

COURSE SYLLABUS

1. COURSE DESCRIPTION

Degree:	Derecho (UPO-Univ de Bayreuth) (English teaching)
Double Degree:	Derecho (UPO-Univ de Bayreuth) (English teaching)
Course:	Derecho Constitucional II: Derechos Fundamentales <i>Constitutional Law II: Fundamental Rights</i> (English teaching)
Module:	Module II: Basic Training in Law
Department:	Public Law
Term:	Second Term
Total Credits:	6
Year:	1st
Type of Course:	Basic
Course Language:	English

Teaching model:	A1	
a. General/background:		70%
b. Theory-into-practice/developmental knowledge-building		30%
c. Guided Academic Activities:		

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2. COURSE COORDINATOR

Course coordinator:	
Name:	Alicia Rivas Vañó
Faculty:	Faculty of Law – <i>Facultad de Derecho</i>
Department:	Public Law – <i>Derecho Público</i>
Area of Knowledge:	Constitutional Law – <i>Derecho Constitucional</i>
Category:	Part-time professor – <i>profesora asociada</i>
Office hours:	Monday: 10:30-12:30 Tuesday: 12:30-14:00 Wednesday: 10:00-12:00
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3. ACADEMIC CONTEXT

3.1. Course Description and Objectives

The primary objective pursued by this course is the understanding of fundamental rights and their position in the Spanish constitutional system, as a previous and necessary condition to the implementation of a system of separation of powers, studied in the course *Constitutional Law I*. At the same time, the way in which the course has been structured will allow students to develop their critical and analytical skills, through the analysis of the differences that may exist between legal texts and social reality.

3.2. Contribution to the Training Plan

The substance of the course will focus in the general theory of fundamental rights, their essential content specified by the case-law of the Spanish Constitutional Court, as well as their system of institutional, jurisdictional and organic guarantees, as established by the Spanish Constitution.

3.3. Recommendations or Prerequisites

Most of the subjects treated in the course, as a consequence of public and political life, are of constant concern for the media. For this reason, the students are encouraged not to see this course as a purely theoretical approach to Law, but on the contrary, as a living instrument from which important outcomes can be extracted for every citizen's life. It is highly recommended to bring a text of the 1978 Spanish Constitution.

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4. SKILLS

4.1 Degree Skills Developed during this Course

- Ability for abstract and analytical thinking, and synthesis of ideas.
- Ability to identify, pose and resolve problems.
- Ability to communicate both orally and through the written word in first language.
- Ability to act with social responsibility and civic awareness.
- Ability to interact constructively with others regardless of background and culture and respecting diversity.
- Ability to work autonomously.
- Ability to search for, process and analyze information from a variety of legal sources.
- Capacity to develop the basic skills in legal argumentation.
- Ability to apply knowledge in practical situations.
- Ability to identify, pose and resolve legal problems.
- Ability to be critical and self-critical in the analysis of the legal system.
- Ability to read a range of complex material and to summarize their arguments accurately.
- Ability to act on the basis of ethical reasoning

4.2. Module Skills Developed during this Course

- Ability for abstract and analytical thinking, and synthesis of ideas.
- Ability to identify, pose and resolve problems.
- Ability to communicate both orally and through the written word in first language.
- Ability to act with social responsibility and civic awareness.
- Ability to interact constructively with others regardless of background and culture and respecting diversity.
- Ability to work autonomously.
- Ability to search for, process and analyze information from a variety of legal sources (legal texts, case-law, administrative sources and doctrine).
- Knowledge and understanding of principal features and key concepts and principles of the legal system, including European dimension.
- Ability to express oneself in a fluent technical language using precise, clear legal terms.
- Ability to individuate different legal solutions, to weigh their argumentative strength and to analyze outcomes of a legal problem and to outline alternative solutions.
- Understanding of political, social, economic, historical, personal and psychological phenomena (among others) taking them into consideration in the creation, interpretation and application of Law.
- Ability to take a sound and motivated legal decision.



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4.3. Course-specific Skills

- Ability to communicate in a second (foreign) language.
- Ability to use a foreign legal language.
- Knowledge and understanding of the system of protection of fundamental rights (institutional, jurisprudential and organic guarantees).
- Systematic understanding of the dimension and capacity of fundamental rights, and their mainstreaming functionality all across the legal system.
- Capacity to interpret constitutional jurisprudence dealing with fundamental rights.
- Ability to identify and apply the legal sources using the legal method, and in particular, the constitutional legal method.

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5. COURSE CONTENT (COURSE TOPICS)

UNIT 1.- THE CONCEPT OF FUNDAMENTAL RIGHTS.

Historical development of Fundamental Rights: Declarations of Rights and classifications. Founding principles, entitlement, interpretation and content. The principle of equality.

UNIT 2.- INDIVIDUAL RIGHTS.

The right to life and moral and physical integrity. Freedom of conscience. Personal liberty and its guarantees. The rights to privacy, honour and identity. The inviolability of the home. The right to freedom of movement and residence.

UNIT 3.- PUBLIC FREEDOMS.

