection of legal information, and especially to become familiar with the main national and international databases on Constitutional Law.
- To be able to approach other constitutional cultures in Europe and beyond through the analysis of comparative law, thus consolidating a "European constitutional feeling", and acquiring a more critical view of the virtues and shortcomings of the Spanish political system and the way in which it operates, in order to be able to exercise an active, critical and well-informed way his/her civic and political rights.

## DESCRIPTION OF CONTENTS

### 1. Lesson 1. The political regime of the United Kingdom

- 1.- The relevance of the British constitutional tradition and its gradual conformation: a) The origins of the British Parliament; b) The era of royal primacy; c) The English Revolution; d) The gradual appearance of parliamentarism; e) The rise of the executive; f) Integration in Europe.
- 2.- The sources of British constitutional law.
- 3.- The political institutions of the United Kingdom: a) The Crown: meaning and constitutional function; b) The House of Commons: electoral system, powers and organization; c) The House of Lords: its reforms



and the debate about its future; d) Government, Cabinet and Prime Minister.

4. The British two-party system and its slow erosion: the British political forces: a) Conservatives and Labour; b) Liberals and eurosceptics; c) Nationalist parties.

5.- The process of devolution: the new political institutions of Northern Ireland, Scotland and Wales.

## **2. Lesson 2. The political regime of the Federal Republic of Germany**

1.- The historical evolution of Germany: a) From the Unification to the Weimar Republic; b) The Nazi period; c) The Bonn Basic Law and its historical circumstances; d) German reunification.

2.- General characteristics and political principles of the regime.

3.- Federal institutions: a) The Federal President; b) The Bundestag: electoral system and powers; c) The Bundesrat and its role in the legislative process; d) The Federal Chancellor and the formula of "rationalized parliamentarism"; e) Constitutional justice in Germany.

4.- The German party system before and after reunification: a) The constitutional limits to pluralism; b) Christian Democrats and Social Democrats; c) Liberal, green and postcommunist parties.

5.- The German federal system.

## **3. Lesson 3. The Italian political regime**

1.- The historical evolution of Italy: a) From Unification to Fascism; b) The Republic until the political reforms of the nineties; c) Partitocrazia, its collapse and the path towards a false bipolarity.

2.- The Italian political parties, before and after the crisis of the nineties.

3.- The fundamental political principles of the Italian political regime.

4.- The Italian political institutions: a) The Presidency of the Republic; b) The Italian bicameral model and its reform projects; c) The Government and its relations with the cameras; d) The Constitutional Court.

5.- The Italian regional system and its permanent questioning

## **4. Lesson 4. The French political regime**

1.- The relevance of French constitutional history: a) The French Revolution: its ideological substratum and its constitutional concretions; b) Monarchical restorations of the 19th; c) The III and the IV Republics; d) The establishment of the V French Republic.

2.- The defining characteristics of the semi-presidential model.

3.- The constitutional institutions of France: a) The President of the Republic and its attributions; b) The Government and the Administration; c) President-Prime Minister relations: cohabitation; d) The Parliament; e) The high jurisdictional and advisory bodies.

4.- The party system in France.

## **5. Lesson 5. The political regime of the Russian Federation**





- 1.- The values and the political culture of the US.
- 2.- The formation and historical evolution of the US political system: a) The American Revolution; b) The Philadelphia Convention and the Constitution of 1787; c) From the Civil War to the struggle for civil rights.
- 3.- The US political parties: a) Origin and evolution; b) Ideological and sociological profiles; b) The internal functioning of the parties and their repercussions on the political system.
- 4.- The political institutions of the United States: a) The election of the Senate and the House of Representatives; b) Organization and powers of the Congress; c) The election of the President of the US; d) The powers of the President and the question of his responsibility: the impeachment; e) The role of the Supreme Court as guarantor of rights and freedoms.
- 5.- The changing American federalism.

## **6. Lesson 6. The political regime of the United States**

- 1.- The values and the political culture of the US.
- 2.- The formation and historical evolution of the US political system: a) The American Revolution; b) The Philadelphia Convention and the Constitution of 1787; c) From the Civil War to the struggle for civil rights.
- 3.- The US political parties: a) Origin and evolution; b) Ideological and sociological profiles; b) The internal functioning of the parties and their repercussions on the political system.
- 4.- The political institutions of the United States: a) The election of the Senate and the House of Representatives; b) Organization and powers of the Congress; c) The election of the President of the US; d) The powers of the President and the question of his responsibility: the impeachment; e) The role of the Supreme Court as guarantor of rights and freedoms.
- 5.- The changing American federalism.

