

**COURSE DATA****DATA SUBJECT****Code:** 35242**Name:** Electoral law**Cycle:** Undergraduate Studies**ECTS Credits:** 4.5**Academic year:** 2025-26**STUDY (S)**

Degree	Center	Acad. year	Period
1303 - Degree in Law	Facultat de Dret	4	Second quarter

**SUBJECT-MATTER**

Degree	Subject-matter	Character
1303 - Degree in Law	Electoral law	ELECTIVES

**COORDINATION**

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**SUMMARY**

In a democratic constitutional state, authentic elections; that is, free and competitive elections; are a key element. The entire edifice of such a state model rests on the principle of self-government of the people and, consequently, the principle of popular sovereignty. Electoral Law is precisely the branch of Public Law that deals with the regulation of the manner and forms in which this popular sovereignty is exercised by the largest representative body, that is, by the electoral body. Since this, for practical purposes, is the constitutional sovereign, it is clear that the regulation of the same, and of the means established by the Constitution and the law through which the popular will is formed and expressed, constitute the crucial issue of Public Law itself, since it is the set of such rules that predetermines the legitimacy of the different constitutional bodies and of each and every one of the public powers. These, in fact, will be legitimate when and to the extent that their government is democratically determined by the electorate, and that determination is made through a set of rules, which determine the different electoral systems, that are consistent with the aforementioned principle of sovereignty. Since the outcome of the election results from the combination of the formation of the will of the electorate during the electoral process and the legal interpretation that results from that will when applying the rules that define the electoral system, it is clear that the former is predetermined by the latter. And that it is the nature of said system that, in turn, prejudices the very nature of the resulting State. And, consequently, the structure of the State in question. In this way, the study of the law regulating elections becomes a necessary condition for the intelligibility of the rest of Public Law, and, through it, of the entire legal system of the State, since the object of this branch of Public Law is none other than the study of the means and procedures for producing the legitimacy of the State itself.



## PREVIOUS KNOWLEDGE

### RELATIONSHIP TO OTHER SUBJECTS OF THE SAME DEGREE

There are no specified enrollment restrictions with other subjects of the curriculum.

### OTHER REQUIREMENTS

## COMPETENCES / LEARNING OUTCOMES

### 1303 - Degree in Law

Be able to analyse legal problems and synthesise their approach and resolution.

Be able to apply constitutional principles and values, the respect for human rights, with special attention to equality between men and women, sustainability and the culture of peace as working tools in the interpretation of the legal system.

Be able to communicate correctly both orally and in writing in the field of law.

Be able to read and interpret legal texts.

Be able to use legal sources (legal, jurisprudential and doctrinal).

Develop critical awareness for the analysis of the legal system and develop the legal dialectic.

Know the content and application of each of the branches of the legal system.

Understand the constitutional regulatory framework, the political institutions of the State and their functioning.

## DESCRIPTION OF CONTENTS

### 1. GENERAL PART. BASIC NOTIONS OF ELECTORAL LAW. Topic 1. Political Representation

1. The idea of political representation: representation, democracy, participation, and elections.



2. The function of elections: a) To produce representation; b) To produce government; c) To produce legitimacy; d) The contradiction of non-competitive elections.

3. Representative mandate and the Party State: political parties and their role in the electoral process.

4. Is representative democracy in crisis?: a) The alternative of direct democracy; b) The possibilities of new technologies.

5. The notion of the electoral system and its elements

## **2. Topic 2. Suffrage and the vote**

1. The notions of active and passive suffrage.

2. From suffrage as a public function to suffrage as a fundamental right.

3. Restricted suffrage and universal suffrage: capacity as a requirement for the exercise of suffrage.

4. The electoral roll: a) Nature and functions; b) Systems for its preparation.

5. Eligibility, ineligibility, and incompatibilities.

6. Candidate status: a) Acquisition of candidate status; b) The powers of candidates.

7. Voting: a) Concept; b) The evolution of voting: from public voting to secret voting; c) The value of the vote: plural, multiple, and reinforced voting; d) The form of voting and its impact.

## **3. Topic 3. The Organization of Suffrage and Campaigns**

1. Electoral Units: The Concept of Electoral Constituency: a) Organization Methods:

Single-member, Plurinominal, and Single-member Constituencies, b) The Option for Electoral Geography and Its Consequences: Gerrymandering, c) The Notion of Magnitude and Its Repercussions.

2. The Organization of the Electoral Process and Its Phases: a) The Electoral Campaign: Concept and Historical Evolution of Electoral Campaigns, b) Campaign Financing: Public vs. Private, c) The Debate Regarding the Influence of Electoral Campaigns.



