

Master en Ciencias Jurídicas	
Course: Comparative Constitucional Justice	Trimester: 3
	Credits: 4
	<u>Language:</u> <u>English</u>
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Description of the course
Constitutional review has adopted different forms in different jurisdictions. Most European countries have established constitutional courts to guarantee the supremacy of the Constitution over ordinary laws. There are variations, however, within this so-called "European model" (or "centralized model") of judicial review. What are the reasons that justify this European preference for centralization? What are the advantages and disadvantages of this model, when compared with the decentralized model that the United States has historically embraced? What particular institutional arrangements are better, for which countries? In some Commonwealth countries, new systems of judicial review have emerged that give parliament a more important say in constitutional interpretation than under traditional models. Canada and the United Kingdom are the most important examples. What is the rationale of such systems? How do they work in practice? At the supranational level, interesting developments are taking place. In Europe, for example, the creation of the European Union and the Council of Europe has had an impact on the role of national courts. What is the division of labor between the domestic and the supranational jurisdictions when it comes to constitutional matters? Is the authority of constitutional courts being undermined? Another interesting adjudicatory process at the international level is related to investment treaty arbitration. Governmental decisions can sometimes be checked by international arbitral tribunals (such as ICSID), in order to protect fundamental rights of foreign investors. Why have such tribunals become so powerful? Is the current arbitral system legitimate?

Requirements
None.

Method
Material will be distributed to students in advance, so that the sessions can focus on the most important issues to discuss. Active participation by students is expected.

Activity
Students must submit a final paper (15 pages, approximately) on a topic connected to the issues discussed in class.

Evaluation		
Concept	%	Comment
Paper	80	Students must submit a final paper.
Participation in class	20	Active participation in class is expected from students.

Bibliography

The following bibliography is of a general nature. More specific material may be referenced or distributed in particular sessions.

E. AJA, Las tensiones entre el Tribunal Constitucional y el Legislador en la Europa actual. Ed. Ariel, 1998.

F.CAAMAÑO DOMÍNGUEZ, A.J.GÓMEZ MONTORO, M.MEDINA GUERRERO y J.L. REQUEJO PAGÉS, Jurisdicción y procesos constitucionales. 2ª ed. McGrawHill. Madrid 2000.

F.RUBIO LLORENTE y J. JIMÉNEZ CAMPO, Estudios sobre la jurisdicción constitucional. Ed. Trota, Madrid 1997.

V. FERRERES COMELLA, Justicia constitucional y democracia. CEPC, 2ª ed. Madrid 2007.

V. FERRERES COMELLA, Constitutional courts and democratic values. A European perspective. Yale University Press, New Haven, 2009.

H.H.A. VAN HARTEN, Investment Treaty Arbitration and Public Law. Oxford University Press, Oxford 2007.