## **7. Lesson 7. Latin American political regimes**

- 1.- General lines of political evolution in Latin America: independence, liberalism, authoritarian parentheses, democratic transitions and populist drifts.
- 2.- The general characteristics of Latin American constitutionalism: a) Mimetism, instability, exceptionalism, personalism and centralism; b) The so-called "new Latin American constitutionalism".
- 3.- A typical example: Bolivia: a) The political evolution of Bolivia: liberalism, dictatorships, democratization and populisms; b) The transition to democracy in Bolivia; c) The crisis of Bolivian democracy and the fruits of its constituent process.

## **8. Lesson 8. The political regimes of the Muslim world**

- 1.- The place of religion, state and law in Muslim societies.
- 2.- Unity and diversity in the Islamic world: a) Theocracies; b) Absolute and limited monarchies; c) Authoritarian regimes of a secular nature; d) The Arab springs: changes and continuities.
- 3.- A typical example: Morocco: a) The religious foundations of power: the king as commander of the believers; b) The executive and normative powers of the king; c) The king and his economic power: the majzen; d) Parliament, parties and elections in Morocco; e) The status of human rights.

**9. Lesson 9. The political regime of Japan**

- 1.- The weight of the Japanese political tradition and the persistent tendency towards its westernization.
- 2.- The Political Constitution of occupied Japan and its application: a) The Tenno and its role as a symbol; b) The Diet and its relations with the cabinet; c) The disputed neutrality of Japan.
- 3.- The political forces in Japan: a) The Japanese system of parties; b) The other political actors of Japan.

**10. Lesson 10. The political regime of the Peoples Republic of China**

- 1.- Historical evolution of the Chinese political regime: a) The Chinese Revolution and its meaning; b) Maoism and demaoization; c) Perspectives of change: toward an authoritarian capitalism?
- 2.- The political institutions of the Chinese political regime: a) The Chinese Communist Party; b) Government institutions; c) Territorial tensions.
3. The question of human rights in China.

**WORKLOAD**

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	45,00	100
Study and independent work	45,00	0
Readings supplementary material	21,00	0
<b>TOTAL</b>	<b>111,00</b>	

**TEACHING METHODOLOGY**

The theoretical classes and the applied activities referred in this guide will be taught throughout the fifteen weeks of the first semester of the course in the days and classroom determined by the Faculty of Law. In case any class has to be suspended for justified reasons, this circumstance will be communicated with as much anticipation as possible, and will be provided for its recovery before the end of the course.

**The theoretical classes** will consist of an oral presentation by the professor in charge of the most relevant aspects of each lesson of the syllabus. Classes will focus not only on the analysis of the relevant constitutional texts, but also on their historical background, their political context, and their future prospects. In order to fully benefit from the scheduled classes, students are expected to read the assigned materials, regarding which the teacher's oral presentations are considered to be complementary, immediately before attending the class. Their active participation in the classes, asking questions, demanding a greater clarification of the most complex questions, or proposing additional explanations about the special interest aspects of the syllabus, will be especially welcome. Although attendance at theoretical classes is not compulsory, students are expected to attend them regularly, since this will be a determining factor in their adequate preparation for the evaluation process. Notwithstanding the above, and given that the reduced number of teaching hours foreseen in the syllabus makes it impossible to provide a complete and complete approach to all the relevant aspects of the various topics that make up the program in the classroom, mere assistance to class -not even when this occurs with the best possible attitude- in no way can be considered sufficient for the



adequate preparation of the subject. That is why the autonomous study by the student of the manuals proposed, the consultation of the legal texts that are cited and -in addition- an adequate use of the office hours to clarify doubts or request more details constitute irreplaceable elements of assistance in the preparation of the program.

In the case of **the applied activities**, the class will consist of a discussion of the materials previously presented to the students, on which they will have had to draw their own conclusions, and on the subsequent delivery of these. To this end, during the week prior to its completion, the professor in charge will send the students newspaper clippings, documents, or normative texts related to the political and institutional life of the States that will be studied, so that in the day indicated for it, in writing, and in a space of no less than five and no more than ten pages in each case, the students express their opinion about it or answer the questions proposed by the professor with finished and well articulated arguments and exposing their points of view in a coherent and well-grounded manner, thereby proving his knowledge of the subjects on the agenda and his mastery of the doctrinal and normative sources used. In each case, the question that arises will revolve around topics already seen in the program, and will be subsequently evaluated.

