



Universidad  
de Alcalá

FACULTAD DE DERECHO

# COURSE GUIDE

## State Ecclesiastical Law

DEGREE PROGRAMME IN LAW  
UNIVERSITY OF ALCALÁ

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Academic Year 2019-2020  
First Year - Second term

## COURSE GUIDE

<b>Course name:</b>	State Ecclesiastical Law
<b>Code:</b>	400005
<b>Degree Course:</b>	Law Degree
<b>Department and Subject Area:</b>	Department of Legal Sciences Law and Religion
<b>Type:</b>	Compulsory
<b>ECTS Credits:</b>	6 Credits
<b>Year / Term / Timetable:</b>	First Year / Second Term / Midday Session
<b>Course Convener/Course Tutor:</b>	Professor Miguel Rodríguez Blanco
<b>Tutorial classes/Office hours:</b>	At request of the students in the classroom or by e-mail: miguel.rodriguez@uah.es
<b>Language of instruction:</b>	English

## 1. OVERVIEW

State Ecclesiastical Law is a basic course worth 6 ECTS credits, included in the second semester, first year, of the Law Degree.

The main objective of this course is to study the Spanish secular law about religion. The basic aspects of this subject are models of religion-state relations, protection of religious freedom, antidiscrimination norms, legal status of religious denominations, religious marriages and conscientious objection.

The recognition of religious freedom is essential to protect the dignity of the person. This fundamental right is recognized in all the international text of human rights. The right to religious liberty has historically played an important role in order to guarantee the peaceful cohabitation in modern societies. In words of the European Court of Human Rights, *freedom of thought, conscience and religion is one of the foundations of a democratic society. It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it.*

While religious freedom is primarily a matter of individual conscience, it also implies, inter alia, freedom to manifest one's religion. So it has an internal and an external dimension both of them protected by law.

## 2. SKILLS

### General Skills:

- a. Ability to search for, select and evaluate information from judicial documentation and general information.
- b. Use of information technology to find information and deal with legal problems.
- c. Reflective, critical, and independent learning.
- d. Ability to critically analyse the knowledge gained, to summarize and to apply theoretical concepts in practice.
- e. Oral and written expression.
- f. Team working skills.
- g. Understanding of law as a system of the regulation of societal relations that incorporates an idea of justice. A commitment to human rights and democratic principles.
- h. Use of the digital learning classroom of the University of Alcalá (blackboard).

### Specific Skills:

- a. To discover the implications of religion, from the legal point of view, in modern societies.
- b. To critically evaluate the different models of religion-state relations, in order to achieve the degree of protection of religious freedom and religious diversity.

- c. To know the legal protection of individual and collective dimension of religious freedom and the legal status of religious denominations in Spanish law.
- d. To know the content of the internal and external dimension of religious freedom in the situations and conflicts which arise in our societies.
- e. To gain skills in analysis, interpretation, reasoning, logic and legal argumentation, working with norms, judgment and legal principles.
- f. To develop the information skills, what it means to know and evaluate critically and learn how to use the different sources of legal information to obtain, organize and select the most appropriate scientific and doctrinal information and, in addition, to do it in an ethical way.

### 3. COURSE CONTENT

Units	Nº Classes
<b>Unit I</b> <b>State Ecclesiastical Law Studies in Europe</b>	3 sessions (1 week)
<b>Unit II</b> <b>Models of religion-state relations</b>	3 sessions (1 week)
<b>Unit III</b> <b>Legal sources of State Ecclesiastical Law</b>	6 sessions (2 weeks)
<b>Unit IV</b> <b>Constitutional principles of State Ecclesiastical Law</b>	3 sessions (1 week)
<b>Unit V</b> <b>Legal protection of religious freedom</b>	9 sessions (3 weeks)
<b>Unit VI</b> <b>Antidiscrimination Law</b>	3 sessions (1 week)
<b>Unit VII</b> <b>Conscientious objection</b>	3 sessions (1 week)
<b>Unit VIII</b> <b>Education</b>	6 sessions (2 weeks)
<b>Unit IX</b> <b>Civil effects of religious marriages</b>	3 sessions (1 week)
<b>Unit X</b> <b>Legal status of religious denominations</b>	6 sessions (2 week)

#### 4. EDUCATION PLAN

##### Division of teaching and self-lead study:

**Total number of hours: 150**

<b>Number of class hours: 60</b>	<ul style="list-style-type: none"> <li>• Class contact: 45 hours</li> <li>• Guided study: 15 hours</li> </ul>
<b>Number of hours of autonomous work: 90</b>	<ul style="list-style-type: none"> <li>• Self-study: 60 hours</li> <li>• Preparation of work and solving of practical cases: 30 hours</li> </ul>

##### Learning methodologies

###### ► Theory classes

These will consist of the presentation and discussion of the subject by both the professor and the students. The students, with the professor's support, will present and debate the course contents which will have been previously prepared, along with any doubts that may arise from this.

The presentation will combine conceptual and functional analysis of legal order. Ideas and perspectives are drawn from the legal point of view. Some knowledge of the legal details of State Ecclesiastical Law in one or other legal system will be required. Much use will be made of Spanish law and the case-law of the European Court of Human Rights.

Students will be provided with course materials accessible through the internet and the intranet, together with material in university libraries. Students will explore the reading materials and address a set of thematic questions, on which they will be asked to prepare brief notes. Seminars and lectures will be augmented with tutorials.

