

# MULTILEVEL SYSTEM OF THE FUNDAMENTAL RIGHTS IN THE EUROPEAN UNION

Curso 2014/2015

(Código: 26602571)

## 1. PRESENTACIÓN

ECTS: 5

2 semester

The recognition of rights and freedoms has always constituted one of the most important foundations of societies and groups, and, particularly, societies, institutions and democratic groups. European Union has not been immune to the importance of the recognition of a list of fundamental rights. And even over a long period of time, the European Convention on Human Rights and constitutional traditions common to the Member States have informed the implementation of rights by European Union institutions and their defense by the Court of Justice. There have been several attempts to adopt a bill of rights, and finally it was possible thanks to the drafting and proclamation of the Charter of Fundamental Rights in 2000. However, even before, the Court of Justice had made a very valuable and effective jurisprudential construction that, *de facto*, allowed that outmoded Communities and the actual European Union recognized and applied fundamental rights in their field.

This course addresses a detailed study of the multilevel system of rights on European Union that now has, as best support, the Fundamental Rights' Charter with the same legal value as the Treaties.

Now it is virtually impossible to know European Union without an enough and rigorous information about the multi-level system of rights that is recognized and applied in EU. This elective course is on track to meet this goal.

## 2. CONTEXTUALIZACIÓN

This Official Master on the European Union offers students a high-level academic education that allows them to achieve optimum conditions to develop their professional and academic career. It is intended to provide students with a high-level training that will place them in optimal conditions to work in professional or academic environments.

The fundamental role of this type of degrees in European Union countries is a consequence of the central place a college education must have for a better understanding of the process of integration. For this reason, the different degrees in European Union Studies are a priority for the European institutions and Member States, among which UNED is not an exception.

## 3. REQUISITOS PREVIOS RECOMENDABLES

- a) Those established for the admission to the Master and specifically for the itinerary in English.
- b) For the analysis of foreign documents, knowledge of any of the official EU languages will be an asset.
- c) Generally, in this Law speciality it is helpful if the student is familiar with the terms

(glossary) that are commonly used in the European Union, which will allow more and better understanding of the information.

d) It is equally relevant in this course that students have basic computer skills, since such skills are needed to follow the course. Students need to access learning materials and other information through these systems.

## 4.RESULTADOS DE APRENDIZAJE

Knowledge:

- Students are expected to acquire extensive and advanced knowledge of the EU multilevel Fundamental Rights.
- Students will be able to discuss the law about this subject.
- Students will be able to apply case-law knowledge.

Learning will be based on the materials referred to or provided by the teaching staff. If required, academic guidance will be available on-line. In this regard, the teaching staff is committed to providing guidance that is tailored to the specific needs of individual students.

Skills: Students are expected to develop their ability to find their way through the complex EU multilevel Fundamental Rights framework. One of the crucial skills to be honed by students is the selection, usage and management of documentary sources, jurisprudence and doctrinal materials.

Attitudes: A good disposition towards autonomous work is essential to maximize the results of the course. This combination of knowledge, skills and attitudes will prepare students for the task of understanding the protection of the multilevel Fundamental Rights in Europe.

## 5.CONTENIDOS DE LA ASIGNATURA

Programme:

This course has the following contents:

1. Origin and evolution of rights and freedoms.
  - 1.1. Rights under Constitutive Treaties.
  - 1.2. Reforms of Treaties and fundamental rights.
2. The work of the Court of Justice of European Union in order to protect fundamental rights
  - 2.1. Judicial review in fundamental rights cases.
  - 2.2. Jurisprudence of the Court of Justice and fundamental rights protection.
3. The Charter of Fundamental Rights.
  - 3.1. The drafting of the Charter of Fundamental Rights.
  - 3.2. The proclamation of the Charter.
  - 3.3. The entry into force of the Charter and its legal value
  - 3.4. Structure and content of the Charter of Fundamental Rights.
  - 3.5. Interpretation of the Charter of Fundamental Rights.
  - 3.6. Application of the Charter of Fundamental Rights.

