

Course title: Sovereignty, Democracy and Constitutionalism in Europe

Language of instruction: English

Professors: Josep Capdeferro, Pau Bossacoma and Cornel-Peter Rodenbusch

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agreed on with students

Course contact hours: 45

Recommended credit: 6 ECTS credits

Course prerequisites: None

Language requirements:

Recommended level in the European Framework B2 (or equivalent: Cambridge Certificate if the teaching language is English, DELE or 3 semesters in the case of Spanish).

Course focus and approach:

This is a course that aims to work on the origins and development of key ideas of modern constitutional polities. Since the course aims to study the foundation and evolution of crucial constitutional concepts, the team is composed by two legal historians (Dr Josep Capdeferro and Dr Cornel-Peter Rodenbusch) and a public law scholar and political and constitutional theorist (Dr Pau Bossacoma). The course approach is based on the academic disciplines of legal history, constitutional theory, public law, political theory and political philosophy.

Course description:

The course focuses on the creation and evolution of modern constitutional polities in Iberia and Europe, including states (e.g. Spain), unions of states (e.g. the European Union) and sub-state units (e.g. Catalonia). More than an empirical explanation of different cases, the main aim is to analyse basic concepts and ideas that helped to develop current liberal democracies. The complexity and fragility of the equilibrium between these concepts and ideas may offer some clues on how to deal with the multiple criticisms and threats that European liberal-democracy is facing.

Each session will predominantly address and discuss a specific concept or idea (or close group of them) including sovereignty, territorial autonomy, federalism, national pluralism, democracy, parliamentarism, constitutionalism, constitution-making power, separation of powers, rule of law, fundamental rights, European integration, secession and withdrawal. Obviously, these concepts and ideas have strong links among each other and so will the lectures of this course.

Since all these legal and political issues are important, broad, multifaceted, stimulating and controversial, students with distinct backgrounds and different academic interests may enjoy this course, which is not intended to take place behind university doors exclusively but also to include historical walks and institutional visits to medieval, early-modern and contemporary sites with an intense political significance by Dr Rodenbusch.

Learning objectives:

Understanding and discussing basic concepts of democratic and constitutional theory including:

- Sovereignty and territorial autonomy
- Institutional accountability
- Democracy and parliamentarism
- Constitutionalism and constituent power
- Separation of powers and rule of law
- Federalism and EU Integration
- Withdrawal and secession

Course workload:

The workload is essentially composed of compulsory and optional readings, attendance at and participation during lectures, presentations followed by collective discussions, institutional and historical visits, and term-paper or final exam.

Teaching methodology:

The course is structured in four main types of activities:

- Lectures followed by a debate
- Collective presentations followed by collective discussions
- Field sessions consisting in institutional and historical visits
- Term-paper or final exam

Assessment criteria:

Midterm exam: 40%

Final exam: 40%

Participation: 20%

Nevertheless, the lower the participation is, the more significance the exams will have. Participation has an essentially positive impact on the final mark.

BaPIS absence policy:

Attending class is mandatory and will be monitored daily by professors. Missing classes will impact on the student's final grade as follows:

Absences	Penalization
Up to two (2) absences	No penalization
Three (3) absences	1 point subtracted from final grade (on a 10-point scale)
Four (4) absences	2 points subtracted from final grade (on a 10-point scale)
Five (5) absences or more	The student receives an INCOMPLETE ("NO PRESENTADO") for the course

The BaPIS attendance policy does not make a distinction between justified and unjustified absences. All absences—whether due to common short-term illnesses or personal reasons—are counted toward the total amount and cannot be excused. Therefore, students are responsible for managing all their absences.

Only in cases of longer absences—such as hospitalization, prolonged illness, traumatic events, or other exceptional situations—will absences be considered for exceptions with appropriate documentation. The Academic Director will review these cases on an individual basis.

Students must inform the Instructor and the International Programs Office promptly via email if serious circumstances arise.

Attendance Policy and Religious Observances:

In line with the UPF Code of Ethics and the principles of equality and non-discrimination, our attendance policy considers the accommodation of students' needs for religious reasons or specific religious festivities.

Students may self-manage their attendance and miss some sessions without penalty, as outlined in each syllabus. However, if a student anticipates that their religious obligations may significantly affect their participation in a course, and the standard policy does not fully accommodate their situation, they must inform the course professor **at the beginning of the term** to discuss suitable alternatives. **It is the student's responsibility to communicate these needs at the start of the term.** The Academic Director is also available to support both students and professors in finding a workable solution that ensures the student can meet the course objectives.

Classroom norms:

To be established by each teacher according to the nature of each activity.