###### ► Practical classes

These will consist of the students presenting courts' pronouncements or documents which have previously been supplied by the professor. The aim of this is that the student becomes accustomed to working directly with legal norms, judicial rulings and other documents.

In particular, for the resolution of cases the professor will provide the students with key facts from a problematic real-life situation and the student must identify the relevant aspects of the case and legal matter at issue, as well as searching for the applicable legal system and interpreting and resolving the specific issue.

The aim is that the student develops their abilities in researching information, managing legislative codes, and reasoning based on the rules of legal logic. Solving cases at the same time as studying the course material allows the student to learn and retain the most relevant aspects of the legal system, paying particular attention to its nuances.

### ► Student's own work

- a. Reading and studying the topic's reading list.
- b. Studying and understanding the concepts, institutions and principals explained in lectures.
- c. Reading the materials (norms, case law, legal news, articles and other documents).
- d. Researching legal information.
- e. Preparing practical cases and the notes necessary to participate in the debate which will take place in class.
- f. Preparing an essay in a topic indicated by the professor.
- g. Resolving a practical case selected by the professor.

The personalised tutorials will consist of one-on-one sessions (within the timetable) for students in order to guide them on developing their learning, resolving any issues, filling gaps in knowledge, making suggestions and so that the tutor has more direct information on the students' opinions of the class. These traditional tutorials may be complemented by electronic or virtual tutorials.

## Materials and resources

- a. Textbooks are essential tools for mastering the subject.
- b. Electronic resources and legal databases.
- c. Case studies.
- d. Documentation: judgments, legislation, legal bulletins, press cuttings, other documents.

## 5. ASSESSMENT

### 5.1 Assessment criteria

When assessing the students, the following criteria will be taken into account:

#### a. Regarding theoretical knowledge:

- Understanding concepts, principles and institutions of State Ecclesiastical Law.
- Ability to connect concepts and institutions.
- Ability to summarize.
- Ability to express oral and written ideas with clarity, coherence and concision.

#### b. Regarding practical abilities:

- Ability to identify and comprehend legal controversy.
- Ability to search for legal information.
- Ability to identify the norms, case law doctrine and legal principles applicable in a given legal problem.
- Ability to analyze and interpret norms and case law doctrines.
- Logical, argumentative and reasoning ability in a legal context.

- Oral and written expression skills, particularly rhetorical and dialectical.
- Debate, dialectical argumentation and oral presentation skills (clarity, accuracy, audience engagement...)
- Critical analysis.
- Originality in preparation of work or oral presentations in class.

## 5.2 Grading criteria

Students to whom the system of continuous evaluation does not apply, will be graded according to the grade obtained in the final exam.

Qualifications are awarded in accordance with R.D 1125/2003, in the following manner:

- Fail (Suspenso)..... From 0 to 4.9
- Pass (Aprobado)..... From 5 to 6.9
- Merit (Notable)..... From 7 to 8.9
- Distinction (Sobresaliente)..... From 9 to 10
- Graduate with Honors (Matrícula de Honor)..... From 9 to 10

## 5.3 Assessment procedure

### A. Continuous evaluation

#### A.1 Ordinary examination period

For those students who follow the system of continuous evaluation, the final grade will result from the grades obtained in the activities and tests carried out throughout the course as well as from the final subject exam, in the following way.

- a. The grades of tests and activities carried out during the term will make up 70% of the overall grade, with the final exam counting for the remaining 30%.
- b. Unless otherwise specified by the course convener, the 70% gained from continuous evaluation will be composed of: 20% attendance and participation in classroom activities; 20% the preparation of an essay; and 30% the resolution of a case study.

In order to calculate active participation, the following will be taken into consideration:

- Legal knowledge demonstrated by the student in their participation.
- Success in answering questions posed by the tutor.
- Success in searching for case law.
- Accurate understanding of norms and case law.
- And appropriate expression in oral participation.

Constructive contributions that demonstrate the student's work and interest will be particularly valued.

The final exam will cover all the topics included in the course. This exam will consist in the resolution of a practical case. Maximum duration: 1,5 hours.

Students who follow the system of continuous evaluation, and have complied with attendance requirements will be considered 'ABSENT' where they have not completed any of the summative assessments of the course.

### **A.2 Re-sit examination period**

The exam will be a written assessment with three questions of theoretical nature and the resolution of a practical case. Maximum duration: 3 hours.

## **B. Evaluation by Final Exam**

Students wishing to be assessed by a final exam should submit a written request to the Dean of the School of Law during the first two weeks of the term explaining why continuous assessment is unsuitable for them.

Once granted the final evaluation, the students must sit a final exam in May/June to demonstrate that they have gained all of the general and specific skills required.

### **B.1 Ordinary examination period**

The exam will be a written assessment with three questions of theoretical nature and the resolution of a practical case. Maximum duration: 3 hours.

### **B.2 Re-sit examination period**

The exam will be a written assessment with three questions of theoretical nature and the resolution of a practical case. Maximum duration: 3 hours.

## **6. BIBLIOGRAPHY**

The following textbooks are recommended:

- MIGUEL RODRÍGUEZ BLANCO, *Derecho y Religión. Nociones de Derecho Eclesiástico del Estado*, Aranzadi, Cizur Menor, 2018.
- JAVIER MARTÍNEZ-TORRÓN, *Law and Religion in Spain*, Kluwer Law International, The Netherlands, 2018.

## **NOTES**