## 6.EQUIPO DOCENTE

- [CRISTINA ELIAS MENDEZ](#)
- [LEYRE BURGUERA AMEAVE](#)
- [AMALIA BALAGUER PEREZ](#)

## 7.METODOLOGÍA

This subject will be taught according to the distance education methodology that characterizes the UNED. Thus, students face a self-learning process but assisted by the teacher.

The education process is articulated through various communication distance learning systems. Within these systems, the Master in European Union is provided with support in a virtual interactive platform where the student finds both basic materials and supplementary teaching materials, information, news, exercises and is also trained to perform the evaluation for different subjects. More specifically, the virtual platform will contain: legislation, case law, internet links, a glossary of terms, teaching materials, exercises.

## 8.BIBLIOGRAFÍA BÁSICA

### Comentarios y anexos:

If necessary, the basic bibliography will be updated at the beginning of the academic year.

### Main bibliography

- Gómez-Sánchez, Y. Constitucionalismo multinivel: derechos fundamentales, Sanz y Torres, Madrid, 2011.
- Craig, P. and De Burca, G., EU Law: Text, Cases, and Materials, 5<sup>th</sup> ed., OxfordUniversityPress, 2011.  
Information on the book available at: <http://www.oup.com/us/catalog/general/subject/Law/EuropeanLaw/?view=usa&ci=9780199576999>
- Balaguer Callejón, F, Cámara Villar, G, López Aguilar, J.F., Balaguer Callejón, M.L., Montilla Marto, J.A., Manual de Derecho Constitucional, vol. II, Tecnos, 2011.

### English bibliography

- Cartabia, M., Europeand Rights: Taking Dialogue Seriously, European Constitutional Law Review (2009), 5 : pp 5-31.
- Horspool, M., European Union Law, OxfordUniversityPress, 2006.
- Kumm, M., The Jurisprudence of Constitutional Conflict: Constitutional Supremacy in Europe before and after the Constitutional Treaty, European Law Journal, Volume 11, Issue 3, pages 262–307, May 2005.
- Pollicino, O., The New Relationship between National and the European Courts after the Enlargement of Europe: Towards a Unitary Theory of Jurisprudential Supranational Law?, 2. Yearbook of European Law (2010) 29 (1): 65-111. doi: 10.1093/yel/29.1.65, <http://yel.oxfordjournals.org/content/29/1/65.full>
- Von Bogdandy, A., Pluralism, direct effect, and the ultimate say: On the relationship between international and domestic constitutional law. Int J Constitutional Law (2008) 6 (3-4): 397-413.

### Spanish bibliography

- Azpitarte Sánchez, M., El Tribunal Constitucional ante el control del Derecho comunitario derivado, Civitas, Madrid, 2002.
- Elías Méndez, C., La jurisdicción constitucional en los Estados miembros de la Unión Europea, Revista de Derecho Constitucional Europeo, nº 16, 2011, <http://www.ugr.es/~redce/REDCE16/articulos/01CElias.htm>
- Cámara Villar, G.: [Los derechos fundamentales en el proceso histórico de construcción de la Unión Europea y su valor en el Tratado Constitucional](#), *Revista de derecho constitucional europeo*, Nº. 4, 2005, pags. 9-42
- Vidal Prado, C., El impacto del nuevo Derecho europeo en los Tribunales constitucionales, Colex, Madrid, 2004.

It is recommended to consult the following texts:

- European Union Treaties (in force)
- Charter of Fundamental Rights of the EU
- European Convention on Human Rights
- European Law

- Jurisprudence
- Spanish Constitution
- Organic Law of the Constitutional Court (Spain)
- Other legislation and documentation

## 9. BIBLIOGRAFÍA COMPLEMENTARIA

Comentarios y anexos:

See "Main bibliography".

