

## SUBJECT TEACHING GUIDE

### G458 - Constitutional Law II

#### Double Degree in Law and Administration and Business Management Degree in Law

Academic year 2022-2023

1. IDENTIFYING DATA					
Degree	Double Degree in Law and Administration and Business Management			Type and Year	Compulsory. Year 2 Compulsory. Year 2
Faculty	Faculty of Law				
Discipline	Topic: Constitutional Law				
Course unit title and code	G458 - Constitutional Law II				
Number of ECTS credits allocated	6	Term	Semester based (2)		
Web					
Language of instruction	Spanish	English Friendly	No	Mode of delivery	Face-to-face

Department	DPTO. DERECHO PUBLICO				
Name of lecturer	JESÚS MARÍA DE MIGUEL BÁRCENA				
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Other lecturers	ANGEL LUIS SANZ PEREZ				

### 3.1 LEARNING OUTCOMES

- Understand the basics of fundamental rights and freedoms.
- Define the rights and freedoms and their classes.
- Explain the legal-constitutional criterion of fundamental rights.
- Explain the effectiveness of fundamental rights against public authorities and against third parties .
- Identify the limits of fundamental rights.
- Manage the rules of interpretation of rights and freedoms.
- Understand the normative, institutional and jurisdictional guarantee instruments of rights.
- Possible assumptions of suspension of guarantees and the guarantees that can be suspended in each case.
- Explain the assumptions of individual suspension of rights.
- Identify the specific material content of each of the fundamental rights and freedoms.
- Understand what is the essential content and the specific limits of each fundamental right.
- Identify and understand the main development laws of the corresponding fundamental right.
- Explain the meaning of constitutional duties and their legal regime.

### 4. OBJECTIVES

Understand that the essential and determining element of the Spanish Constitution is its catalog of fundamental rights.

Understand the legal concepts and categories of the constitutional theory of Fundamental Rights.

To know adequately the different protective guarantees of each fundamental right , both those corresponding to the national legal field and those of a supranational nature.

Identify the assumptions and legal consequences caused by the suspension of some fundamental rights in the constitutionally provided cases.

Apply the different constitutionally guaranteed fundamental rights.

**6. COURSE ORGANIZATION**

**CONTENTS**

1	<p>1. Fundamental rights.</p> <p>1.1 Historical evolution, foundation and concept of fundamental rights. The distinction between fundamental rights and human rights.</p> <p>1.2 Problems and characteristics of fundamental rights in the Spanish Constitution.</p> <p>1.3 The constitutional duties.</p> <p>1.4 The subjective and objective dimension of constitutional rights.</p> <p>1.5 The classification of fundamental rights.</p> <p>2. The structure of fundamental rights.</p> <p>2.1 Ownership of fundamental rights.</p> <p>2.2 The recipients of fundamental rights.</p> <p>2.3 The horizontal effectiveness of fundamental rights.</p> <p>3. The normative regulation of fundamental rights.</p> <p>3.1 The binding force of the rights and freedoms of Title I of the Constitution .</p> <p>3.2 The reservation of law in matters of fundamental rights.</p> <p>3.3 The delimitation and limits of fundamental rights.</p> <p>3.4 The essential content of fundamental rights and the control of constitutionality. The principle of proportionality.</p> <p>4. The guarantees of fundamental rights.</p> <p>4.1 The jurisdictional protection of fundamental rights and the appeal for amparo.</p> <p>4.2 The ombudsman.</p> <p>4.3 The European system for the protection of rights: the European Court of Human Rights.</p> <p>4.4 The suspension of fundamental rights.</p> <p>5. The principle of equality.</p> <p>5.1 Functions and articulation of the principle of equality in the Spanish Constitution.</p> <p>5.2 The distinction between the principle of equality in the law and in the application of the law.</p> <p>5.3 The specific clauses prohibiting discrimination.</p>
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6. The rights of the personal sphere.

- 6.1 The right to life and the right to physical and moral integrity.
- 6.2 The right to ideological, religious and worship freedom.
- 6.3 The right to personal liberty and freedom of movement: habeas corpus.
- 6.4 The rights of private life: honor, image and privacy. Data protection.

