

Academic Year: ( 2018 / 2019 )

Review date: 08-05-2018

Department assigned to the subject: Public State Law Department

Coordinating teacher: SANCHEZ SAUDINOS, JOSE MANUEL

Type: Compulsory ECTS Credits : 6.0

Year : 1 Semester : 2

## OBJECTIVES

The specific aims of the subject constitutional law regarding academic competences, or as regards the acquisition of basic knowledge, are the following:

1. Knowledge of origins, historical development and current meaning of concept of Constitution and its functions in the context of the social and democratic rule of law.
2. Knowledge of the period of political transition processes to democracy and the constituent phase of 1978 Spanish Constitution, as well as the general meaning of the main principles underlying the Spanish Constitution and to be able to observe and distinguish its manifestations in the constitutional text.
3. Knowledge of the legal elements of the process of formation of power in a democracy: the right to vote, election, political parties, direct democracy.
4. Knowledge of constitutional settings of the Crown as head of State.
5. Knowledge of the role of the Cortes Generales as Parliament: mode of election, structure and organization, status of their members, functions.
6. Knowledge of the constitutional position of the Government: establishment, operation, structure functions and cessation..
7. Knowledge of the function of the Spanish parliamentary system: parliamentary control, political responsibility requirement, dissolution of the Parliament.
8. Knowledge of the role of the judiciary in the constitutional system
- 9 Knowledge of the main rules of the territorial organization of the State: territorial autonomy, distribution of powers State-Autonomous Communities.
10. Knowledge of the system of fundamental rights, constitutionally recognized, and their guarantees.
11. Knowledge of the institutional position of the Constitutional Court as guarantor of the constitutional supremacy.
12. Knowledge of the importance of constitutional rigidity and procedures for the amendment of 1978 Constitution.

## DESCRIPTION OF CONTENTS: PROGRAMME

### CONSTITUTIONAL LAW SYLLABUS

#### 1. THE SPANISH CONSTITUTION OF 1978

- 1.1. The history of Spanish constitutionalism.
- 1.2. The process of the political transition processes to democracy and the drafting of the Constitution. General features and basic contents of the Constitution.
- 1.3. Structural principles of the constitutional order: the social and democratic State of law as a political system; the parliamentary monarchy as a political form of the State; The State of Autonomies as a form of territorial organization of power.

#### 2. THE DEMOCRATIC PRINCIPLE AS BASIS OF THE CONSTITUTIONAL ORGANIZATION OF THE STATE.

- 2.1. The significance of political participation; the right to vote.
- 2.2. The representative democracy; elections: the legal regulation of the electoral process.
- 2.3. The political parties.
- 2.4. The institutions of direct democracy.

#### 3. THE HEAD OF STATE: THE CONSTITUTIONAL SETUP OF THE CROWN.

- 3.1. Personal status of the King; the succession to the Crown; the Regency.
- 3.2. Functions of the King and the endorsement of the Royal acts.

#### 4. THE PARLIAMENT IN THE SPANISH CONSTITUTION: THE CORTES GENERALES [I].

- 4.1 Composition and structure of the Parliament: the electoral system of the Congress; composition and Senate electoral system.
- 4.2. The autonomy of the Houses of Parliament; their internal organization.
- 4.3. The Statute of the parliamentarians.

## 5. THE PARLIAMENT IN THE SPANISH CONSTITUTION: THE CORTES GENERALES [II].

5.1. The functions of the Parliament: the legislative function; the budgetary function; control function; the function of political orientation.

## 6. THE CONSTITUTIONAL POSITION OF THE GOVERNMENT.

6.1. Composition of the Government; the process of formation of the Government.

6.2. Structure and functioning of Government; status of its members.

6.3. The functions of the Government.

6.4. The resignation of the Government; The caretaker Government.

## 7. THE SPANISH PARLIAMENTARY SYSTEM: RELATIONS BETWEEN THE GOVERNMENT AND THE CORTES GENERALES.

7.1. The parliamentary control.

7.2. The requirement of political responsibility: motion of censure and vote of confidence.

7.3. The dissolution of the Parliament .

## 8. THE JUDICIARY.

8.1. The notion of Judicial power; in general and in particular in the Spanish Constitution; constitutional principles of organization and operation.

8.2. The Statute of judges and magistrates.

8.3. The Government of the judiciary: the General Council of the Judiciary.

## 9. THE TERRITORIAL ORGANIZATION OF THE STATE [I].

9.1. The territorial form of the State.

9.2. The local autonomy.

9.3. The autonomy of nationalities and regions: the autonomous communities; the process of Constitution of the autonomous communities; the development of the autonomy process.

