

## SUBJECT TEACHING GUIDE

### G362 - Constitutional Theory

#### Degree in Law

Academic year 2023-2024

1. IDENTIFYING DATA					
Degree	Degree in Law			Type and Year	Core. Year 1
Faculty	Faculty of Law				
Discipline	Topic: Constitutional Law				
Course unit title and code	G362 - Constitutional Theory				
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	LUIS GONZALEZ DEL CAMPO ANGEL LUIS SANZ PEREZ

### 3.1 LEARNING OUTCOMES

- Understand and explain the concept of constitutional law and its characteristics as a legal branch.
- Understand the State as a form of political organization, its elements and evolution process.
- Understand the concept and origin of the Constitution, the functions it fulfills and its normative content.
- Know the Spanish Transition and the constitutional process of 1978.
- Correctly understand the integrating meaning of the formula "social and democratic State of Law".
- Understand the concept of legal system and the constitutional principles that structure it.
- Explain the concept of normative Constitution as a supreme source, the basic characteristics of the constitutional norms, understand the concept of constitutional block and the nature of the norms of constitutional reform.
- Explain the position and constitutional regime of the different sources of law that are part of the Spanish legal system .
- Understand the relationship between the legal system of the European Union and the Spanish legal system.
- Explain the relationships between the state system and the regional systems.

### 4. OBJECTIVES

Understand the historical evolution of the State as a form of organization of power and its progressive submission to Law through Constitutional Law.

Properly know that the purpose of the normative Constitution responds to the objective of legally constructing the fundamental political order of the political Community.

Identify, based on its own characteristics, the historical phases of Spanish constitutionalism.

Know how to adequately identify the essential features of the Spanish Constitutional Preamble, as well as conceptually understand the meaning of the essential values ??of the legal system, and correctly describe the content and projection of the structural principles that make up the definition of the Spanish State.

Understand in an individualized and interrelated way the sources of Law of the state legal system, the specific ones of the subordinations of the Autonomous Communities, the function and structural position of the International Treaties , of the Law of the European Union, and the relationships between the legal system "community" and the "internal" order.

## 6. COURSE ORGANIZATION

### CONTENTS

1	<p>1. The constitutional State.</p> <p>1.1 Form of political organization and elements of the State.</p> <p>1.2 The historical gestation: from the absolute State to the revolutionary processes in England, the United States and France.</p> <p>1.3 Advent and crisis of the liberal State.</p> <p>1.4 The constitutional state as a social and democratic state of law.</p> <p>2. Constitutionalism in history.</p> <p>2.1 The formation of the ideology of constitutionalism.</p> <p>2.2 The Constitution: concept, typology and content.</p> <p>2.2 Characteristics and stages of Spanish historical constitutionalism.</p> <p>2.4 The political transition and the Spanish constituent process.</p> <p>2.5 The 1978 Constitution: structure and content.</p>
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2	<p>3. The Constitution as a legal norm.</p> <p>3.1 Constitutional supremacy and European integration process. 3.2 Typology and effectiveness of constitutional precepts. 3.3 The relationship of the Constitution with the rest of the legal system. 3.4 The power of constitutional reform.</p> <p>4. The law.</p> <p>4.1 The concept and general characteristics of the law in the Constitution. 4.2 The position of the law in the legal system: range and force of law. 4.3 Types of laws: the organic law.</p> <p>5. The normative acts of the executive with the force of law.</p> <p>5.1 Characterization of the legislative power exercised by the Government. 5.2 The decree - law. 5.3 The legislative decree.</p> <p>6. The control of constitutionality of the laws.</p> <p>6.1 Origin and models of constitutional justice. 6.2 The procedures of constitutionality of the laws. 6.3 The constitutional interpretation.</p> <p>7. The regulation.</p> <p>7.1 The concept of regulation. 7.2 Regulatory power. 7.3 Classes and form of regulations. 7.4 Control of regulations.</p> <p>8. Treaties, community law and the Constitution.</p> <p>8.1 The Treaty as an international standard and its internal effectiveness. 8.2 The control of constitutionality of the Treaties. 8.3 The constitutionalization of the European Union. 8.4 The European community order and domestic law.</p> <p>9. The legal system of the Autonomous Communities.</p> <p>9.1 The Statute of autonomy. 9.2 The regulatory power of the Autonomous Communities. 9.3 The relations between the state ordering and the autonomic ordering. 9.4 The laws of art. 150 CE.</p>
3	<p>10. The democratic State in the Spanish Constitution.</p> <p>10.1 The modalities of political participation in the Constitution. 10.2 Political representation and the electoral system. 10.3 Parties in the Spanish legal system (I): concept and regulation. 10.4 Parties in the Spanish legal system (II): suspension, dissolution and financing.</p>

## 7. ASSESSMENT METHODS AND CRITERIA

Description	Type	Final Eval.	Reassessn	%
A single written test of a purely theoretical nature 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
Realization of practical assumptions or evaluation test	Others	No	Yes	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 eligible for the same assessment as all students.</p>				

## 8. BIBLIOGRAPHY AND TEACHING MATERIALS

### BASIC

- ÁLVAREZ CONDE, E.: Curso de Derecho Constitucional, Tecnos, Madrid, últ. ed.
- 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.
- APARICIO PÉREZ, M. A. y BARCELÓ i SERRAMALERA (Coords.): Manual de Derecho Constitucional, Atelier, Barcelona, últ. ed.
- ASENSI SABATER, J.: La época constitucional, Tirant lo Blanch, Valencia, últ. ed.
- BALAGUER CALLEJÓN, F. (Coord.): Manual de Derecho Constitucional, Tecnos, Madrid, última ed.
- BALAGUER CALLEJÓN, F.: Fuentes del Derecho, Tecnos, Madrid, últ. ed. últ. ed.
- DE VEGA GARCÍA, P.: La reforma de la Constitución y la problemática del poder Constituyente, Tecnos, Madrid, última ed.
- FERNÁNDEZ SEGADO, F.: El sistema constitucional español, Dykinson, Madrid, últ. ed.
- GARCÍA DE ENTERRÍA, E.: La Constitución como norma y el Tribunal Constitucional. Madrid, Civitas, últ. ed.
- GARCÍA PELAYO, M.: Las transformaciones del Estado contemporáneo, Alianza, Madrid, últ. ed.
- Derecho Constitucional comparado, Alianza, Madrid, últ. ed.
- LÓPEZ GUERRA, L., Introducción al Derecho Constitucional, Tirant lo Blanch, Valencia, últ. ed.
- Derecho Constitucional, Tirant lo Blanch, Valencia, últ. ed.
- SÁNCHEZ FERRIZ, R.: Introducción al Estado constitucional español, Tirant lo Blanch, Valencia, últ. 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.
- \* Estado de Derecho y democracia de Partidos, Servicio de Publicaciones de la Facultad de Derecho de la Universidad Complutense, Madrid, últ. ed.
- PÉREZ ROYO, J.: Curso de Derecho Constitucional, Marcial Pons, Madrid, últ. ed.
- VV. AA.: Lecciones de Derecho Constitucional I, Lex Nova, Valladolid, últ. Ed.

