

Master in Parliamentary procedures and legislative drafting (EUPADRA)



Course Syllabus

Academic Year 2016/17

Course Title: The function of parliamentary control.

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Course description

The course will be devoted to the function of parliamentary control. There is a clear parallel between Spain and Italy in the study of the function of parliamentary control and the evolution of its understanding. In addition, this similarity also occurs in a good number of techniques that are used by constitutional rules and standing orders of the Houses in many Latin American countries. These facts and the Anglo Saxon origin of the idea of oversight lead us to believe that may perhaps be valid a global approach. Constitutionalism is a universal movement and the phenomenon is nearly the same in any parliament in spite of differences in legal provisions and regulations. The doctrine on parliamentary control, far from being bookish or irrelevant, provides an understanding of parliament's activity and its place in a modern division of powers. It offers a map for navigating through an ocean of control instruments used by parliaments: questions, interjections, ministerial appearances, hearings, commissions of investigation, request for information and documentation, motions of no-confidence, impeachments and accusations, inaugural interventions of period of sessions, the role of some auxiliary bodies (ombudsmen, court of auditors, broadcasting councils...) that support parliamentary control on specific issues, joint commissions, budgetary offices, committees for legislation, budgetary commission, etc. Indeed not all of these instruments should be used in every system according with national traditions, but some good practices could be shared.

Several seminars, round tables and lectures involving visiting professors, MPs and legal expert – some of them practitioners working in the Spanish Parliament– are to be organized in the framework of the programme.

Assessment

Students will be asked to write one paper (between 4,000 and 5,000 words) analyzing one example of parliamentary control technique. Papers should follow a comparative approach between different countries and experiences.

Course Structure

	Topic
Class 1 Javier García Roca	<p>The debate on parliamentary functions and oversight in particular. General features of a parliamentary control theory. The control function some thing in between presidentialism and parlamentarism.</p> <p>-Javier García Roca, “El control del Gobierno desde la perspectiva individual del parlamentario...” en <i>Problemas actuales del control parlamentario</i>, VI Jornadas de Derecho Parlamentario (1995), Congreso de los Diputados, Madrid, 1997, pp. 225-278</p>
Class 2 Javier García Roca	<p>A global comparative approach: the evolution of the concept. Control-sanction, control-information and control-audit. Difusse and institutional accountability. Degrees of political accountability. Political versus legal control.</p> <p>-Javier García Roca, “La funcion parlamentaria de control a caballo de presidencialismo y parlamentarismo”.</p> <p>-Javier García Roca y Renato Ibrido, “El control parlamentario en Italia. Un estudio comparado sobre el concepto y algunas de sus mejores prácticas: el Comité para la Legislación y la Comisión de Presupuestos” en <i>El control del gobierno en democracia</i>, Francesc PAU (dir.), XIX AELPA, Tecnos, Madrid, 2013, pp. 105-136.</p> <p>-Javier García Roca y Renato Ibrido, “The function of parliamentary control in Spain and Italy. A comparative study of the concept”</p> <p>-Rafael Bustos, <i>La responsabilidad política del Gobierno: ¿realidad o ficción?</i> COLEX, 2001.</p>
Class 3 Javier García Roca	<p>The extension of subjects: controlling and controlled powers. The purpose of control. An extensive yet not very intensive control. The impact of constitutional jurisdiction on parliamentary control.</p> <p>-Javier García Roca y Renato Ibrido, “El control parlamentario en Italia. Un estudio comparado sobre el concepto y algunas de sus mejores prácticas: el Comité para la Legislación y la Comisión de Presupuestos” en <i>El control del gobierno en democracia</i>, Francesc PAU (dir.), XIX AELPA, Tecnos, Madrid, 2013, pp. 105-136.</p> <p>-Javier García Roca y Renato Ibrido, “The function of parliamentary control in Spain and Italy. A comparative study of the concept”</p>
Class 4 Rosa Fernández Riveira/Ignacio García Vitoria	<p>Instruments of control and new types (I). Appointing and censuring the Government. Votes of no confidence. Recall, dismissal and impeachment.</p> <p>- Hironori Yamamoto, Tools of parliamentary oversight. A comparative</p>

	<p>study of 88 national parliaments; (Inter-Parliamentary Union 2007), p. 65-70;</p> <p>-Thomas Beukers: "Enhancing Parliamentary Control Over the European Commission and the Member States. Constitutional Development Through Practice", <i>European Constitutional Law Review</i>, 2: 21–53, 2006</p> <p>- P. Magnette, "Appointing and Censuring the European Commission: The Adaptation of Parliamentary Institutions to the Community Context", 7 <i>European Law Journal</i> (2001) p. 295</p>
<p>Class 5 Rosa Fernández Riveira/Ignacio García Vitoria</p>	<p>Instruments of control and new types (II) Soft control in Parliament: significance and modalities; inquiries, questions, debates, other oversight institutions.</p> <p>- Hironori Yamamoto, Tools of parliamentary oversight. A comparative study of 88 national parliaments; (Inter-Parliamentary Union 2007),</p> <p>- Sandford, Mark, Briefing Paper, number 04148, 6 May 2015, House of Commons, <i>Parliamentary Questions: recent issues</i>, (2015)</p> <p>-Porras Nadales A., “Las preguntas escritas en la práctica parlamentaria española”, <i>Revista de Estudios Políticos</i> nº 19, enero-febrero 1981, pp. 107-134;</p>

Reference Books (for consultation):

- AA.VV.: *Problemas actuales del control parlamentario*, VI Jornadas de Derecho Parlamentario). Congreso de los Diputados 1997;
- BOULTON. C.J.: *Erskine May's treatise on the law, privileges, proceedings and usage of parliament*, Butterworths, 1989
- MCKAY, WILLIAM AND JOHNSON, CHARLES W.: *Parliament and Congress: representation and scrutiny in the twenty-first century*, Oxford University Press, 2010
- PAU I VALL, FRANCESC (ed): *Parlamento y control del gobierno*, V Jornadas de la Asociación Española de Letrados de Parlamentos, Aranzadi, 1998
- PAU I VALL, FRANCESC (ed): *El control del gobierno en democracia* : XIX Jornadas de la Asociación Española de Letrados de Parlamentos, Tecnos, 2013
- PELLIZO, RICCARDO and STAPENHURST, FREDERICK: *Parliamentary oversight Tools. A comparative analysis*; Routledge, London and New York 2012;
- ROGERS R. and WALTERS R.: *How Parliament Works*, 7th edition (Routledge, 2015)