## 10. THE TERRITORIAL ORGANIZATION OF THE STATE [II].

10.1. The internal organization of the Autonomous Communities.

10.2. The distribution of powers.

10.3. The relationship between the State and the Autonomous Communities.

10.4. The financing system of the autonomous communities.

## 11. THE SYSTEM OF RIGHTS AND LIBERTIES IN THE SPANISH CONSTITUTION.

11.1. The fundamental rights: concept and legal regime.

11.2. The rights and freedoms recognized in the constitutional system: the principle of equality; the rights of the personal sphere; the rights of freedom; political rights; rights economic, social and cultural; constitutional duties.

## 12. THE SYSTEM OF PROTECTION OF RIGHTS AND FREEDOMS.

12.1. The regulatory guarantees.

12.2. The Ombudsman

12.3. The judicial defence of rights: the judicial protection; the constitutional protection: the protection at the international level.

## 13. THE CONSTITUTIONAL JURISDICTION.

13.1. The constitutional jurisdiction within the framework of the Organization of the powers of the State.

13.2. The Spanish Constitutional Court: General aspects of its legal status and functions.

13.3. The composition of the Constitutional Court; the status of judges.

13.4. The internal organization and operation of the Constitutional Court.

## 14. THE REFORM OF THE CONSTITUTION.

14.1. The concept of constitutional reform; constitutional rigidity and flexibility.

14.2. The constitutional reform in the Spanish Constitution of 1978: General features; the limits to reform.

14.3. the procedures for constitutional reform: ordinary procedure of reform; aggravated procedure.

## LEARNING ACTIVITIES AND METHODOLOGY

**METHODOLOGY:** The methodology is a coherent set of techniques and activities, logically coordinated, to address learning process towards certain aims. The techniques mentioned below, can be used in either of the teaching units or lessons mentioned in the previous paragraph, and their objectives are specified in line with their descriptions.

**LECTURES:** The lectures are oral presentations by teachers. The lecturers will explain relevant information about the theoretical foundations of lessons of the subject. These classes will be held without notes, and the teacher in advance will indicate some texts or papers that need to be read prior to the class in order to keep exposure adequately.

**SEMINARS:** The seminars are academic sessions in which specific legal problems will be solved. The students must have previously assimilated knowledge related to one or more lessons of the subject if they can be able to solve them.

**DISCUSSION OF WORKING PAPERS:** The main aim of some class will be to reflect and deepen in the content of working papers related to each lesson. The documents will be listed by the teacher and can be of three types: legislative, jurisprudential or doctrinal documents. To participate in these classes, prior to each meeting, the student must complete assessable written works point out by the

teacher, which show that the student has worked in advance on the document, the oral presentation will be organized and will reflect on it. Work on documents can be performed individually or as group work.

**DISCUSSION:** During the semester, some discussion sessions by teams will be held, the sessions will be related with current issues that they have impact on the lessons of the syllabus (eg. electoral system, position of certain institutions of the State, Government control).

**ORAL PRESENTATION OF RESEARCH PAPERS:** The students may eventually elaborate a small research paper on some of the lessons or the headings of the syllabus. These works, done individually or in groups, will be exposed to the rest of the class.

**TEST OF ALTERNATIVE ANSWERS:** On a monthly basis, students must answer a test of alternative responses on the syllabus content explained in the lectures.

## ASSESSMENT SYSTEM

The acquisition of skills and abilities of the students will be evaluated based on participation in the activities described in the previous section (40% of the final grade).

The specific assessment of each of these activities in small group classes will be determined by agreement of all professors teaching of the subject, but a very important part of the specific assessment will be the test of alternative responses provided in the schedule that will be made monthly.

To add to this, the students must pass a final exam (it will have a weight of 60% on the final mark). The final exam will primarily assess the assimilation of theoretical knowledge on the syllabus, which have been object of reflection and work throughout the semester. Final exam will consist of several parts: a first part with short questions or test questions (objective test), to evaluate the assimilation of the basic concepts of the subject; in the second part, the students must develop one or more topics of the subject, in this case, the capacity for synthesis, argumentation and orderly, coherent and profound exposition of a particular issue will be assessed; finally, a practical third part may eventually be carried out in which the students

solve a case study, it will be similar to other studied during the course.

In any case, the students have to get in the final exam more than 4 (or 2,5 on the 6 points -maximum mark of this exam-) to pass the course.

<b>% end-of-term-examination:</b>	60
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<b>% of continuous assessment (assignments, laboratory, practicals...):</b>	40
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## BASIC BIBLIOGRAPHY

- FERRERES COMELLA, V.: "The Constitution of Spain. A contextual Analysis", Hart, Oxford and Portland, Oregon (USA), 2013.

- RUIZ ROBLEDO, A.: "Constitutional Law in Spain", Wolters Kluwer, Alphen aan den Rijn (Países Bajos), 2012.