Topics and units of study:

Historical and current constitutional experiences will be alternated in the classes, so that students will be able to detect the origins, evolution, consolidation and challenges of different topics. In general, Tuesdays (Dr. Capdeferro) will be devoted to historical constitutional realities (mainly pre-liberal) and Thursdays (Dr Bossacoma) to the recent past, current times and future challenges. On Fridays (Dr Rodenbusch), illustrative visits will take place, allowing students to locate certain episodes analysed during the week.

The creation of the European Modern State
Political participation and representation in preliberal Europe
Law-making and the observance of law in preliberal Europe
Ancient and modern constitutionalism
The evolution of constitutionalism and the rule of law
Sovereignty and division of powers
Constituent power, constitutional supremacy and judicial review of legislation
Federalism and the plurinational challenge
Democracy, parliamentarism and suffrage. Representative v. direct democracy
Integration, self-determination and secession in the European Union.

Recommended bibliography:

ABAT I NINET, A. (ed.) *Constitutional Law and Politics of Secession*. Abingdon: Routledge, 2023.

ARRIETA, J. "Forms of Union: Britain and Spain, a Comparative Analysis". *Revista internacional de los estudios vascos, Cuadernos* 5, 2009, pp. 23-52.

BLOCKMANS, W. *The Voice of the People? Political Participation before the Revolutions*. Routledge, 2024.

BOSSACOMA, P. "Secession from and secession within the European Union: Toward a holistic theory of secession". *International Journal of Constitutional Law* 22(1), 2024, pp. 111–133.

BOSSACOMA, P. *Morality and Legality of Secession*. Palgrave Macmillan, 2020.

BOSSACOMA, P. *Sovereignty in Europe. An idea in transformation*. University of Girona, 2018.

CAPDEFERRO, J. "Commissioners, ad hoc committees and negotiators in the cortes of Catalonia, 1701-02". *Parliaments, Estates and Representation* 39(3), 2019.

CAPDEFERRO, J. "The Configuration of the Tribunal de Contrafaccions of Catalonia in the Corts of 1701-1702", in Albareda J. & Herrero M. (eds.), *Political Representation in the Ancien Régime*. Routledge, 2019, pp. 231-244.

- CLOSA, C. (ed.) *Secession from a member state and withdrawal from the European Union*. Cambridge University Press, 2017.
- CORTEGUERA, L. R. *For the Common Good: Popular Politics in Barcelona, 1580-1640*, Cornell University Press, 2002.
- FERRERES, V. "Does Brexit Normalize Secession?". *Texas International Law Journal* 53(2), 2018, pp. 139-51.
- FERRERES, V. *Constitutional Courts and Democratic Values: A European Perspective*. Yale University Press, 2009.
- GIL, X. "After Revolts. Moments for Constitutional Refashioning in Early Modern Europe", in Gil (ed.): *Constitutional Moments. Founding Myths, Charters and Constitutions through History*. Brill, 2024, pp. 123-143.
- KANT, I. "Perpetual Peace: A Philosophical Sketch" (1795), in Kant: Political Writings. Cambridge University Press, 1991.
- LÓPEZ BOFILL, H. *Nostalgic Empires. The Crisis of the European Union Related to Its Original Sins*. Lexington Books, 2023.
- MATHIEU, F.; D. GUÉNETTE, A.-G. GAGNON (eds.) *Comparative Federalism. A Pluralist Exploration*. Cham: Palgrave Macmillan, 2024.
- McILWAIN, Ch.H. *Constitutionalism: Ancient and Modern*. Cornell University Press, 1947.
- ROUSSEAU, J.J. *A Lasting Peace Through the Federation of Europe*. (1782) Constable and Co. 1917.
- SCHMITT, C. *Political Theology*. University of Chicago Press, 2005.
- TIERNEY, S. *The Federal Contract. A Constitutional Theory of Federalism*. Oxford University Press, 2022.
- TORRA-PRAT, R. "From Judici de Taula to Visitas. A Brief Overview of How Catalan Parliaments Made Public Officials Accountable", *eHumanista* 48 (2021), pp. 54-62.
- TORRA-PRAT, R. "Vigilance and tax fraud in early modern Catalonia", *Social History* 49(2) (2024), pp. 117-142.
- WALKER, N. "The sovereignty surplus". *International Journal of Constitutional Law* 18(2), 2020, pp. 370-428.

Case law

- Thomas Bonham v. College of Physicians (Dr. Bonham's Case) (1610) Court of Common Pleas. 8 Co. Rep. 107 77 Eng. Rep 638 Case Opinions
- SUPREME COURT OF THE UNITED KINGDOM (2017). R (Miller) v Secretary of State for Exiting the European Union.
- COURT OF JUSTICE OF THE EUROPEAN UNION (Full Court). Judgment of 10 December 2018. Andy Wightman and Others v Secretary of State for Exiting the European Union.