

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

Code	36705
Name	Derecho constitucional
Cycle	Grade
ECTS Credits	6.0
Academic year	2023 - 2024

Study (s)

Degree	Center	Acad. year	Period
1335 - Degree in Political and Public Administration Sciences	Faculty of Law	1	Second term
1931 - D.D. in Sociology-Political and Public Adminis. Sciences	Faculty of Social Sciences	1	Second term

Subject-matter

Degree	Subject-matter	Character
1335 - Degree in Political and Public Administration Sciences	5 - Derecho	Basic Training
1931 - D.D. in Sociology-Political and Public Adminis. Sciences	1 - Asignaturas obligatorias de primer curso	Obligatory

Coordination

Name	Department
DURBAN MARTIN, IGNACIO	55 - Constitutional Law, Political and Administrative Sciences

SUMMARY

The subject of Constitutional Law is a basic training subject taught in the first year of the Bachelor's Degree in Political Science and Public Administration.

Its aim is to train students in our constitutional system. To this end, in the first three lessons of the programme there will be an introduction to the theory of the Constitution and those basic aspects relating to the organic part of the Constitution and the system of sources of law which are, from a legal perspective, essential for a full understanding of the system of rights and freedoms designed in the constitutional text itself. This basic legal approach to the doctrinal categories and the institutional framework of the State is complementary to that which, with greater detail and a political science perspective, will be offered later on in the Degree.



Contents of the first three lessons: Process of formation and foundations of the current concept of deconstitution. Basic questions of constitutional theory. The Spanish Constitution of 1978: general features. The constitutional system of sources of law.

The knowledge acquired in the first three lessons of the programme is necessary to approach the following four lessons where the student will be trained in the rights and freedoms recognised in the Constitution, as well as in the system of guarantees established to safeguard them (both nationally and supranationally) and in the Spanish constitutional jurisdiction.

Contents of the following four lessons: Fundamental rights in the Spanish Constitution, with special attention to the principle of equality as a subjective right and as a principle inspiring public policies. In addition, a detailed analysis will be made of a selection of fundamental rights and freedoms of individuals, highlighting the elements common to all of them and the mechanisms that exist to guarantee their effectiveness against the public authorities and individuals (jurisdictional and non-jurisdictional guarantees). It will conclude with an organic and functional examination of the Spanish Constitutional Court, since its role in the implementation and deployment of the 1978 Constitution has been and continues to be decisive.

This subject constitutes a basis for later, in-depth study of the different public policies, including equality policies, and the organs and institutions of the State in other subjects (Spanish Political System, which will be taught in the second year of the Degree).

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PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

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

Other requirements

No se han especificado restricciones de matrícula con otras asignaturas del plan de estudios.

OUTCOMES

1335 - Degree in Political and Public Administration Sciences

- Aplicar críticamente las principales teorías y enfoques de la Ciencia Política y de la Administración Pública.
- Conocer y saber analizar la estructura y funcionamiento de las Administraciones públicas.
- Saber analizar la estructura y funcionamiento de los sistemas y procesos políticos, sus elementos, así como su dimensión histórica, con especial atención al sistema político español y al de la Unión Europea.



LEARNING OUTCOMES

English version is not available

DESCRIPTION OF CONTENTS

1.

1.1. Genesis and evolution of contemporary constitutionalism:

1.1.1. Liberal constitutionalism.

1.1.2. Democratic constitutionalism.

1.1.3. Social constitutionalism.

Basic questions of constitutional theory.

1.2: Constituent power and constituted powers.

1.3.2. Constitutional reform and constitutional mutation.

1.3.3. The normative supremacy of the constitution and its jurisdictional defence.

1.3. Defining elements of the current concept of constitution:

1.3.1. Normative work of the constituent power.

1.3.2. A supreme legal norm of a written nature.

1.3.3. Norm establishing the separation of powers and the guarantee of rights.

1.4. New trends and challenges of constitutionalism.

2. LESSON 2. THE SPANISH CONSTITUTION OF 1978: GENERAL FEATURES.

2.1. Origin, influences and main formal characteristics:

2.1.1. The process of drafting the 1978 Constitution.

2.1.2. The imprint of historical Spanish constitutionalism and of some of the constitutions of our environment.

2.1.3. Contents:

a) Preamble and Preliminary Title.

b) Organic part.

c) Dogmatic part.

d) System of sources.

e) Economic Constitution.

