Constitucion and sources of law system

Academic Year: (2019 / 2020) **Review date: 01-05-2020**

Department assigned to the subject: Public State Law Department

Coordinating teacher: ESPINOSA DIAZ, ANA

Type: Basic Core ECTS Credits : 6.0

Year : 1 Semester : 2

Branch of knowledge: Social Sciences and Law

OBJECTIVES

The subject content consists of a set of matters of constitutional law which aim to provide students with a reasonable level of basic knowledge:
1. Knowledge of origins, historical development and current meaning of concept of Constitution and its functions in the context of the social and democratic State, subject to the 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 sources of law and the general principles of operation of the legal system.
4. Knowledge of the normative value of the Constitution and its effects on legal system, composed of both pre-constitutional norms as issued after the adoption of the Constitution, and the special meaning and structure of the constitutional regulations and their interpretation.
5. Knowledge of the mechanisms which ensure the supremacy of the Constitution, specially jurisdictional protection developed by the Constitutional Court.
6. Knowledge of the system of sources of law in the Spanish legal system. In other words, the different types of existing norms and the relationships between them: Law and types of laws; government regulatory provision with force of law; rules; regulations; international treaties¿
7. Knowledge and assessment of the influence of the type territorial organization of power on the system of sources.
8. Knowledge and assessment of the impact of the incorporation of European Union Law into the Spanish legal system.

DESCRIPTION OF CONTENTS: PROGRAMME

1. CONSTITUTIONALISM
1.1. Origins of Modern Constitutionalism
1.2. Concept of Constitution. Formulation
1.3. Juridification of political process: Constitutional state
2. THE SPANISH CONSTITUTION OF 1978.
2.1. The period of political transition processes to democracy
2.2. Drafting the 1978 Constitution
2.3. Structure and basic elements of the constitutional text
3. STRUCTURAL PRINCIPLES OF THE CONSTITUTIONAL ORDER
3.1. The social and democratic State, subject to the rule of law as a political system
3.2. Parliamentary Monarchy as State political form
3.3. Autonomous State as form of territorial organization
4. THE SYSTEM OF CONSTITUONAL SOURCES OF LAW. GENERIC ASPECTS
4.1. Sources of law system and public bodies involved in norm generating
4.2. The constitutional principles of the legal system
4.3. Validity and effectiveness of legal standards
4.4. The temporal scope of application of the legal standards
5. CONSTITUTION AS SUPERIOR LAW
5.1. Types of constitutional provisions
5.2.Legal status of the Constitution: supreme law and foundational law
5.3. Constitution as legal norm: constitutional efficiency and development; the overriding effect; the constitutional interpretation;
6. GUARANTEE OF THE SUPREMACY OF THE CONSTITUTION [I]
6.1. Constitutional rigidity: the nature of constitutional reform; procedures for amending the Constitution.

6.2. The jurisdictional defense of the Constitution: nature and models; the Constitutional Court: the institutional position, composition, organization and functions.
7. GUARANTEE OF THE SUPREMACY OF THE CONSTITUTION [II]
7.1. The review of the constitutionality: general characteristics
7.2. Constitutional check of legal provisions: constitutional appeal; question of unconstitutionality; preliminary examination of constitutionality of international treaties; preliminary examination of constitutionality of statutes of autonomy.
7.3. The judgments of the Constitutional Court in the constitutional control processes.
8. LAW AS A SOURCE OF LAW
8.1. Legislative power: status and force of law.
8.2. Types of laws.
8.3. Organic Act.
9. OTHER RULES WITH THE FORCE OF LAW
9.1. Provisions drawn up by the government with force of law: legislative decree; decree-law
9.2. Parliamentary rules
10. INTERNATIONAL TREATIES, REGULATIONS AND OTHER SOURCES
10.1. International treaties in the system of sources
10.2. Regulatory power of the government; types of regulations; regulations set by constitutional bodies.
10.3. Other sources of the law system
11. AUTONOMOUS STATE AND SYSTEM OF SOURCES
11.1. AUTONOMOUS STATE and plurality of legal systems
11.2. Statute of Autonomy
11.3. Other State laws on autonomous regime
11.4. The legal system of autonomous communities.
11.5. The relationship between autonomous and State law
12. INCORPORATION OF THE LAW OF THE EUROPEAN UNION INTO THE SPANISH LAW SYSTEM
12.1. Supranational integration and constitutional law
12.2. Characteristics of Community law
12.3. The relationship between Community law and national law.

LEARNING ACTIVITIES AND METHODOLOGY

The program of this course will be developed in lectures and they will be held in large group sessions.
Other types of activities will carry out in small groups. Activities like the resolution of cases studies, exhibitions of the students, discussions of the work documents, proceedings or presentations of works of the initiation to the investigation, without excluding the realization of periodical controls about the subject matter developed in the semester. However, due to the extension of the syllabus, the first classes of the small groups could be use to develop some theoretical matter.
The aim of this combination of work´s methods is the develop of the capacities and the competences identified between the Bachelor's degree characteristics.

ASSESSMENT SYSTEM

In order to assess students' knowledge the teacher shall be taken into account:
The works and activities developed in the big and small group classes during the semester (40% of the total final mark) .All the students must attend big and small groups classes. Therefore, class attendance, both large group such as small group, is a key for the development of the continuous assessment.
- A supplementary examination or final exam that will take place at the end of the semester (it will have a weight of 60% on the final mark).
In any case, the students have to get in the final exam more than 4 points (2,5 on the 6 points, maximum mark of this exam) to pass the course. A minimum score may be required in each of the parts of the exam.

% end-of-term-examination:	60
% of continuous assessment (assigments, laboratory, practicals…):	40

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.