

Course 2023/24

Degree in Law

Fundamental rights and freedoms

Information on the Teaching Plan

Academic year:

2023/24

Academic center:

331 - Faculty of Law

Study:

3312 - Degree in Law

Subject:

20612 - Fundamental rights and freedoms

Credits:

6.0

Course: 1

Presentation

The course addresses the study of the system of protection of fundamental rights in the Spanish legal system. This study will include the analysis of the mechanisms established in the Spanish Constitution to protect fundamental rights, the legislative development of them, as well as the impact of the systems of protection of human rights (European and international) in the Spanish legal system.

At the end of the course, the student will be familiarized with the concept and types of fundamental rights and their relationship with constitutionalism and the international movement of human rights. Moreover, the student will analyze the protection mechanisms established by the Spanish Constitution and their relationship with the European systems of protection. Finally, the student will acquire basic notions regarding the content of the fundamental rights recognized in the Spanish legal system.

Associated competencies

- Capacity for analysis and synthesis of legislative texts and judgments in the field of fundamental rights.
- Capacity for legal reasoning in the field of rights, with special emphasis on the principle of proportionality.

Contents

Topic 1. Fundamental rights: concept and typology

Constitutionalism and rights. Concept of fundamental rights. Type of rights. The provisions that set forth rights: rules and principles.

Topic 2. Fundamental rights in the Spanish Constitution of 1978

The structure of Title I of the Spanish Constitution. Fundamental rights, principles governing economic and social policy, constitutional duties and institutional guarantees. Autonomous Communities and constitutional rights and duties.

Topic 3. Holder of fundamental rights and its exercise

The institutional status of foreigners. Fundamental rights of legal entities and minors. The vertical and horizontal effectiveness of fundamental rights.

Topic 4. Limits and restrictions on fundamental rights. The principle of proportionality

The configuration of fundamental rights: the legal reserve (reserve de ley). Limits and restrictions on fundamental rights. The proportionality principle and the essential content of rights as a guarantee. Suspension of fundamental rights.

Topic 5. Guarantees of fundamental rights

Judicial protection of rights. Special procedures. The individual complaint (recurso de amparo) before the Constitutional Court. The Ombudsman and similar institutions of the Autonomous Communities.

Topic 6. The fundamental rights in the European framework

The European Convention on Human Rights. European Union Law: The Charter of Fundamental Rights of the European Union. Article 10.2 of the Spanish Constitution.

Topic 7. The principle of equality

Equality in law and equality in the application of the law. The right not to be discriminated because of specific causes. Equality and affirmative actions.

Topic 8. The rights of the individual and private sphere

The right to life and to physical and moral integrity. Freedom of ideology and religion. The rights of the private life: privacy, honor, own image, home, secret of communications. Personal liberty and habeas corpus. Freedom of movement and residence. The right to marriage.

Topic 9. Freedom of expression and information

Freedoms of expression and information. Conflicts with the right to honor, privacy and own image. The rights of journalists. The right of artistic and scientific creation.

Topic 10. Political rights

The rights of assembly and demonstration. Political parties and the right of association. The right to participate in public affairs and access to public offices. The right to vote. The right to petition.

Topic 11. Due process. Principle of criminal legality

The right to effective judicial protection without defenselessness. The guarantees of the process. The fundamental right to an impartial judge. The principle of legality in criminal matters.

Topic 12. Economic and social rights

Right to education and academic freedom. Right to work. Union freedoms and the right to strike. The right of private property. Freedom of enterprise.

Evaluation

- There will be a final exam, where it will be verified that the student has acquired the knowledge and relevant skills.
- The seminars will be evaluated through the participation in class.

- The final exam is equivalent to 70% of the final grade. The seminars are equivalent to 30% of the final grade.
- In order that the seminars could be part of the final mark, you must obtain at least 5 points (out of 10) at the final exam.
- A retake exam is planned for those students who have not passed the subject.

Bibliography

LÓPEZ GUERRA, L . *et al*, *Manual de Derecho constitucional (Vol I)*, Tirant lo Blanch, València, 2022.

LÓPEZ GUERRA, L . *et al*, *Manual de Derecho constitucional (Vol II)*, Tirant lo Blanch, València, 2022.

DIEZ-PICAZO, L., *Sistema de Derechos y Libertades*, Tirant lo Blanch, València, 2021.