

Master in Parliamentary procedures and legislative drafting (EUPADRA)



U N I V E R S I D A D
COMPLUTENSE
M A D R I D



Course Syllabus

Academic Year 2016/17

Course Title: Principles of free and fair elections, system of appeal and electoral review.

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Course description.

This course focuses on the principles of fair and free elections, as a central requirement in the construct of democracy. The dynamic and programmatic dimension to free and fair elections as institutional means to representative democracy can be understood by these premises: “free” is about participation and choice; and “fair” is about equality of participation and of the vote, and about impartiality and non-discrimination. With that in mind, the course is divided in three parts:

First part will introduce the basic concepts related to electoral institutions. The central importance of systems, or choice of electoral system, as an attribute of the democratic process is increasingly acknowledged. Then it will shift to European Parliament elections at both the national and European levels and feature several in-depth analyses of the main problems that European institutions have to address in order to improve the current democratic deficit in European Parliament elections.

Second part will analyze the existing models of electoral justice and the legal guarantees referred to the guiding principles of transparency, equality and political pluralism.

The third part will focus on fair and free elections from the perspective of European law, considering the main common features of the European Electoral Law. It will also deal with some of the main troublesome issues found in the law-making, the political debate and the cases of the European Court of Human Rights.

Assessment

Students will be asked to write one paper (between 4,000 and 5,000 words), on a topic to be selected together with the instructors.

Course Structure

	Topic
Class 1	<p>Introduction: Electoral institutions and political representation. Models of Electoral Justice in Europe.</p> <ul style="list-style-type: none"> - <i>Electoral Law</i> (Council of Europe, 2013), pp. 158-202. http://www.eods.eu/library/VC.Electoral%20Law_EN.pdf - GALLAGHER, M., “Electoral Institutions and Representation”, LE DUC, L., NIEMI, R. G., NORRIS, P. (Eds.), <i>Comparing Democracies. Elections and voting in a changing world</i>, Thousand Oaks, SAGE, 2014, pp. 11-31. - COLOMER, J.M., “Strategy and History of Electoral system choice”, COLOMER, J.M., <i>Handbook of Electoral System Choice</i>, Houndmills, Palgrave Macmillan, 2004, pp. 3-78. - WALL, Ian, et. al., <i>Electoral Management Design: The International Idea Handbook</i>, Idea Stockholm, 2006, pp. 5-21 - SANTOLAYA MACHETTI, Pablo. <i>Procedimiento y Garantías Electorales</i>. Civitas Thomson Reuters 2013. - NOHLEN, Dieter y otros (comp.). <i>Tratado de Derecho electoral comparado de América Latina</i>. Instituto Interamericano de Derechos Humanos. 2ª ed. 2007. http://www.idea.int/publications/electoral_law_la/upload/inlay_tratado.pdf
Class 2	<p>The quality of representation in Europe: The European parliament elections.</p> <ul style="list-style-type: none"> - FARRELL, D. M., SCULLY, R., <i>Representing Europe’s Citizens? Electoral Institutions and the Failure of Parliamentary Representation</i>, Oxford, Oxford University Press, 2007. - ROSE, R., <i>Elections in the European Union. A Comparative Overview</i>, International IDEA, 2004 http://www.idea.int/news/newsletters/upload/Handout%20Cardiff.pdf
Class 3	<p>Campaign funding: Rules and regulation.</p> <ul style="list-style-type: none"> - FALGUERA, E., JONES, S., OHMAN, M (Eds.), <i>Funding of Political Parties and Election Campaigns. A Handbook on Political Finance</i>, International IDEA, Stockholm, 2014, (Chapters 1, 2, 6, 7, 8 and 10) http://www.idea.int/publications/funding-of-political-parties-and-election-campaigns/loader.cfm?csModule=security/getfile&pageID=64347 - OECD, <i>Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture</i>, OECD Publishing, Paris, pp. 22-77. http://dx.doi.org/10.1787/9789264249455-4-en
Class 4	<p>Electoral Justice and legal guarantees: Principles of legal certainty, transparency, equality and political pluralism. Case studies:</p> <ul style="list-style-type: none"> - “Electronic vote and principle of transparency: Judgement of the Second Senate of the German Federal Constitutional Court of 3-3-2009”. GFCC, Judgment of the Second Senate of 03 March 2009 - 2 BvC 3/07 - paras.

	<p>(1-166), http://www.bverfg.de/e/cs20090303_2bvc000307en.html</p> <ul style="list-style-type: none"> - “Institutional campaigns of public authorities in electoral period and principle of equality: Judgement of the Third Senate of the Spanish Supreme Court of 18-11-2009” STS 6917/2009, of 18 November de 2009. http://www.poderjudicial.es/search/doAction?action=contentpdf&databasematch=TS&reference=4977586&links=&optimize=20091203&publicinterface=true
Class 5	<p>The European Electoral Heritage: theory and practice (Council of Europe’s Code of Good Practice in Electoral Matters and ECHR Case-Law)</p> <ul style="list-style-type: none"> - <i>Electoral Law</i> (Council of Europe, 2013) http://www.eods.eu/library/VC.Electoral%20Law_EN.pdf) Also available in pdf or paper format (Council of Europe Publishing, 2008). - NOHLEN, Dieter y otros (comp.). <i>Tratado de Derecho electoral comparado de América Latina</i>. Instituto Interamericano de Derechos Humanos. 2ª ed. 2007. http://www.idea.int/publications/electoral_law_la/upload/inlay_tratado.pdf - P. BIGLINO et al., <i>La resolución de los conflictos electorales: un análisis comparado</i>, Madrid, Centro de Estudios Políticos y Constitucionales, 2011.