The **complementary activities** are intended to provide different points of view to the study of some of the topics addressed during the course, through the use of different methods to approach them. Students will alternate lectures of visiting professors with film screenings, followed by the appropriate debate in both cases, which will take place on the days and in the places that for each of them are specified.

Finally, and in order to complement the global and systematic analysis of the contents of the subject with more specific analysis of relevant aspects of the program, the professor in charge will make available to the students a series of **assigned readings**. These will be facilitated through the Virtual Classroom, in alternate weeks.

Those students who need to abide by the provisions of the Regulation on academic attention to students with disabilities, approved by the Governing Council of the Universitat de València no. 127/2010 can tell the professor of the subject, either personally or through intermediation of the Unitat per a l'Integració de Persones amb Discapacitat of the Universitat de València in order to adopt the opportune measures for its full access to the education system.

## EVALUATION

With regard to the grading phase, in accordance with the regulations included in the "Verifica" of the Law Degree and the agreements adopted by the Academic Committee of the Degree, the final grade of each student will derive from the results of a final, written test, which will mean 70% of the grade, and of a series of continuous evaluation tests, which will jointly represent the other 30% of the final grade.

- In the aforementioned written test, questions intended to be responded in a summary, precise and rigorous manner, and broader issues to be addressed with well structured arguments based on a broad global knowledge of the subject will be combined. Both kind of questions will focus on topics clearly included in the syllabus of the subject and whose importance has been noted throughout the course. The date of the test will be determined by the Office of the Dean of the Faculty and announced conveniently. The grading of these tests will be carried out with rigor and equity, and in it it will be appreciated in a special way that the student is able to expose his/her concepts with an adequate spelling and a clear and rigorous language, avoiding vagueness, redundancy and evasiveness. Rules regulating the revision of the qualifications at the University of Valencia will apply.



- Students may choose to take their test orally, in which case the professor will ask him/her three questions chosen at random, give him/her a few minutes of reflection so that he/she can properly structure his answers, and proceed to listen to them. The exam will be recorded, unless the student waives that right.
- The tests of continuous evaluation will be those indicated in the proper section of applied activities and complementary activities. The first ones must be delivered at the moment of their realization (that is: neither before nor after the corresponding session, and only previous attendance to it), in writing (never by email), and they will be jointly evaluated with a maximum of 2.00 points depending on the degree of involvement and effort of the student in the learning process and the skills and attitudes shown during the development of said activities. The second ones will be evaluated with a maximum of 1.00 points depending also on the degree of involvement of the student in the learning process and on the skills and attitudes shown during the development of said activities.

The final grade will result from the addition of the above-mentioned grades, as long as the written test score is at least 3.00 (out of 7.00 points). In case of doubt, the active participation of the student in class will be taken into account as much as possible.

In case the overall grade of the subject is suspended in the first call, for the second the student may choose between (a) keep the grade of his written exam and present again the tests of continuous evaluation, (b) keep the qualification of these and carry out the written examination again and (c) repeat both of them. Under no circumstances will grades be kept beyond the end of the academic year.

It should be pointed out, finally, that the students are expected -both in the development of the classes and at the time of their examinations and other written tests- an honorable and integral behavior, adequate for university students. The opposite will result in the requirement of the legally established responsibilities.

## REFERENCES

### Basic

- Alcántara Sáez, Manuel (ed.): *Sistemas políticos de la Unión Europea*, Tirant lo Blanch, Valencia, 2000.
- Colomer, Josep María (dir.): *La política en Europa. Introducción a las instituciones de quince países*, Ariel Ciencia Política, Barcelona, 1995.
- Cotarelo, Ramón, Juan Maldonado y Paloma Román: *Sistemas políticos de la Unión Europea. Con inclusión de Estados Unidos y Japón*, Universitas, Madrid, 1993.
- Chavarri, Pilar e Irene Delgado (eds): *Sistemas políticos contemporáneos*, UNED, Madrid, 2011.
- De Cueto, Carlos y Marién Durán (eds.): *Regímenes políticos contemporáneos. Entre el inmovilismo y el cambio*, Comares, Granada, 2008.
- Ferrando Badía, Juan (Coord.): *Regímenes Políticos Actuales*, Tecnos, Madrid, 1995.
- López Garrido, Diego (coord.): *Derecho Constitucional Comparado*, Tirant lo Blanch, Valencia, 2017.





