

**ASIGNATURA DE MÁSTER:**

UNED

# SPANISH CASE-LAW ON DOMESTIC IMPLEMENTATION TO EU LAW

Curso 2017/2018

(Código: 26602590)

## 1. PRESENTACIÓN

### INTRODUCTORY REMARKS

This course is aimed at offering an specialized approach to the interface between European Law and domestic law from the point of view of the application and interpretation by the Spanish courts and judges, focusing not only on the theoretical formulation of the autonomous involvement in implementing European Union Law, but also on the existing problems related to its practical application.

Special relevance will be attached to the principles governing this relationship, such as supremacy and direct effect.

Emphasis will be placed on the influence of the novelties deriving from the entry into force of the Lisbon Treaty in our case-law.

## 2. CONTEXTUALIZACIÓN

### THE COURSE IN ITS CONTEXT

Extensive knowledge of the EU Law system is fundamental within the framework of the Official Master's Degree on the European Union (specialization in Law). It is a basic premise to understanding how EU law is created.

Within the framework of the European system, the case-law has been of substantial influence in the creation of the main concepts of this legal system. Through the preliminary rulings, by which national judges send questions of interpretation and validity to the

European Court of Justice, this institution has developed a huge "acquis" of principles and rules, not only procedural but also substantive ones.

At the same time, taking into account that national judges are required to act as a european ones, the interpretation of european rules by domestic courts are also subjet of the analisis.

Sufficient capacity to understand that case-law will be required to the students. In order to help them to acquire these skills, we will include in the teaching methodology the orientation of the contents, methods and research techniques towards the elaboration of work in accordance with the lines of the Master programme and the bibliographical and jurisprudential material related to the subject of study.

### 3. REQUISITOS PREVIOS RECOMENDABLES

#### RECOMMENDED PREVIOUS QUALIFICATIONS

Students must have a broad legal background (we assume that they have coursed a Degree in Law or Political Sciences) and more specifically, a previous knowledge of EU Law and International Law.

Sufficient knowledge of English will be required, and French skills would be helpful as well.

### 4. RESULTADOS DE APRENDIZAJE

#### INTENDED RESULTS

**Knowledge:** Students are expected to acquire extensive and advanced knowledge of the integration of european legal order in our domestic system through the case-law.

Learning will be based on the materials referred to or provided by the teaching staff, mainly the text of the most relevant sentences. 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 understand the meaning of domestic case-law in the interpretation and incorporation

They are supposed to acquire a deep knowledge of the tendence of Spanish courts and judges in the integration of European Law.

Attitudes: Students are encouraged to have a positive attitude towards the harmonization of European law made by courts and judges and the role of our judicial system. 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 complexities of the EU legal framework, providing them with the tools required to understand the challenges it faces and its possible evolution and development.

## 5. CONTENIDOS DE LA ASIGNATURA

### SUMMARY OF CONTENTS

A) The application of General principles of European Law (supremacy, direct applicability and direct effect) by the Spanish jurisdiction

B) The case-law relating the implementation of European law in Spain taking into account our autonomous structure and organization, bearing in mind that, in practice this assumption of European order is limited by different elements of our decentralized system.

C) The new directions of Spanish case-law, taking into account the new structure of the European legal order as a consequence of the entry into force of the Lisbon Treaty.

## 6. EQUIPO DOCENTE

- [MARIA TERESA MARCOS MARTIN](#)
- [CARLOS JOSE VIDAL PRADO](#)
- [ALVARO JARILLO ALDEANUEVA](#)

## 7. METODOLOGÍA

## METHODOLOGY

Teaching and learning are to take place through well-tested methods of distance education as understood in open universities. Learning materials will be referred or provided by the teaching staff through on-line channels. Acquisition of knowledge will take place through: 1) Reading the basic learning materials; 2) Research, guided by the teaching staff through on-line tutorials and 3) Use of information in situations and cases presented by the teaching staff.

## 8. BIBLIOGRAFÍA BÁSICA

Comentarios y anexos:

ALONSO GARCÍA, R.: El juez español y el Derecho Comunitario, Ed. Consejo General del Poder Judicial, 2003.

ESCOBAR HERNÁNDEZ, C. (dir.) y otros: Instituciones de la Unión Europea, Ed. Tirant lo Blanch, Valencia, 2015.

MANGAS MARTÍN, A. y LIÑAN NOGUERAS, D.J.: Instituciones y Derecho de la Unión Europea, Ed. Tecnos, Madrid, 2012.

OBRADOVIC, D., and LAVRANOS, N. (ed.): Interface between EU Law and national law, Europa Law-Publishing, Groningen, 2007.

WATHELET, M y VAN RAEPENBUSH, S.: Rapport de la Cour de Justice des CEE. The relations between the Constitutional Courts and the other National Courts, including the interference in this area of the action of the European Courts, Conference of European Constitutional Courts XIIth Congress, Bruselas, Palais d'Egmont, 2002.

## 9. BIBLIOGRAFÍA COMPLEMENTARIA

Comentarios y anexos:

AÑÓN CALVETE, J.: Primacía del Derecho de la Unión Europea (a propósito de la STC 232/2015, de 5 de noviembre), <http://noticias.juridicas.com/conocimiento/articulos-doctrinales/10895-primacia-del-derecho-de-la-union-europea-a-proposito-de-la-stc-232-2015-de-5-de-noviembre/>

CRAIG, P.: Directives: direct effect, indirect effect and the construction of national legislation, *European Law Review*, 1997 (6).

EDWARD, D.: Direct effect: myth, mess or mystery?, en *Direct Effect, Rethinking a Classic of EC legal doctrine*, Prinssen and Schrauwen, Europa Law Publishing, Groningen, 2002.

LENAERTS, K and ARTS, D.: *Procedural Law on the European Union*, Ed. Thomson, 2010.

MANGAS MARTÍN, A.: *Derecho Comunitario Europeo y Derecho Español*, Ed. Tecnos, Madrid, 1987.

MANGAS MARTÍN, A.: *Rapport Espagnol. Le droit constitutionnel national et l'intégration européenne*, FIDE, XVII Congrès, Berlin, 1996.

PEERS, S.: *Taking supremacy seriously*, *European Law Review*, 1998 (2).

PRECHAL, S.: *Direct Effect Reconsidered, Redefined and Rejected*, en *Direct Effect. Rethinking a Classic of EC Legal Doctrine*, ed. Prinssen and Schrauwen, The Hogendorp Papers (3), Europa Law Publishing, Groningen, 2002.

SCHWARZE, J (ed.): *The birth of a European Constitutional Order. The interaction of national and European Constitutional Law*, Nomos, Baden-Baden, 2001.

## 10. RECURSOS DE APOYO AL ESTUDIO

### ACADEMIC SUPPORT

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, virtual libraries and forums, submission of essays, and communication between course actors will take place through the specific on-line channel designed and maintained for the course.

## 11. TUTORIZACIÓN Y SEGUIMIENTO

### TUTORIALS AND FOLLOW-UP

Although communication between students and the teaching staff will take place preferably on-line, an extra resource for tutorials and guidance will be provided by the traditional system of academic service practiced by UNED. In this regard, Drs. CASTRO-RIAL GARRONE and MARCOS MARTÍN will be on duty on Thursday from 16 p.m. to 20 p.m.

## 12. EVALUACIÓN DE LOS APRENDIZAJES

## ASSESSMENT

Assessment of the work done and submitted by students will take place on-line, through a system of continuous assessment.

## 13.COLABORADORES DOCENTES

Véase equipo docente.