

5.00 credits

30.0 h

Q1

Teacher(s)	Verdussen Marc ;
Language :	French
Place of the course	Louvain-la-Neuve
Main themes	<p>The object of the course is to study the general rules and principles governing criminal procedure in force at the Belgian Constitutional Court such as standards controlled by the Court, the concept of "bloc de constitutionnalité", Court composition and functioning, referral patterns (action for annulment and preliminary ruling), procedure, the effects of judgments, etc.. Moreover, the course leads to a broader analysis of the constitutionality of laws and, therefore, on constitutional justice. It is indeed important to set the Belgian constitutional litigation in the right context: theoretical, historical, geographical, philosophical, political, etc. Thus, a significant place is dedicated to comparative law, i.e. the comparison between the Belgian Constitutional Court and the most significant foreign constitutional courts, in Europe (Germany, Italy, France , Spain, Portugal, etc..) and elsewhere (USA and Canada). In a more systematic way, it emphasizes the differences between the two models of constitutional justice - the American model (judicial review) and the European one or "kelsénien" (constitutional review) - and to analyze the relevance of the distinctions. The course aims to provide a permanent discussion on the legitimacy of the Constitutional Court : for what needs are twelve judges given a mandate to speak out against the will expressed by dozens of citizens? what are the values that entitle them to intervene in matters traditionally the domain of parliament? Among others, matters concerning schools, family relationships, taxation, social security, the environment, health, recreation and the economy. Is it just that they should intervene on subjects as delicate as abortion, the status of refugees, the repression of Holocaust denial, racism, religious sects, wiretapping, consumer credit, commercial facilities, incest or noise caused by aircraft? Do we have to consider this as an insult to democracy? Or, on the contrary, consider it as another conception of democracy? A question begs an answer : in a democratic system, where the law is supposed to be the expression of citizens wishes and the reflections of its concerns, is the Constitutional Court the appropriate authority to censor laws that contravene the Constitution and, if so, why? It is a fundamental issue, likely to engage all students, not only those versed in constitutional law. This is because the role of a constitutional judge in a democratic society is a matter of general concern for all kinds of law disciplines. One of the sessions will be devoted to a discussion with a judge and a assistant at the Constitutional Court.</p>
Learning outcomes	
Bibliography	M. Verdussen, Justice constitutionnelle, Bruxelles, Larcier, 2012.
Faculty or entity in charge	BUDR

Programmes containing this learning unit (UE)

Program title	Acronym	Credits	Prerequisite	Learning outcomes
Master [120] in Law	DROI2M	5		