Pasquino, Gianfranco: Sistemas políticos comparados. Francia, Alemania, Gran Bretaña, Italia y Estados Unidos, Prometeo, Buenos Aires, 2004.

Sánchez Medero, Gema y Rubén: Sistemas Políticos en Europa, (2ª Edición), Tirant lo Blanch, Valencia, 2014

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### Additional

- MARTIN CUBAS, J. (coord.): Constitución, Política y Administración. España 2017, reflexiones para el debate, Tirant lo Blanch, Valencia 2017
- Bernstein, Sergé: Los regímenes políticos del siglo XX : para una historia política comparada del mundo contemporáneo, Ariel, Barcelona 1996

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Lane, Jan-Erik &, Svante O. Ersson: Política europea: Una introducción, Istmo, Madrid, 1998.

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Scarciglia, Roberto: Introducción al Derecho constitucional comparado, Dykinson, Madrid, 2011.

Tenorio Sánchez, Pedro: Introducción del Derecho constitucional comparado, Universidad Complutense, Madrid, 1997.

Vergottini, Giuseppe di: Derecho constitucional comparado, Espasa Calpe, 1983.

## **ADDENDUM COVID-19**

**This addendum will only be activated if the health situation requires so and with the prior agreement of the Governing Council**

## **English version is not available**

Las adaptaciones que se indican a continuación se aplicarán en tanto en cuanto la asignatura se imparta según el MODELO DE DOCENCIA HÍBRIDA establecido por la Facultad de Derecho durante el primer cuatrimestre del curso 2020-2021. En lo no previsto en esta adenda se aplicará lo previsto en la guía docente

### **1. Contenidos**

Se mantienen los contenidos inicialmente recogidos en la guía docente.

### **2. Volumen de trabajo y planificación temporal de la docencia**

Se mantiene el volumen de trabajo total y las horas de dedicación en créditos ECTS marcadas en la guía docente original. Las horas de actividades complementarias previstas que no puedan realizarse presencialmente o en línea acrecerán a las horas de sesiones teóricas y/o de actividades aplicadas.

### **3. Metodología docente**

De acuerdo con las instrucciones para la “Adaptación de las titulaciones de grado de la Facultat de Dret de la Universitat de València en el primer cuatrimestre del curso 2020/2021 a causa de la crisis sanitaria causada por la pandemia por Covid-19” el grupo quedará dividido en dos subgrupos, que recibirán clases presenciales en semanas alternas.

En consecuencia:

- Las clases teóricas serán impartidas presencialmente, y además retransmitidas de forma síncrona (en directo) por videoconferencia, de modo que podrá ser seguida en vivo por los alumnos a los que en cada semana les corresponda docencia presencial y por videoconferencia (en ese mismo horario, pero no en otro) por los alumnos a los que esa semana no les corresponda docencia presencial.
- La misma dinámica se seguirá en las clases prácticas.



Por aplicación del ACGUV 110/2020, de 1 de julio, durante el primer cuatrimestre del curso 2020-21 el profesor responsable de la docencia atenderá sus tutorías preferiblemente por teléfono (en el 96 382 8587), por correo electrónico (carlos.flores@uv.es) o a través de las herramientas propias del Aula Virtual. También serán atendidas las consultas de manera presencial en su despacho, ubicado en la Planta 1ª, Ala F, núm. 9, del Edificio Departamental Central del Campus de los Naranjos de 13.30 a 15.30 h., mediando cita previa. Las tutorías presenciales se realizarán con todas las garantías de seguridad e higiene para el profesorado y para el alumnado previstas por la normativa universitaria.

#### **4. Evaluación**

Si la prueba final oral no pudiera ser presencial por haberse decretado la suspensión total de las actividades presenciales, el medio para la realización de la misma será la aplicación Skype. El alumno deberá procurarse el hardware (un ordenador con conexión a internet) y el software (la propia aplicación, que es gratuita) necesarios para su realización.

#### **5. Bibliografía**

Se mantendrá la recomendada en la guía.