

Academic Year: ( 2022 / 2023 )

Review date: 17-05-2022

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

Coordinating teacher: ALVAREZ VIZCAYA, MARIA TERESA

Type: Electives ECTS Credits : 3.0

Year : 6 Semester :

## OBJECTIVES

Knowledge of the constitutional foundations related to the purposes of the penalty, with special emphasis on the executive phase. Specifically, fluid handling of the so-called antinomies of the purposes of the penalty: assumptions in which they arise and possible alternatives (criminal substitutes, reparation and mediation, pardons, etc.).

- Knowledge and critical contrast of the legality and reality of prisons.
- a) The prison reality: presentations by prison professionals, mediators, companions, etc.
- b) Prison legality: study of the main penitentiary institutions.
- Specialized knowledge of the legal-prison relationship, including a fluent handling of the basic concepts of constitutional jurisprudence in this regard.
- Specialized knowledge of the regulation and reality of prison classification, treatment and the prison regime.
- Ability to critically analyze criminal prison policy, current regulations and jurisprudence.

## DESCRIPTION OF CONTENTS: PROGRAMME

### PART ONE: Introduction

#### Lesson 1: Content and legislation

1. Content of the Penitentiary Law and the Execution of Penalties and Measures. 2. Penitentiary legislation: a) Constitution; b) Penal Code; c) Prison Law and Regulations; d) Procedural legislation. 3. Legislation on the execution of custodial sentences other than prison. 4. Legislation on the execution of non-custodial sentences. 5. Legislation on the execution of security measures. 6. Specific legislation on minors and young people.

#### Lesson 2: The purposes of the execution of sentences

1. The so-called antinomy of the ends of penalties. 2. Resocialization and its limits: crime from the sociological and economic point of view. Special reference to theories of social control. 3. Prison and resocialization: a) The criminal age and the internment of minors; b) The maximum duration of the prison sentence and its compliance; c) The recidivism and habituality; d) The reviewable permanent prison; and). The purposes of serving the prison sentence in constitutional jurisprudence. 4.- Financial penalties. 5.- Penalties depriving of rights

#### Lesson 3: Special prevention and short-term prison sentences

1. The purposes of the penalties and the fulfillment of short-term prison sentences. 2. Legal regime for the replacement of the prison sentence for foreigners. 3. Legal regime for the suspension of the execution of the prison sentence: a) Competent body and procedural moment; b) Requirements and conditions; c) Assumptions, requirements and conditions of the exceptional suspension. Special consideration of the exceptional suspension in drug addiction cases; d) Effects of non-compliance. 4. Suspension and penal frameworks.

#### Lesson 4: Forgiveness and reparation in criminal law

1. Forgiveness of the offended. 2. Reparation of the victim: a) Reparation and civil liability; b) Criminal effects; c) The future of the idea of reparation in criminal law. 3. The right of grace: amnesty and pardon. 4. The pardon: a) Fundamental principles and legal requirements; b) Procedural norms on concession and execution.

### PART TWO: Compliance with custodial sentences

#### Lesson 5: The legal-prison relationship

1. The subjects of the legal-prison relationship: a) The Penitentiary Administration. Structure. Essential content of their functions: prison regime, prison classification and treatment; b) The inmate. Statistical data; fundamental rights and prison rights; prison duties. 2. The peculiar relationship of special subjection of the inmates with the Penitentiary Administration in the matter of disciplinary sanctions: a) the violation of the principle of reservation of the law; b) the bis in idem. 3. The position of guarantor of the Penitentiary Administration: a) Content and effects of the position of guarantor; b) Forced feeding of

inmates on hunger strike; c) Protection of privacy; d) Data protection; d) The F.I.E.S; e) The subsidiary financial and civil liability of the Penitentiary Administration.

#### Lesson 6: Prisons

1. Public and private establishments. Private prison models: a) United States and England; b) The French model; c) Private participation in the Spanish prison system. 2. Classes of penitentiary establishments in Spain: preventive, compliance and special.