## **4. Topic 4. Electoral Formulas**

1. The Concept of Electoral Formula.
2. The Impossible Political Neutrality of Electoral Formulas: The Dilemma of Representativeness vs. Governability.
3. Majority Electoral Formulas: a) One-round Uninominal; b) Two-round uninominal system; c) Single non-transferable vote or SNTV; d) Limited vote.
4. Proportional formulas: a) Largest remainder; b) The d'Hondt method; c) The single transferable vote; d) Barrier clauses and their effects.
5. Mixed formulas.

## **5. Topic 5. Some electoral systems and their political consequences**

1. Some notable electoral systems: a) The British and American majoritarian systems; b) The French ballotage system; c) The German personalized proportionality system; d) The old Italian proportional system and its transformations; e) The SNTV in Japan; f) Several examples of mixed systems: Hungary and the Russian Federation.
2. The evolution of electoral systems in Spain.

## **6. SPECIAL PART. SPANISH ELECTORAL SYSTEMS. Topic 6. The Fundamental Right to Political Participation**

1. Political participation as a fundamental right: A) The holder of the right: active and passive suffrage; B) The legal reservation and the enforceable organic status; C) The doctrine of the Constitutional Court regarding Article 23 of the Spanish Constitution.
2. The sources of Spanish electoral law and the distribution of powers in this area.
3. Active and passive suffrage: capacity requirements.
4. The organization of the electoral register: A) The Electoral Register Office; B) The electoral participation of absent residents and residents abroad.



5.

The submission of candidacies: A) The right to submit candidacies and its holders; B) The Equality Law and its consequences; C) The proclamation and appeals against it; D) The publication of candidacies.

6. The casting of the vote: A) Voting by mail; B) Voting by absent residents; C) The personal vote.

7. Vote qualification: validity and nullity.

## **7. Topic 7. The electoral campaign and electoral administration**

1. Electoral campaigns: A) Pre-campaign, campaign, and institutional campaigns; B) The intervention of political parties in the campaign; C) Electoral propaganda; D) The electoral use of the media; E) The electoral polling system.

2. The financing of electoral campaigns.

3. The organization of the Spanish electoral administration: boards and polling stations.

4. The judicialization of electoral processes: A) Electoral administrative appeals; B) Electoral litigation; C) Electoral protection. D) Electoral crimes.

## **8. Topic 8. The election of Congress and the Senate**

1. The precedent of the Royal Decree-Law on Electoral Norms of 1977.

2. The electoral system of Congress: A) Art. 68 of the Constitution and its development through the LOREG; B) The constituency system; C) The type of vote and the electoral system

## **9. Topic 9. Local Elections**

1. Local elections: A) The right to vote at the local level: Article 13 of the Constitution and the Maastricht Treaty; B) The debate surrounding the extension of the right to vote to foreign residents.

2. Election methods: ordinary, majoritarian, and open council.

3. The election and censure of mayors.

4. The election of Island Councils, Island Councils, and Common Regime Provincial Councils.



## 10. Regional and European Parliament elections

1. The electoral systems of the Autonomous Communities: regulatory sources, general characteristics, and distinguishing elements.

2. The election of the Valencian Parliament: a) The statutory rules and the Valencian Electoral Law; b) The defining elements of the Valencian electoral system: constituencies, size, and threshold; c) The functioning of the Valencian electoral system.

3.- The election of the European Parliament:

A) The lack of a single electoral system and the debate on the issue; B) The ownership of the vote; C) The characterization of the Spanish electoral system: the issue of the single national district; D) The functioning of the electoral system for the European Parliament in Spain.

### WORKLOAD

#### PRESENCIAL ACTIVITIES

Activity	Hours
Theoretical and practical classes	45,00
<b>Total hours</b>	<b>45,00</b>

#### NON PRESENCIAL ACTIVITIES

Activity	Hours
Attendance at other activities	0,00
Individual or group project	0,00
Independent study and work	66,00
Preparation of lessons	0,00
Preparation for assessment activities	0,00
Resolution of case studies	0,00
<b>Total hours</b>	<b>66,00</b>