2.2. Fundamental constitutional decisions:

2.2.1. The democratic state.

2.2.2. The rule of law.

2.2.3. The social state.

2.2.4. The parliamentary monarchy.

2.2.5. The autonomous State.



3. LECCIÓN 3. EL SISTEMA CONSTITUCIONAL DE FUENTES DEL DERECHO.

- 3.1. The value of the Constitution and the Preliminary Title of the Civil Code in the organisation of the sources of law.
- 3.2. The 1978 Constitution as a source of law:
 - 3.2.1. Normativity, supremacy and effectiveness.
 - 3.2.2. Constitutional reform procedures.
- 3.3. EU law: its relationship with the Spanish legal system.
- 3.4. International treaties: their position in the Spanish legal system.
- 3.5. The law and its types.
- 3.6. Governmental provisions with the status of law.
- 3.7. Regulations.
- 3.8. Other sources of singular relevance:
 - 3.8.1. Parliamentary rules of procedure.
 - 3.8.2. The soft-law emanating from independent administrations (Spanish Data Protection Agency, transparency councils, anti-fraud agencies, etc.).
- 3.9. Case law and its growing importance in the system of sources of law.
- 3.10. Some challenges for the rule of law from the point of view of the system of sources:
 - 3.10.1. The excessive proliferation of legislation.
 - 3.10.2. The growing role of the executive power in the production of norms.

4. LESSON 4. FUNDAMENTAL RIGHTS (I).

- 4.1. Human rights and fundamental rights.
- 4.2. Fundamental rights in Title I of the EC: ownership and effectiveness.
- 4.3. The principle of equality and its transversality (arts. 1.1, 9.2 and 14 EC).
- 4.4. The guarantee of individual self-determination:
 - 4.4.1. Right to life and to physical and moral integrity (Art. 15 EC).
 - 4.4.2. Ideological and religious freedom (Art. 16 EC).
 - 4.4.3. Right to honour, privacy and self-image (Art. 18 EC).
- 4.5. The tension between freedom and security:
 - 4.5.1. Rights to liberty and security (Art. 17 EC).
 - 4.5.2. Inviolability of the home and secrecy of communications (Art. 18 EC).
 - 4.5.3. Right to freedom of movement and residence (Art. 19 EC).

5. LECCIÓN 5. LOS DERECHOS FUNDAMENTALES (II).

- 5.1. Los cauces de la participación democrática:
 - 5.1.1. Libertad de expresión e información (art. 20 CE).
 - 5.1.2. Derecho de reunión y manifestación (art. 21 CE).
 - 5.1.3. Derecho de asociación (art. 22 CE).
 - 5.1.4. Derecho de sufragio activo y pasivo (art. 23 CE).
- 5.2. Derechos y principios de contenido económico y social:
 - 5.2.1. Derechos sociales:
 - a) Derecho a la educación (art. 27 CE).



- b) Libertad sindical y derecho a la huelga (art. 28 CE).
 - c) Derecho al trabajo (art. 35 CE).
 - d) Derecho a la negociación colectiva (art. 37 CE).
- 5.2.2. Principios rectores de la política social y económica:
- a) Derecho a la salud (art. 43 CE).
 - b) Derecho de acceso a la cultura (art. 44.1 CE).
 - c) Derecho al medio ambiente (art. 45 CE).
 - d) Derecho a una vivienda digna (art. 47).

6. LESSON 6. THE MECHANISMS FOR GUARANTEEING FUNDAMENTAL RIGHTS.

- 6.1. Guarantee mechanisms at the national level:
 - 6.1.1. Regulatory safeguards.
 - 6.1.2. Jurisdictional guarantees.
 - 6.1.3. Institutional guarantees.
- 6.2. Mechanisms of guarantee at the international level.
- 6.3. Suspension of fundamental rights

7. LESSON 7. THE CONSTITUTIONAL COURT.

- 7.1. Characteristics, composition and structure.
- 7.2. Legal status of its judges.
- 7.3. Functions.
- 7.4. Constitutional interpretation and the notion of "bloc of constitutionality".