#### Lesson 7: Prison classification

1. Concept of prison classification. 2. Prison grades and their relationship with the prison regime, establishment and treatment. 3. The initial classification: competence, procedure, objective and consequences. 4. Grade progression and regression: legal requirements, competence and procedure for the revision of the classification. 5. Special situations: a) Preventive; b) Very serious and incurable patients. 6. Statistical data on prison classification.

#### Lesson 8: Prison regimes (I): Concept, ordinary regime and closed regime.

1. Concept of prison regime and classes. 2. The ordinary regime. 3. The closed regime: a) Statistical data; b) Legal assumptions; c) Closed regime and isolation sanction; d) Modalities of life regime; e) Specific regime issues: searches, counts and transfers; f) The closed regime in special departments: assumptions and mode of life regime; g) The so-called F.I.E.S. h) Duration limit and review of the closed regime; i) Competence and procedure.

#### Lesson 9: Prison regimes (II): The open regime

1. Statistical data. 2. Legal conditions and common standards for compliance with the open regime. 2. The modalities of life and their follow-up. 3. The restricted open regime. 4. The open regime in the External Dependent Units. 5. The open regime in Extra-penitentiary Units.

#### Lesson 10: Penitentiary regimes (III): The so-called ¿fourth degree¿ penitentiary or parole.

1. Concept and purposes 2. Competence and procedure. 3. Legal requirements. The calculation of the legal term: a) Accumulation and consolidation of sentences; b) Prison benefits. 4. Compliance regime. 5. Revocation. 6. Special regime for foreigners.

#### Lesson 11: Prison treatment (I): concept and basic content

1. Concept and principles of prison treatment. 2. Prison treatment and special prevention. 3. Treatment and classification. 4. The prison treatment programs: a) Scheduled departures; b) Therapeutic communities; c) Specialized action for drug addicts. 5. Training activities. Special consideration of compulsory basic education and training activities in Mothers' Units.

#### Lesson 12: Prison treatment (II): Prison work

1. Productive work in prisons. Statistical data and equipment. 2. The duty to work and the legal nature of the right to prison work. 3. The special prison labor relationship: a) Subjects. The legal position of the prison administration and the contractor. Specific and common principles with the Workers' Statute. Labor and Social Security rights. 4. Legal regime of prison work abroad. 5. Specific regime for occupational work: incentives, rewards and prison benefits. 6. Post-prison labor assistance.

#### Lesson 13: Prison treatment (III): Exit permits

1. The relationship between prison treatment and exit permits. 2. Ordinary permits. Content and requirements 3. Extraordinary permits. Content and requirements. 4. Competence and procedure. 5. Suspension and revocation of permits.

#### Lesson 14: Communications and visits.

1. General principles of oral and written prison communications. 2. Intervention and suspension of oral and written communications: a) Cases; b) Competence and procedure; c) Motivation and communication of the resolution and legality control. 3. Family, intimate and coexistence communications. 4. Specific regime for communications with the lawyer. Intervention and suspension of communications with the lawyer. Unique legal regime in cases of terrorism.

#### Lesson 15: Penitentiary benefits.

1. Concept and classes. 2. Early parole. 3. Prison rewards. 4. The temporary validity of the redemption of penalties for work.

### PART THREE: Execution of non-custodial sentences and security measures

#### Lesson 16: Execution of fines, community work, permanent location and prohibition of approaching the victim.

1. The execution of the fine. 2. The execution of the work sentence for the benefit of the community. 3. The execution of the penalty of permanent location. 4. The execution of the penalty of prohibition of approaching the victim.

#### Lesson 17: Execution of security measures.

1. Classes of measurements. 2. Application of detention measures: a) Common principles; b) In cases of sentence to imprisonment; c) In a psychiatric center; d) In a homelessness center; e) In a special educational center. 3. Application of non-custodial measures

#### LEARNING ACTIVITIES AND METHODOLOGY

The theoretical classes will be complemented by conferences given by forense psychologists, penitentiary personnel with the aim of analyzing the phenomenon of punishment and imprisonment from a different perspective than the merely legal one.

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| <b>% end-of-term-examination:</b>   | 60 |
| <b>% of continuous assessment (assignments, laboratory, practicals...):</b> | 40 |