## 10. RECURSOS DE APOYO AL ESTUDIO

On-line course: The course will be conducted on-line. On-line tutorials will be the basic form of interaction between students and the teaching staff. Access to learning materials, submission of essays and other documents, and communication between course actors will take place through the specific on-line channel designed and maintained for the course.

Main links:

- European glossary

[http://europa.eu/legislation\\_summaries/glossary/](http://europa.eu/legislation_summaries/glossary/)

- European Union Agency for Fundamental Rights

[http://fra.europa.eu/fraWebsite/home/home\\_en.htm](http://fra.europa.eu/fraWebsite/home/home_en.htm)

- Fundamental Rights in the European Union

[http://europa.eu/legislation\\_summaries/human\\_rights/fundamental\\_rights\\_within\\_european\\_union/index\\_es.htm](http://europa.eu/legislation_summaries/human_rights/fundamental_rights_within_european_union/index_es.htm)

[http://www.europarl.europa.eu/charter/default\\_en.htm](http://www.europarl.europa.eu/charter/default_en.htm)

[http://ec.europa.eu/justice/fundamental-rights/index\\_en.htm](http://ec.europa.eu/justice/fundamental-rights/index_en.htm)

- BOE (Boletín oficial del Estado)

<http://www.boe.es/g/es/>

• [El Gobierno Informa \(España\):](#)

<http://www.la-moncloa.es>

• [Congreso de los Diputados de España:](#)

<http://www.congreso.es>

• [Senado de España:](#)

<http://www.senado.es>

• [BEDE. Boletín Electrónico de Documentación Europea:](#)

<http://euro.ucl.ac.be/bede/>

• [Consejo de Estado:](#)

<http://www.consejo-estado.es>

• Consejo General del Poder Judicial:

<http://www.poderjudicial.es>

- Tribunal Constitucional

<http://www.tribunalconstitucional.es/>

- Tribunal Supremo

<http://www.poderjudicial.es/eversuite/GetRecords?Template=cgpj/ts/principal.htm>

- Centro de Estudios Políticos y Constitucionales:

<http://www.cepc.es>

- UN

<http://www.un.org/spanish/>

- European Council

<http://www.coe.int/>

- European Union

[http://europa.eu/index\\_es.htm](http://europa.eu/index_es.htm)

- European Union Court Justice

<http://curia.europa.eu/es/index.htm>

## 11.TUTORIZACIÓN Y SEGUIMIENTO

Prof. Dr. Yolanda Gómez Sánchez  
Tuesdays: from 10 to 14  
Office number: 2.58  
Telf. Secretary: 0034/ 91 3986131  
Telf. office: 0034/91 3988021  
E-mail: [ygomez@der.uned.es](mailto:ygomez@der.uned.es)

It is highly advisable that students contact the teacher by e-mail.

Dr. Leyre Burguera Amenave  
Tuesdays: from 10 to 14  
Office number: 2.62  
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It is highly advisable that students contact the teacher by e-mail.

## 12.EVALUACIÓN DE LOS APRENDIZAJES

The specific methodology of UNED allows students to be evaluated through presential exams performed in the network of Associate Centers of UNED in Spain and abroad, or to be evaluated at "distance" through the virtual platform that provides support to education.

Accordingly, the teaching team determines each academic year under the rules adopted by the UNED, the student's assessment of the subject, by one or more of the following systems:

- a) In person through tests performed in the associated centers of UNED.
- b) Conduct of a research.
- c) On-line test.

- d) Writing of essays.
- e) Case Studies.
- f) Analysis of case law.

The day and time of assessment exercises will be announced with, at least, two weeks in advance on aIF platform.

If the student does not realize the exercise in time to enable it or does not get the minimum of 5 points, he/she may be presented to the September resit but he/she will not be able to recover during the semester.

### 13.COLABORADORES DOCENTES

Véase equipo docente.