

Academic Year: (2022 / 2023)

Review date: 11-06-2021

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

Coordinating teacher: SARDINERO GARCIA, CARLOS

Type: Compulsory ECTS Credits : 3.0

Year : 1 Semester : 1

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Having a Bachelor's or University Degree.

OBJECTIVES

The main objective of this subject is that students acquire knowledge in the access and use of sources of legal information typical to Criminal Theory and that, as a consequence, they are able to produce legal research papers and analyze them effectively. For that purpose it will be necessary to gain a deep knowledge of the general penal institutions and understand the constituent elements of every criminal incident. This implies that students will be able to identify the main problems that one might come across in practice, independently of the kind of crime that they are presented with, and the appropriate research strategies in each case as a consequence of the use of the institutions of the general part of the Penal Code. Such suggests that they master the basic principles of the general rules of crimes and offenses, and the sentences and safety measures, being able to assume different procedural roles ¿ prosecution or defense ¿ defending their arguments solidly in both cases, using the theoretical tools of the general part to which they have access, to reach the most precise and suitable decision for the procedural role that they are playing or the most favorable to the interests that they may have to defend in their professional future, applying them to each specific crime. For that it is necessary to have a solid methodological training which is what this subject tries to offer. Ultimately, what is expected is that the student is able to provide the correct theoretical and practical treatment to the integrators of the penal system drawing conclusions that are coherent with criminal law research and solve the theoretical and practical problems that may arise when analyzing any criminal incident.

DESCRIPTION OF CONTENTS: PROGRAMME

Advanced studies in Criminal Theory is an essential subject because in it the student will delve into the main theoretical and practical problems that are contemplated in the general part of Criminal Law. It's fundamental objective is the interpretation and systematization of the legal norms in force, particularly the ones that regulate the legal basis for the prohibition of conduct under threat of punishment and the ones that gather the general and particular characteristics of the punishable incident. Nevertheless, Criminal Theory, while consisting in the study of the elements that are common to all crimes, has it's outstanding features in complexity and high level of abstraction. To solve many and very complex criminal law issues, a good understanding of such issues is essential. Furthermore, in following modules the focus of the study will be various penal types, seeking to know their specific and differentiating characteristics. A good training in the general part of Criminal Law makes that learning process tremendously easier in other later modules. You can say that this subject provides the method for criminal law thinking. If one masters this method, the identification and solution of problems pertaining to each criminal type of the special part is almost automatic. On the contrary, a deficient training in Criminal Theory will cause the legal practitioner to get continuously confused in general matters while trying to understand the problems that are specific to the study of the crimes in particular. The program will study the different elements that generally define all crimes: statutory offense, illegality, culpability. And in more concrete terms, in each of those stages the focus will be, among other issues, on the problems pertaining to negligence and objective accusation, consent, the limits of self-defense, preventive self-defense, errors regarding factual circumstances of probable cause, decision making in situations of uncertainty, kidnapping negotiation, hostage taking, demolition of hijacked planes, human dignity and torture, authorities¿ criminal liability, joint perpetration by criminal organizations, state of necessity and drug trafficking, culpability and discrimination.

LEARNING ACTIVITIES AND METHODOLOGY

The training and study activities will be structured as follows:

Firstly, through a classroom-based theoretical and practical training with master classes and theoretical analysis of the various topics that form the subject, as well as analysis and discussion of practical cases related to the various general institutions of Criminal Law with different formats that might be useful in the diverse professional future that students may choose.

Apart from this, there will be group work sessions, supervised and tutored by an expert in the field, and presentation of works and/or discussions about a specific topic referring to the aforementioned group work. A specialized training is also planned by means of monographic seminars about topical issues (national and international), as well as visits to several courthouses, criminal courts, etc... so that the student can interact and have contact with the reality to which he will apply the knowledge gained in the module.

Finally, there will be readings and individual works by each student, supervised by an expert in the field.

ASSESSMENT SYSTEM

The evaluation system of this module will be based on continuous evaluation and it will take into account, among other factors, the active participation in class, resolution of practical cases (individual or collective), the soundness and diversity of the arguments used by the students in their resolution and the actual tests about theory and practice that the teachers find appropriate. All of this will amount to 10% of the final grade.

90% of the final grade will be represented by a final test at the end of the module.

Attendance to classes and activities that form part of the the module is mandatory. The student's unjustified absence exceeding 20% of the sessions (whichever kind they may be: master classes, practical classes, group work, monographic seminars, etc...) may lead to repeating the module fully.

The extraordinary examination shall consist in a theoretical examination. Final exam: 100%.

% end-of-term-examination:	90
% of continuous assessment (assignments, laboratory, practicals...):	10

BASIC BIBLIOGRAPHY

- AA.VV. Esquemas de Teoría Jurídica del Delito y de la Pena, Tirant lo Blanch, Última edición
- MIR PUIG, Santiago. Derecho Penal. Parte General, Reppertor, Última edición
- MUÑOZ CONDE, Francisco; GARCÍA ARÁN, Mercedes Derecho Penal. Parte General, Tirant lo Blanch, Última edición
- QUINTERO OLIVARES, Gonzalo (Dir.) Parte General del Derecho Penal, Thomson - Aranzadi., Última edición
- VIVES ANTÓN, Tomás S. et al. Derecho Penal. Parte General, Tirant lo Blanch, Última edición
- ÁLVAREZ GARCÍA, Francisco Javier Introducción a la teoría jurídica del delito, Tirant lo Blanch, Última edición