Constitutional justice and interpretation of the constitution

Academic Year: (2022 / 2023) **Review date: 19-06-2021**

Department assigned to the subject: Public State Law Department

Coordinating teacher: PEREZ TREMPS, PABLO ENRIQUE ANGEL

Type: Electives ECTS Credits : 3.0

Year : Semester :

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Constitutional Law I: The Constitution and the system of legal sources
https://aplicaciones.uc3m.es/reina/principal.do?codEstudio=206&codPlan=149#ui-tabs-4

OBJECTIVES

The purpose of this course is to get students to aknowledge how functioning of the Constitutional Court as well as its case-law. In order to achieve this, the main features of the constitucional justice will be analized, as well as the constitucional proceedings and the most relevant case-law since the establishment of the Court.

DESCRIPTION OF CONTENTS: PROGRAMME

CONSTITUTIONAL JUSTICE AND INTERPRETATION OF THE CONSTITUTION SYLLABUS

1. DESCRIPTION OF CONTENTS

Lesson 1.- Basic concepts
1.1.-The constitutional justice debate
1.2.-Constitutional justice in Spain, background and characteristics.
1.3.-Rationale
1.4.-The Constitutional Court as the interpreter of the Constitution.
1.5.-The supremacy of the Constitutional Court from a procedural perspective.
1.6.-The regulatory framework of the constitutional justice in Spain.
1.7.- The distribution of powers.

Lesson 2.- The Constitutional Court of Spain, organisational aspects
2.1.-Composition of the Constitutional Court
2.1.-The judges' statue.
2.3.-The autonomy of the Constitutional Court.
2.4.- The organisation and functioning of the Constitutional Court.

Lesson 3.- Proceedings before the Constitutional Court (I): Monitoring regulations that have the force of law.
3.1.- Common features of the "constitutionality" control
3.2.-Previous control of the constitutionality of international treaties. Nature, legal standing, procedure, effects of the ruling.
3.3.-Previous control of Autonomy Statues.
3.4.-Action of Unconstitutionality.
3.4.1-Object.
3.4.2-Time-limit.
3.4.3 Legal standing.
3.4.4 Procedure.
3.4.5 The effects of the judgement.

Lesson 4.- Proceedings before the Constitutional Court (II):question of unconstitutionality.
4.1.- The indirect control of regulations that have the force of law.
4.2.- Internal questions of unconstitutionality.

Lesson 5.-Constitutional conflicts (I)Conflicts between constitutional bodies.
5.1..- Introduction
5.2.- Legal standing

5.3.- Object
5.4.- Procedure
5.5.- Judgement

Lesson 6.-Constitutional conflicts (II) Conflicts of competence
61.- Conflicts between the State and the Autonomous Communities, or between Autonomous Communities.
6.1.1.- Introduction
6.1.2.- Positive conflicts
6.1.3.-Negative conflicts
6.2. Contestation under Title II of the LOTC
6.3. Conflicts in defense of local autonomy.

Lesson 7.-The action for "amparo" (I)
7.1.-Introduction and main feature
7.2.-Protected rights
7.3.- Challengeable acts

Lesson 8.-Action for "amparo" (II)
8.1.-Types of actions
8.2-Legal standing and litigants
8.3.-Subsidiarity requirement.
8.3.2-Having been part of the judicial procedure.
8.3.3- Exhaustion of judicial remedies.
8.3.4-The need to invoke a protected right.

Lesson 9.-The action for "amparo" (III)
9.1.-Constitutional significance
9.2.-The application
9.3.-Time-limit
9.4.-Admissibility
9.5.-Processing
9.6.-Suspension
9.7.-The judgement

Lesson 10.-The action for electoral "amparo"
10.1.-Regulation
10.2.-Scope.
10.3.-Challengeable acts
10.4.-Procedure

Lesson 11.-Constitutional jurisdiction and other jurisdictions
11.1.-The ordinary jurisdiction and the Constitution
11.1.1.-The ordinary jurisdiction competences on constitutional matters.
11.1.2.-The Constitutional Court and the ordinary jurisdiction.
11.1.3.-Conflicts.
11.2.-The constitutional court and the European courts.

Lesson 12.-Assessment of the constitutional justice
12.1.-The "constitutionalization" of the legal systems.
12.2.-Issues.

LEARNING ACTIVITIES AND METHODOLOGY

The course will have two main units. First, constitutional proceedings will be analyzed from a theoritecal perspective. Then, students will be working in groups tutored by the professor and will conduct research on relevant judgments. This research will presented and presented before the students.

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

BASIC ELECTRONIC RESOURCES

- . Constitutional Court. Includes a case-law search form. : https://www.tribunalconstitucional.es/en/jurisprudencia/Paginas/default.aspx