

Academic Year: (2022 / 2023)

Review date: 20-05-2022

Department assigned to the subject: Public State Law Department

Coordinating teacher: GOMEZ LUGO, YOLANDA

Type: Compulsory ECTS Credits : 6.0

Year : 3 Semester : 1

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; and the mechanisms which ensure the supremacy of the Constitution, specially jurisdictional protection developed by the Constitutional Court.
5. 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
6. Knowledge and significance of the democratic principle as a basis of the Constitutional Organization and the various instruments which allow the participation in the public affairs
7. Knowledge of the position of the diverse State Central Institutions and the map of the connections among them (Crown, Cortes Generales or Parliament, Government and the Judicial Power)
8. Knowledge of the basis of the territorial organization of the State, giving special attention to the Autonomous Communities: organization, competencies distribution, relations with the State...

DESCRIPTION OF CONTENTS: PROGRAMME

1. LAW, STATE AND CONSTITUTION

- 1.1. Origins of Modern Constitutionalism
- 1.2. Concept of Constitution.
- 1.3. State as political organization model.

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. SOURCES OF LAW SYSTEM.

- 3.1. Concept of source of law
- 3.2. Criteria to resolve the conflict between norms
- 3.3. Validity and effectiveness of legal standards

4. CONSTITUTION AS SUPERIOR LAW

- 4.1. Constitution as legal norm
- 4.2. Constitution as supreme law

5. GUARANTEE OF THE SUPREMACY OF THE CONSTITUTION [I]

- 5.1. Constitutional reform
 - A) Constitutional rigidity. Nature and models of constitutional reform;
 - B) Procedures for amending the Constitution: ordinary and extraordinary
- 5.2. The jurisdictional defense of the Constitution: Constitutional Court
 - A) Nature and constitutional jurisdiction models
 - B) Spanish constitutional jurisdiction model

- C) Constitutional Court: composition, structure and functions
- D) Judicial Review or Constitutionality control

6. LAW AS A SOURCE OF LAW

- 6.1. Legislative power: status and force of law.
- 6.2. Types of laws.
- 6.3. Government regulations with force of primary law: legislative decree; decree-law

7. INTERNATIONAL AND SUPRANATIONAL SOURCES OF LAW

- 7.1. International treaties in the system of sources
- 7.2. European Union Law

8. AUTONOMOUS STATE AND SOURCES OF LAW

- 7.1. Territorial model. Constitutional framework of Autonomous State
- 8.2. Statute of Autonomy
- 8.3. Other State laws on autonomous regime
- 8.4. The legal system of autonomous communities.
- 8.5. The relationship between autonomous and State law

9.- DEMOCRATIC SYSTEM AS THE BASIS FOR THE CONSTITUTIONAL ORGANIZATION OF GOVERNMENT

- 9.1. The democratic legitimation process: the elections legal framework;
- 9.2. The political parties;
- 9.3. the direct democracy institutions.

10.- THE CROWN

- 10.1. Sucesión and regency
- 10.2. Responsibility of the King
- 10.3. Functions

11.- THE PARLIAMENT

- 11.1. Characteristics, structure and composition;
- 11.2. Internal organization and functioning;
- 11.3. Members of the Parliament statute;
- 11.4. Functions.

12.- THE EXECUTIVE

- 12.1. The Government: composition and formation
- 12.2. Government structure and its members
- 12.3. Executive functions.

13. RELATION BETWEEN GOVERNMENT AND PARLIAMENT

- 13.1. Parliamentary control
- 13.2. Political responsibility
- 13.3. Dissolution of the Parliament

14.- THE JUDICIAL POWER

- 14.1. Organization, structure and functioning
- 14.2. Judges and magistrates statute
- 14.3. Judiciary government

15.- THE STATE TERRITORIAL ORGANIZATION

- 15.1. Territorial model
- 15.2. Autonomy of nationalities and regions.
- 15.3. Process of creation of Autonomous Communities. The autonomic process
- 15.4. Distribution of powers

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 may be carried 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.

*Due to the uncertainty about the teaching format to which the health circumstances will take us during

the next academic year, it is expected to start in the blended modality, and may lead to 100% face-to-face or 100% on-line teaching depending on the spread or the control over the pandemic and the hygiene-sanitary measures adopted by the Authorities

ASSESSMENT SYSTEM

1. Ordinary call.

The students' evaluation will take into account the activities carried out and the result of the tests undergone in the small groups along the term (40% of the final grade) as well as a comprehensive exam to be passed at the end of the term (60% of the final grade).

In order to pass the subject, a minimum grade (2.5 out of 6) in the final exam shall be required.

2. Extraordinary call.

The student will opt between the rating system of the ordinary call and the 100% of the final grade

% end-of-term-examination: 60

% of continuous assessment (assignments, laboratory, practicals...): 40

BASIC BIBLIOGRAPHY

- BILBAO UBILLOS, J.M.; REY MARTÍNEZ, F. y VIDAL ZAPATERO, J.M.: "Lecciones de Derecho Constitucional I", Lex Nova.
- BLANCO VALDÉS, R.L.: "La Constitución de 1978", Alianza.
- GUTIERREZ, I y otros Elementos de Derecho constitucional español, Marcial Pons.
- LÓPEZ GUERRA, L.; ESPÍN, E.; GARCÍA MORILLO, J.; PÉREZ TREMP, P. y SATRÚSTEGUI, M.: "Derecho Constitucional", Tirant lo blanch, Valencia (2 vols.)
- MOLAS, I.: "Derecho Constitucional", Tecnos, Madrid

ADDITIONAL BIBLIOGRAPHY

- ARAGÓN REYES, M. (dir) y AGUADO RENEDO, C. (codir) Temas básicos de Derecho Constitucional (3 tomos), Civitas/Aranzadi (Thomson Reuters), 2011
- ARAGÓN REYEZ, M. (dir) y AGUADO RENEDO, C. (codir) Temas básicos de Derecho Constitucional (3 tomos), Civitas/Aranzadi (Thomson Reuters), 2011
- BLANCO VALDÉS, R.L.: "El valor de la Constitución", Alianza Editorial., Madrid, 2006.
- FRAILE CLIVILLÉS, M. Temas de introducción al Derecho Constitucional español, Servicio de publicaciones Facultad de Derecho. UCM, 2011
- OTTO, I. DE: "Derecho Constitucional. Sistema de fuentes", Ariel., Barcelona, 1987
- RUBIO LLORENTE, F.: "La forma del poder (Estudios sobre la Constitución)", Centro de Estudios Políticos y Constitucionales., Madrid, 1997.