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	60,00	100
Development of group work	10,00	0
Development of individual work	10,00	0
Study and independent work	30,00	0
Preparation of evaluation activities	10,00	0
Preparing lectures	15,00	0
Preparation of practical classes and problem	15,00	0
TOTAL	150,00	



TEACHING METHODOLOGY

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EVALUATION

The following competence assessment procedure will be used:- Written and/or oral test(s), consisting of one or several tests that may be objective tests, include theoretical-practical questions and/or problems. In the case of a final oral test, it must be recorded.- Assessment of practical activities, individual and/or group, based on the preparation and completion of work, reports and/or oral presentations; as well as student attendance at seminars.- Continuous assessment of each student, based on regular attendance and active participation in the face-to-face activities proposed, degree of involvement in the teaching-learning process and the skills and attitudes shown during the development of the activities. Continuous assessment activities, by their nature, are not recoverable in the second call.- In order to carry out the applied and complementary activities, the teacher of the course may use the Learning-Service methodology. The overall qualification will be distributed as follows:

CONTINUOUS ASSESSMENT

Assessable activity 1 10%. Assessable activity 2 10%. Assessable activity 3 10%. Total: continuous assessment 30%.

FINAL TEST (theoretical and practical exam) 70%. TOTAL 100%.

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REFERENCES

Basic

- MANUALES:

A continuación se incluye un listado de manuales considerados de referencia para preparar esta asignatura. Debe advertirse que ninguno de ellos se adapta con exactitud al temario que consta en el apartado DESCRIPCIÓN DE CONTENIDOS de esta guía docente, pues unos sistematizan la información de acuerdo con criterios alternativos y otros únicamente abordan partes específicas de la

programación. Por ello, será cada profesor el que irá determinando en cada parte del temario qué manual y, dentro de él, qué partes se recomiendan.

ALZAGA VILLAAMIL, O. y ÁLVAREZ RODRÍGUEZ, I.: Derecho político español según la Constitución de 1978:

- Tomo I. Constitución y fuentes del derecho, 7ª ed., Marcial Pons, Madrid, 2021.

- Tomo II. Derechos fundamentales y órganos del Estado, 7ª ed., Marcial Pons, Madrid, 2021.

APARICIO PÉREZ, M. A. y BARCELÓ I SERRAMALERA, M.: Manual de Derecho Constitucional, 3ª ed., Atelier, Barcelona, 2016.

BILBAO UBILLOS, J.M.; REY MARTÍNEZ, F. y VIDAL ZAPATERO, J. M.: Lecciones de Derecho Constitucional I, 5ª ed., Aranzadi, Madrid, 2022.



- BIGLINO CAMPOS, P.; BILBAO UBILLOS, J.M.; REY MARTÍNEZ, F.; MATIA PORTILLA, J.; VIDAL ZAPATERO, J. M.: Lecciones de Derecho Constitucional II, 2ª ed., Aranzadi, Madrid, 2018.
- BLANCO VALDÉS, R. L.: La Constitución de 1978, 2ª ed., Alianza Editorial, Madrid, 2011.
- CASTELLÀ ANDREU, J.M. et al.: Derecho Constitucional Básico, 6ª ed., Huygens Editorial, Barcelona, 2021.
- DÍEZ-PICAZO, L. M.: Sistema de Derechos Fundamentales, 5ª ed., Tirant lo Blanch, Valencia, 2021.
 - GARRORENA MORALES, A.: Derecho constitucional. Teoría de la Constitución y Sistema de Fuentes, 4ª ed., 2020, CEPC, Madrid.
 - LÓPEZ GUERRA, L. y ESPÍN TEMPLADO, E. (Coords.), Manual de Derecho Constitucional. Vol I. La Constitución y el ordenamiento jurídico. Derechos y libertades, Valencia, Tirant lo Blanch, 2022.
 - LÓPEZ GUERRA, L. y ESPÍN TEMPLADO, E. (Coords.), Manual de Derecho Constitucional. Vol II. La organización de los poderes del Estado. Las Comunidades Autónomas, Valencia, Tirant lo Blanch, 2022.
 - PÉREZ ROYO, J.: Curso de Derecho Constitucional, 17ª ed., Marcial Pons, Madrid, 2021.
 - SÁNCHEZ FERRIZ, R. y ROLLNERT LIERN, G.: El Estado Constitucional, Tirant lo Blanch, Valencia, 2020.
- OTROS MATERIALES:
- Código de leyes políticas, de cualquier editorial (salvo indicación específica del profesor del grupo).