7. Individual rights.

- 7.1 The right to the inviolability of the home.
- 7.2 The right to secrecy of communications.
- 7.3 The right to freedom of movement and residence.

8. Information freedoms and the rights of political participation.

- 8.1 The right to freedom of expression and information.
- 8.2 The right of assembly.
- 8.3 The right of association.
- 8.4 The right of political participation.
- 8.5 The right of petition.

9. Due process.

- 9.1 Meanings and problems of art. 24 of the Spanish Constitution.
- 9.2 The right of access to the courts and to the judge predetermined by law.
- 9.3 The generic and specific guarantees of the process.
- 9.4 The specific guarantees of the criminal process.

10. Economic, cultural and social rights.

- 10.1 The right to education and academic freedom.
- 10.2 Private property.
- 10.3 Labor and professional rights.

7. ASSESSMENT METHODS AND CRITERIA				
Description	Type	Final Eval.	Reassessn	%
A single written test, will be carried out at the end of the academic period and in accordance with the exam schedule approved by the Faculty Board.	Written exam	No	Yes	60,00
Resolution of practical cases	Others	No	No	40,00
TOTAL				100,00
Observations				
<p>The evaluation system of the subject could vary in response to a change of circumstances completely unrelated to the teaching activity: in this sense, if the course were forced to be carried out remotely, the established evaluation would also be carried out remotely, through of the online platforms (Moodle) and the electronic media made available by the University.</p> <p>Voluntary and active participation in the academic activities organized by the Constitutional Law seminar may increase the student's grade up to a maximum of 15 percent of the grade. Those Erasmus students who have special difficulties with the language will take the continuous assessment tests with some modifications.</p>				
Observations for part-time students				
<p>The evaluation procedure for part-time students who do not attend class regularly will consist of taking an exam and/or handing in assignments, which will be indicated by the teacher, on the date established by the faculty for the examination of the course. Those who attend class will be able to benefit from the same evaluation as all students</p>				

## 8. BIBLIOGRAPHY AND TEACHING MATERIALS

### BASIC

- ALEXY, R.: Teoría de los derechos fundamentales, Centro de Estudios Políticos y Constitucionales, Madrid, 2001.
- ALZAGA VILLAAMIL, O.; GUTIÉRREZ GUTIÉRREZ, I.; RODRÍGUEZ ZAPATA, J.: Derecho Político Español (según la constitución de 1978). Centro de Estudios Ramón Areces, Madrid, últ. ed. TIDA APARICIO PÉREZ, M. A. y BARCELÓ i SERRAMALERA (Coords): Manual de Derecho Constitucional, Atelier, Barcelona, últ. ed. BASTIDA FREIJEDO, F.J. (et al.). Teoría general de los derechos fundamentales en la Constitución Española de 1978. Madrid, Tecnos, 2004.
- BALAGUER CALLEJÓN, F. (Coord.): Manual de Derecho Constitucional, Tecnos, Madrid, última ed.
- BIGLINO, P., BILBAO, J.M., REY, F., MATIA, J., Y VIDAL, J.M.: Lecciones de Derecho Constitucional II, Lex Nova, Valladolid, últ. ed.
- DÍEZ-PICAZO, L.M.: Sistema de derechos fundamentales, Civitas, Madrid, últ. Ed.
- FERRAJOLI, L.: Los fundamentos de los derechos fundamentales, Madrid, Trotta, 2005
- JIMÉNEZ CAMPO, J.: Derechos fundamentales. Concepto y garantías, Trotta, Madrid, 1999.
- LÓPEZ GUERRA, L/ESPÍN TEMPLADO E. y otros: Derecho Constitucional, Tirant lo Blanch, Valencia, última ed.
- TORRES DEL MORAL, A.: Principios de Derecho Constitucional Español. Servicio de Publicaciones de la Facultad de Derecho de la Universidad Complutense, Madrid, últ. ed.
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- MEDINA GUERRERO, M.: La vinculación negativa del legislador a los derechos fundamentales. Madrid, McGraw Hill, 1996.
- PÉREZ LUÑO, A. E.: Los derechos fundamentales, Tecnos, Madrid, últ. ed.
- PÉREZ ROYO, J.: Curso de Derecho Constitucional, Marcial Pons, Madrid, últ. ed.