### TEACHING METHODOLOGY

The theoretical classes and applied activities scheduled for this course will be taught throughout the fifteen weeks of the second semester of the course on the dates and in classrooms determined by the Faculty of Law. If a class must be cancelled for justified reasons, we will try to communicate this circumstance as far in advance as possible, and arrangements will be made for its recovery before the end of the course. The theoretical classes will consist of an oral presentation by the professor in charge of the most relevant aspects of each lesson in the syllabus. In order to fully benefit from the scheduled classes, students are



expected to read the assigned materials, which are complemented by the professor's oral presentation, immediately before attending class. Your active participation in the classes, asking questions, requesting further clarification of more complex issues, or proposing additional explanations on aspects of the syllabus of particular interest, will be especially welcome. Although attendance at theoretical classes is not mandatory, students are expected to attend them regularly, as this will determine their adequate preparation for the evaluation process. Notwithstanding the foregoing, and given that the limited number of class hours provided for in the curriculum makes it impossible to provide a thorough and complete presentation in the classroom of all relevant aspects of the various topics included in the program, mere class attendance, even when attended with the best of intentions, can in no way be considered sufficient for adequate preparation for the subject. Therefore, independent study by students of the proposed textbooks, consultation of the cited legal texts, and appropriate use of tutorial hours to clarify doubts or request further details, constitute irreplaceable elements of assistance in preparing for the program. In the case of applied activities, the class will consist of a discussion of the materials previously presented to the students, based on which they will have to draw their own conclusions, and the subsequent submission of these. To this end, during the week prior to the activities, the subject professor will send the students press clippings, documents, or normative texts related to the political and institutional life of the states to be studied. This will enable the students to express their opinions on the subject in writing, in a space of no more than five to ten pages each, or to answer the questions posed by the professor with well-structured and concise arguments, presenting their points of view in a coherent and well-founded manner, thereby demonstrating their knowledge of the syllabus and their mastery of the doctrinal and normative sources used. In each case, the question posed will revolve around topics already covered in the program, and they will be subsequently evaluated.

The complementary activities aim to provide different perspectives on the study of some of the topics covered during the course, through the use of different methods of approaching them. This course will alternate between lectures by visiting professors and film screenings, followed by appropriate debate in both cases. These will take place on the days and in the locations specified for each of them.

Finally, in order to complement the overall and systematic analysis of the course content with more specific and timely analyses of relevant aspects of the program, the professor in charge will make a series of supplementary readings available to students. These will be provided through the Virtual Classroom, every other week. Students who need to comply with the provisions of the Regulations on Academic Support for Students with Disabilities, approved by Agreement No. 127/2010 of the Governing Council of the University of Valencia, may inform the course professor of this, either personally or through the Unit for the Integration of Persons with Disabilities of the University of Valencia, so that the appropriate measures can be taken to ensure their full access to the education system.

## EVALUATION

Regarding the assessment phase, in accordance with the regulations on the Law Degree Graduation verification form and the agreements adopted by the Academic Committee of the Degree, each student's final grade will be obtained from a final written test, which will account for 70% of the grade, and a series of continuous assessment tests, which together will account for the other 30% of the final grade.

¿ The aforementioned written test will alternate between questions that the student must answer briefly, precisely, and rigorously, and comprehensive topics that the student must address by presenting well-structured and comprehensive arguments based on a broad overall knowledge of the subject. These questions will always focus on topics clearly included in the course syllabus and whose importance has



been emphasized throughout the course. The date of the test will be determined by the Dean of the Faculty and duly announced. Your assessment will be carried out with rigor and fairness, and special attention will be paid to students' ability to express their concepts with proper spelling and clear and rigorous language, avoiding vagueness, redundancies, and evasions. The grade awarded will be subject to all regulations governing grade review at the University of Valencia.

¿ ¿¿ Students may choose to take this test orally, in which case the professor will ask three questions chosen at random, give them a few minutes to reflect so they can structure their answers appropriately, and then listen to them. The oral exam will be recorded.

¿ The continuous assessment tests will be those indicated in the applied activities and complementary activities section. The former must be submitted at the time of their completion (that is, neither before nor after the corresponding session, and only after attending it), in writing (never by email), and will be jointly evaluated with a maximum of 2.00 points based on the student's degree of involvement and effort in the teaching-learning process and the skills and attitudes demonstrated during the activities. The latter will be evaluated with a maximum of 1.00 points, also based on the student's degree of involvement in the teaching-learning process and the skills and attitudes demonstrated during the activities. The final grade will be the sum of the aforementioned grades, provided that the written test score is at least 3.00 (out of 7.00 points). In case of doubt, the student's active participation in class will be taken into account as much as possible. If the overall grade for the course is a fail in the first sitting, for the second sitting, the student may choose between (a) maintaining the grade on their written exam and retaking the continuous assessment tests, (b) maintaining the grade on these tests and retaking the written exam, and (c) retaking both tests. Under no circumstances will grades be retained beyond the end of the academic year. Finally, it should be noted that students are expected to exhibit honorable and upright behavior, befitting university students, both during classes and when taking exams and other written tests. Failure to do so will result in the requirement of appropriate responsibilities.