Additional

- MANUALES Y MONOGRAFÍAS:
- Los siguientes manuales y monografías también pueden ser apropiados para preparar la asignatura, si bien, por los mismos motivos anteriormente expresados, será cada profesor el que, en su caso, irá determinando en las distintas partes del temario qué lecturas se recomiendan.
- ÁLVAREZ CONDE, E. y TUR AUSINA, R.: Derecho Constitucional, 10ª ed., Tecnos, Madrid, 2021.
- ARAGÓN REYES, M. y AGUADO RENEDO, C. (dirs.): Constitución, Estado constitucional, partidos y elecciones y fuentes del derecho. Temas básicos de Derecho Constitucional. Vol. I, 2ª ed., Thomson Reuters-Civitas, Madrid, 2011.
- BALAGUER CALLEJÓN, F. (coord.): Manual de Derecho Constitucional, 16ª ed., Tecnos, Madrid, 2021:
- Vol. I: Constitución y fuentes del Derecho. Derecho Constitucional Europeo. Tribunal Constitucional. Estado autonómico
 - Vol. II: Derechos y libertades fundamentales. Deberes constitucionales y principios rectores. Instituciones y órganos constitucionales.
- BASTIDA FREIJEDO, F: Teoría general de los derechos fundamentales en la Constitución Española de 1978, Tecnos, Madrid, 2004.
- DE OTTO PARDO, I.: Derecho Constitucional. Sistema de fuentes, Ariel, Barcelona, 1987.
- DIETER, G.: Constitucionalismo y derechos fundamentales, Ed. Trotta, Madrid, 2006.
- GARCÍA-ATANCE GARCÍA DE MORA, M. V.; GUTIÉRREZ NOGUEROLES, A.; NAVAS CASTILLO, A.; REBOLLO DELGADO, L.; VIDAL PRADO, C.: Derecho constitucional III: derechos y libertades, COLEX, Madrid, 2003.



- GÓMEZ SÁNCHEZ, Y.: Derechos Fundamentales, Aranzadi, Navarra, 2018.
- PÉREZ LUÑO, A. E.: Los derechos fundamentales, 13ª ed., Tecnos, Madrid, 2013.
- PÉREZ TREMPES, P.: Sistema de Justicia Constitucional, 3ª ed., Civitas, Madrid, 2019.
- SÁENZ ROYO, E.: Manual de Derecho Constitucional I, 2ª ed., Prensas de la Universidad de Zaragoza, Zaragoza, 2019.
- REY MARTÍNEZ, Fernando (dir.): Los derechos humanos en España, un balance crítico, Tirant lo Blanch, Valencia, 2015.
- RODRÍGUEZ RUIZ, B.: Los Derechos Fundamentales ante el Tribunal Constitucional. Un recorrido jurisprudencial, 2.ª ed., Tirant lo Blanch, Valencia, 2019.
- SÁNCHEZ FERRIZ, R.: Estudio sobre las libertades, Tirant lo Blanch, Valencia, 1995.
- TORRES DEL MORAL, A.: Constitucionalismo histórico español, 9ª ed., Universitas, Madrid, 2018.
- VENTURA FRANCH, Asunción; IGLESIAS BÁREZ, Mercedes (coords.): Manual de Derecho Constitucional Español con Perspectiva de Género.
 - Volumen I. Constitución, órganos, fuentes y organización territorial del Estado, 1ª ed., Ed. Universidad de Salamanca, 2020.
 - Volumen II. Derechos, deberes y garantías constitucionales, 1ª ed., Ed. Universidad de Salamanca, 2022.