

CONSTITUTIONAL LAW

Bachelor of Laws LLB [2504110] SEP-2023 CL-NLL.1.S.A

Area Public Law and Global Governance

Number of sessions: 30

Academic year: 23-24

Degree course: FIRST

Number of credits: 6.0

Semester: 1º

Category: BASIC

Language: English

Professor: **SONSOLES ARIAS GUEDÓN**

E-mail: sariasg@faculty.ie.edu

Sonsoles Arias-Guedón (PhD by Universidad de Navarra- International Doctorate-Summa Cum Laude 2015) is a full-time Assistant Professor of Law at IE University, where she teaches Constitutional law and Administrative law. She is also the Director of the Legal Clinic. Since she obtained her Bachelor Degree in Law in 2005, she has specialised in private and public law. Her research interests lie in the field of Constitutional law -more specifically in vertical separation of powers and unitary and federal systems, as for example the effects of Federalism on the protection of human rights. Her last research focused on the implementation of mechanisms of direct democracy in Germany and Spain. She has also recently focused on how the current pandemic (COVID19) and the states of emergency have affected the individual rights in our modern democracies.

Her doctoral thesis –Las Constituciones de los Länder de la República Federal de Alemania: Contenido, garantías y posición en el ordenamiento jurídico alemán, CEPC, 2015- obtained the recognition of the Centro de Estudios Políticos y Constitucionales (CEPC, Ministerio de la Presidencia de España) in 2015. She has conducted her research at Harvard Law School, Bucerius Law-School (Hamburg) and Ludwig-Maximilians Universität (Munich). She also practiced Law at Garrigues´ Litigation and Arbitration Department during several years. She is a member of the Madrid Bar Association.

<https://www.ie.edu/law-school/faculty-research/faculty/sonsoles-arias-guedon/>

sariasg@faculty.ie.edu

SUBJECT DESCRIPTION

The purpose of this course is to introduce students to constitutional law from a comparative perspective. The aim is two-fold: to help students acquire an understanding of the different rules and institutions that define our constitutional systems; and to provide them with a critical assessment of recent trends in constitutional law that can help them grasp and confront the complexity of an increasingly globalized and transnational legal order. The steady internationalization of constitutional law calls for a reinforced comparative approach.

This course is essential in the training of any jurist, since the knowledge and skills it offers are necessary for later courses. Besides, the unique comparative approach given to this specific subject as part of the IE LLB programme is intended to encourage future lawyers to pursue their careers in international, multidisciplinary and multicultural environments, and be capable of learning from experience and incorporating further knowledge in a progressive self-directed and autonomous way.

The course will begin with an introduction to Western constitutional history and the development of the theories of the state and modern constitutionalism. It will then focus on the role of the constitution as fundamental norm, explore the sources of law it contains, and develop its essential content with regards to forms and systems of government on the one hand, and the guarantee of fundamental rights and liberties on the other. It will follow with a comparative overview of the role and activity of constitutional courts and conclude with a reflection on the impact of internationalization on the nature of the constitutional state.

LEARNING OBJECTIVES

The objectives of this course are:

1. To introduce students to the ideas of constitution, constitutionalism and other main public law concepts.
2. To develop in students an understanding of:
 - 2.1 the relevant history and essential features of European constitutions;
 - 2.2 the nature of the constitutional state;
 - 2.3 the institutions of government and the relationship between them;
 - 2.4 the constitutional guarantees of fundamental rights and liberties;
 - 2.5 the basic principles of judicial review; and
 - 2.6 the constitutional guarantees of fundamental rights and liberties, touching upon the relevance of Sustainable Development Goal 16 and its implication in guaranteeing peace, justice and the establishment of strong governance institutions.
3. To encourage a critical assessment of European and international constitutionalism by reference to scholarship and proposals for its reform.

TEACHING METHODOLOGY

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	30.0 %	45.0 hours
Discussions	10.0 %	15.0 hours
Exercises in class, Asynchronous sessions, Field Work	16.67 %	25.0 hours
Group work	10.0 %	15.0 hours
Individual studying	33.33 %	50.0 hours

TOTAL	100.0 %	150.0 hours
-------	---------	-------------

PROGRAM

SESSION 1 (LIVE IN-PERSON)

Introduction to the course

Other / Complementary Documentation: Introduction to the course (s-c)

SESSIONS 2 - 3 (LIVE IN-PERSON)

The meaning of the Constitution

Own Material: The meaning of the Constitution

SESSIONS 4 - 5 (LIVE IN-PERSON)

Constitution-making process

Own Material: Constitution-making process

SESSIONS 6 - 7 (LIVE IN-PERSON)

Content of constitutions

Constitutional amendment process (i)

Own Material: Content of Constitutions

Own Material: Constitutional-amendment process

SESSIONS 8 - 9 (LIVE IN-PERSON)

Constitutional amendment process (ii)

Constitutional v. Parliamentary Supremacy

Own Material: Constitutional v. Parliamentary Supremacy

SESSION 10 (LIVE IN-PERSON)

Applied Exercise

SESSIONS 11 - 12 (LIVE IN-PERSON)

The principle of separation of powers

Own Material: The principle of separation of powers

SESSIONS 13 - 14 (LIVE IN-PERSON)

Parliamentary, Presidential and semi-presidential systems

Own Material: Parliamentary, Presidential and Semi-Presidential systems

SESSION 15 (LIVE IN-PERSON)

Mid-term exam

SESSIONS 16 - 17 (LIVE IN-PERSON)

The legislative power (i) (ii)

Own Material: The legislative power

SESSIONS 18 - 19 (LIVE IN-PERSON)

Legislative power (iii)

Executive power (i)

Own Material: The executive power

SESSIONS 20 - 21 (LIVE IN-PERSON)

Executive power (ii)

Applied Exercise

Practical Case: Lalaland: A case on electoral law (LAW010283-U-ENG-HTM)

SESSIONS 22 - 23 (LIVE IN-PERSON)

Vertical distribution of the power

The defense of the Constitution. Emergency powers

Own Material: Vertical separation of powers

Book Chapters: Heringa, A. W.: Federalism, unitarism and decentralization, in Constitutions compared : an introduction to comparative constitutional law, OUP, 2009 (available at IE Library)

SESSIONS 24 - 25 (LIVE IN-PERSON)

Rights and liberties

SESSIONS 26 - 27 (LIVE IN-PERSON)

Constitutional adjudication

SESSIONS 28 - 29 (LIVE IN-PERSON)

Review session

SESSION 30 (LIVE IN-PERSON)

Final exam

EVALUATION CRITERIA

Each student has four attempts over two consecutive academic years to pass this course. **Dates and location of both the mid-term and the final exam will be posted in advance and will not be changed.**

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

criteria	percentage	Learning Objectives	Comments
Examen Final	40 %		
Mid-term exam	20 %		
Assignments	20 %		
Participation	20 %		

RE-SIT / RE-TAKE POLICY

Retake Policy

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

The retakes will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.

The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.

- The third attempt will require the student to complete a final exam.

This is also applicable to students who do not have required attendance, e.g. sickness.

- Dates and location of the retakes will be posted in advance and will not be changed.

BIBLIOGRAPHY

Recommended

- Heringa, Aalt Willem. (2019). *Constitutions Compared : an introduction to comparative constitutional law*. Cambridge ; Antwerp ; Chicago : Intersentia. ISBN 9781780688831 (Printed)

BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

ATTENDANCE POLICY

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

ETHICAL POLICY

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.

