

Academic Year: ( 2023 / 2024 )

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 acknowledge how functioning of the Constitutional Court as well as its case-law. In order to achieve this, the main features of the constitutional justice will be analyzed, as well as the constitutional 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 Statutes.
- 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 theoretical perspective. Then, students will be working in groups tutored by the professor and will conduct research on relevant judgments. This research will be presented and presented before the students.

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

#### BASIC ELECTRONIC RESOURCES

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