## REFERENCES

- Las obras básicas de estudio para la preparación de la primera parte de la asignatura (Temas 1 a 5) son, indistintamente, *Sistemas electorales y gobierno representativo*, de Josep M. Vallès y Agustí Bosch (Ariel, Barcelona, 1997) y *Sistemas electorales. Un estudio comparado*, de Manuel Martínez Sospedra, Joaquín J. Marco Marco y Ainhoa Uribe Otalora (Tirant lo Blanch, Valencia, 2007). En ambos casos, pero sobre todo en el primero de ellos, con las precauciones que se derivan de la relativa antigüedad de la obra. De la primera obra existe una versión en catalán titulada *Guía del sistema electoral*, UAB, Bellaterra, 2004 (en línea en [https://sistemaelectoral.files.wordpress.com/2013/07/agustc3ad-bosch\\_guia-del-sistema-electoral.pdf](https://sistemaelectoral.files.wordpress.com/2013/07/agustc3ad-bosch_guia-del-sistema-electoral.pdf)) Con la misma precaución que se acaba de referir, para la preparación de la segunda parte de la asignatura pueden ser utilizadas las obras *El sistema electoral*, de Montserrat Baras y Joan Botella (Tecnos, Madrid, 1996), *Derecho Electoral Español. Normas y procedimientos*, de Juan Carlos González Hernández (Tecnos, Madrid, 1997), *El régimen electoral de España*, de Enrique Arnaldo Alcubilla (CEPC, Madrid, 1999), *Elementos de Derecho Electoral*, de María Vicenta García Soriano (Tirant lo Blanch, 2005), y *Estado democrático y elecciones libres. Cuestiones fundamentales de Derecho electoral*, de Fabio Pascua Mateo, ed. (Thomson-Reuters, 2010), libros todos que siguiendo una metodología didáctica no muy distinta de la propuesta en este programa.
- Para la primera parte de la asignatura puede ser de utilidad consultar: Colomer, Josep M. (ed.): *Handbook of Electoral System Choice*, Palgrave-Macmillan, Nueva York-Londres, 2004. Colomer, Josep M.: *Cómo votamos: los sistemas electorales del mundo*, Gedisa, 2004. Corona Nakamura,



Luis Antonio y Adrián Miranda Camarena: Derecho electoral comparado, Marcial Pons, Madrid, 2012. Farrell, David M.: Electoral systems: a comparative introduction, Palgrave, 2001. Gallagher, Michael y Mitchell, P. (eds.): The Politics of Electoral Systems, Oxford University Press, 2005. Sáenz Royo, Eva y Carlos Garrido López (coords.): La funcionalidad del referéndum en la democracia representativa, Tirant lo Blanch, Valencia, 2018. Katz, Richard S.: A Theory of Parties and Electoral systems, Johns Hopkins University, 1980. Lijphart, Arend: Sistemas electorales y sistemas de partidos: un estudio de veintisiete democracias (1945-1990), Centro de Estudios Constitucionales, 1995. Nohlen, Dieter y otros: Tratado de derecho electoral comparado de América Latina, Fondo de Cultura Económica, México, 1998. Nohlen, Dieter: Sistemas electorales del mundo, Centro de Estudios Constitucionales, Madrid, 1981. Nohlen, Dieter: Sistemas electorales y partidos políticos, Fondo de Cultura Económica, México, 1998.

- Otras monografías relevantes sobre aspectos puntuales de esta parte del temario son: Aranda Álvarez, Elviro: Cuota de mujeres y régimen electoral, Dykinson, Madrid, 2001. Gavara de Cara, Juan Carlos: El Derecho electoral de las comunidades autónomas: revisión y mejora, Centro de Estudios Políticos y Constitucionales, Madrid, 2009. Montabes, Juan (ed.): El sistema electoral a debate. Veinte años de rendimientos del sistema electoral español (1977-1997), Centro de Investigaciones Sociológicas/Parlamento de Andalucía, 1998. Oliver Araujo, Joan: Los sistemas electorales autonómicos, Institut d'Estudis Autonòmics, Barcelona, 2011. Presno Linera, Miguel Ángel: El derecho de voto, Tecnos, Madrid, 2003. Soler Sánchez, Margarita: Campañas electorales y democracia en España, Col.lecció Estudis jurídics, Castellón, 2001.