The right to freedom of expression and the creation of public opinion. Expression and information. The concept of verified information and the constitutional rights of journalists. Right to assembly and demonstrate. Right of association.

UNIT 4.- SOCIAL RIGHTS.

The right to education and academic freedom. Right of association (union) and right to strike.

UNIT 5.- THE RIGHT TO A FAIR TRIAL.

The constitutional recognition of the right to a fair trial. The general guarantees. The specific guarantees of the criminal trial.

UNIT 6.- THE RIGHTS RECOGNISED IN SECTION II.

The different nature of the rights guaranteed in Chapter II of Title I of the Constitution. The specific rights recognised in Section II.

UNIT 7.- GUIDING PRINCIPLES OF ECONOMIC AND SOCIAL POLICY.

Chapter III of Title I of the Constitution. The meaning and role of these guiding principles in a social/welfare State. The problem of the need of legal regulation and its efficacy.

UNIT 8.- THE CONSTITUTIONAL GUARANTEE OF FUNDAMENTAL RIGHTS.

The Constitution as a guarantee in itself. The requirement of Law and its applicability in the Spanish legal system. The essential content of the rights and its jurisprudential development.

UNIT 9.- THE JURISPRUDENTIAL PROTECTION OF FUNDAMENTAL RIGHTS.

The Appeal of Protection of Fundamental Rights (*Recurso de Amparo*): historical background. Its regulation in the Spanish legal system. The Appeal of Constitutional Protection of Fundamental Rights (*Recurso de Amparo Constitucional*). The Appeal to the European Court of Human Rights. The Ombudsman.

UNIT 10.- THE STATES OF EMERGENCY.

Emergency situations and the rule of Law. History and classification. The state of alarm. The state of emergency. The state of siege. The individual suspension of fundamental rights.



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6. METHODOLOGY AND RESOURCES

In order to reach the objectives proposed for the subject, the course will be organized according to the following scheme: general intro/background (Lecture Group); practical/developmental learning (Discussion Group).

General Teaching:

A series of basic activities will be carried out as a large group in fifteen 2 hour sessions with the professor. In these sessions, the professor will provide a basic theoretical framework for the course by topic. The content of the sessions will vary according to when they occur throughout the course. Please refer to the Weekly Schedule for detailed information regarding when these sessions will take place.

Practical Work/Teaching

Nine 1.5 hour 'theory-into-practice' sessions. Please refer to the Weekly Schedule for detailed information, by groups, regarding when these sessions will take place.

In these sessions the professor will coordinate practical learning activities, in order to develop the capacity of applying the Constitution, the legal texts and the constitutional jurisprudence. In this sense, these sessions may consist in solving a legal practical problem or case, the study in depth of doctrine or case-law, or the completion of individual and/or group works, under the professor supervision.

Pertinent theoretical/practical questions and problems will be explained and discussed.

Concepts learned in the Theory classes will be put into practice and explored.

Practical learning and knowledge-building sessions are designed for regular attendance.

Active participation in class discussions and completion of all assignments will be valued highly when it comes to assessing students.

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7. ASSESSMENT

The proportion of different educational activities developed in this course is as follows: General Teaching (GT) constitutes 70% of the training activities undertaken in the course. The remaining 30% consists of practical work in seminars (PT).

The assessment system will maintain consistency with the training activities undertaken in this type of subject.

General Teaching (GT), specific skills and learning tools acquired will be assessed through a final exam. This will make up 70% of the final grade for the course.

Practical Teaching (PT) will be evaluated through continuous assessment. This ongoing evaluation will include activities designed to reinforce the specific skills acquired in lectures (GT). PT assessment makes up the remaining 30% of the final grade for the course.

In any case, the course will not be passed unless the result of the GT exam is at least 3 over 7.

In the second exam session, students will have the opportunity to retake an exam only in relation with the GT content or, instead, to retake the exam, including PT, which has been already assessed on an ongoing evaluation. If this is the case, students are required to communicate to the professor, within 10 days, their decision to reject the 30% assessment already made, in order to retake a exam including this part.

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8. BIBLIOGRAPHY

Ferreres Comella, V. *Constitution of Spain: a contextual analysis*. Oxford: Hart Publishing, 2013.

Ruiz Robledo, A. *Constitutional Law in Spain*, Wolters Kluwer, 2012.

Prakke, L.; Kortmann, C. *Constitution Law of 15 EU Member States*, 2005.

Arroyo Jiménez, L. and Ortega Carballo, C. 'Towards the Modernization of the Appeal for Constitutional Protection of Fundamental Rights in Spain', *European Public Law*, n° 1, 2014, pp. 31-36.

The Spanish Constitution, available in

<http://www.tribunalconstitucional.es/en/constitucion/Pages/ConstitucionIngles.aspx>

and in

<http://www.eui.eu/Projects/InternationalArtHeritageLaw/Documents/NationalLegislation/Spain/spanishconstitution1978.pdf>

Jowers, R. *Léxico Temático de Terminología Jurídica Español-Inglés (Thematic Lexicon of Spanish-English Legal Terminology)*, 2015.