Criminal Justice and Legal Persons

Academic Year: (2019 / 2020) **Review date: 21-04-2020**

Department assigned to the subject: Criminal Law, Procedural Law and History Law Department

Coordinating teacher: DOPICO GOMEZ-ALLER, JACOBO

Type: Compulsory ECTS Credits : 3.0

Year : 1 Semester : 0

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Given the open configuration of this Master on Criminal Justice, beyond the general requirements for apllication, and admission in the Master, the student does not require any other specific requirement to take this course. However, it is recommended to have completed the degree in the subjects' Criminal Law' and 'Criminal Procedural Law'.
The subject 'Criminal liability of legal persons' is a complusory subject, which content is mixed because it involves a criminal section and proceedings (or procedural) section. The course has 3 ECTS.

OBJECTIVES

In general at the end of the course the student will be able to:
- Make complex arguments regarding the imputation of criminal liability of a legal person, the selection and determination of the appropriate sentence.
- Set the foundation for a corporate compliance model aimed at the prevention of crimes that can be attributed to a corporation.
- Play the roles of prosecution and defense regarding a procedural taxable legal person.

Acquire among others:
- Training to formulate arguments of charge or discharge in respect of the liability of a legal person for failure or avoidance of crime prevention.
- Knowledge on what penalties and ancillary measures should be applied to a collective entity in response to the different variables under the Criminal Code.
- Being able to play the roles of the criminal proceedings themselves with the specific features of the taxpayer corporation.
- General knowledge of different systems of criminal liability of legal persons in the European and international level, and with transnational implications that can have criminal proceedings against legal persons.
- Understanding the structure and contents to be included in corporate compliance program.
- Express and draft charge or discharge allegations regarding liability for omission of the compliance officer or other persons who perform guarantor within the legal person

DESCRIPTION OF CONTENTS: PROGRAMME

Criminal Section
1. The criminalization of legal persons from criminal political prospects, dogmatic and compared.
2. The Spanish criminal imputation model. A. The two-way system. B. Autonomy of the responsibility of the legal person. C. Subjects excluded
3. Spanish model problems of attribution of criminal responsibility to legal persons under the Criminal Code. A. Special features of each of the pathways of imputation. B. The duty of internal control and compliance purposes.
4. The system of penalties for legal persons. A. The fine. B. Suspension of activities and closure of premises. C. Bans strict sense. D. Judicial intervention. E. Dissolution. F. Scheme for unincorporated businesses.
5. Selection of the penalty. A. Legal Regime. B. The specific mitigation.
6. Corporate compliance. Prevention programs and internal control to the Spanish model of criminal liability of legal persons. Requirements and implementation. Completeness of control as a duty or cosmetic compliance control?
7. Extinction of criminal liability. A. The so called "covert solution." B. Transmission? Responsibility among legal?
8. Criminal liability of compliance officer and other subjects with the guarantor in the company. A. Function responsible for compliance and enforcement. B. Criminal risk assumptions for officer.C compliance. Other possible suspects. Administrators. The chief financial officer. Internal and external auditors.

Procedural Section
1. Legal entity and Criminal Procedure. 1.1. Introduction to Legal framework: A. LO 5/2010, of June 22. B. Law 37/2011, of October 10. 1. Two. The delimitation of the concept of "legal person". 1.3. Matter jurisdiction because of the pain and because of the crime.
2. The legal person 'accused' and its procedural legal status. 2.1 The right to the presumption of innocence. 2.2 The right of access to the process and the right of defense. 2.3. The right not to testify and other fundamental rights.
3. The legal person charged and the instructional-research phase trial. 3.1. The attendance to the procedure and the testimony of the legal person. 3.2. The precautionary measures. 3.3. Proceedings advance research and testing. A.1. Special consideration of entry and search of the concept address's legal person. 3.4. The declaration in absentia.
4. The legal person on the trial. 4.1. The conformity of the legal person. 4.2. Judgment. A. Brief analysis procedural penalties and modifying circumstances. A.1. The penalties provided for the legal person responsible. A.2. Ways to avoid and / or mitigate the criminal liability of the legal person. 4.3. Appeals.
5. Alternative dispute resolution to criminal judicial process and legal persons. 5.1. Posibilities and usefulness. 5.2. Comparative regulation. 5.3. In particular, mediation.

LEARNING ACTIVITIES AND METHODOLOGY

Among the various activities scheduled in principle (subject to changes, inclusions or exclusions to the dynamics of the course and his suggestions warrant) would find the following:
- Case studies in which theoretical application of the course content to real situations.
- Critical analysis of research articles in the field
- Analysis and review of some judgments
- Debate forum
- Writing and oral Opinions & Dissertations

Students who require any kind of consultation for the proper monitoring of the course may consult any doubts or questions with the teacher responsible of the concrete section (criminal or criminal procedure), related to those questions.

ASSESSMENT SYSTEM

The student will develop a personal work and continued throughout the course, the aim is therefore valuing the dedication and results when setting their overall rating.
Under this approach, the final grade for the course, which range from 0 to 10 points, will be the result of summing the partial scores obtained according to the following parameters:

Ordinary call:

-Case study or report- 40%
-Participation in forums - 30%
-Multiple choice test during the weeks in Madrid - 30%

Extraordinary call (June) IN-PERSON:
- 100% Exam (multiple choice or open questions) or case study/report

% end-of-term-examination:	30
% of continuous assessment (assigments, laboratory, practicals…):	70

BASIC BIBLIOGRAPHY

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