

Academic Year: ( 2022 / 2023 )

Review date: 19-05-2022

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

Coordinating teacher: JULLIEN DE ASIS, JESSICA LAURA

Type: Electives ECTS Credits : 3.0

Year : 1 Semester : 2

**REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)**

It is recommended to have passed the studies leading to the Law Degree. In addition, it is recommended to have passed the general and special part of Criminal Law subjects.

**OBJECTIVES**

- Students to achieve sufficient capacity to understand the elements of this crime.
  - Students detect the main problems they will encounter regardless of the type of crime, the most appropriate in each case, and research strategies to know and manage the technical means with which to solve complex cases.
  - That the students can assume different procedural roles, prosecution or defense, strength, and defend their arguments in both cases.
  - Students acquire the proper training and knowledge for development related to the exercise of criminal legal professions practice in this area.
  - That the students can identify and solve with ease the particular problems of the various criminal types thanks to solid methodological training.
  - Students develop the skills necessary to assist detained and charged that require a lawyer.
- They may make findings consistent with a criminal investigation and forensic evidence to solve the problems arising during the criminal proceedings related to gender violence
- Know communicate clearly and succinctly the hypotheses that can be formulated into the scene of these crimes, in research, the methodology and the practical implications of the police investigation, and in his court case or the prosecution.

**DESCRIPTION OF CONTENTS: PROGRAMME**

The module on the Criminal and Procedural Protection of Women is an optional module, the main objective of which is for the student to acquire knowledge of national and comparative criminal and procedural law from a gender perspective, and also to approach the constitutional analysis of the problems posed by domestic and gender-based violence. The objective of this course is to bring the student closer to the magnitude of the phenomenon, as an objective reality, by studying the entire social fabric that maintains this violence, as well as the measures adopted from various spheres to eradicate it.

The course also pays special attention to the European and Latin American criminal policy implemented in response to these behaviours and the results obtained in this regard, the effect of the penalties and the possible ways of solving the phenomenon, stressing the need for precautionary measures to be imposed during the course of the proceedings and for the penalties, if convicted, to be limited not to the traditional custodial ones but to the accessory custodial ones. Likewise, the curriculum of the course includes the analysis of more complex global measures aimed at discovering the root of the problem, the solution to which is, above all, educational and awareness-raising measures.

The Women's Criminal and Procedural Protection module consists of the following sections:

I. Introduction: General situation of the problem of gender violence in Europe and Latin America. Social repercussions. Facts and figures. Institutional policies for the eradication of violence against women Information, detection and action plans.

II. Constitutional budgets for the analysis of criminal legislation. Pronouncements of the Constitutional Court on the possible fundamental rights affected: principle of equality, right to privacy, right to freedom, principle of proportionality, principle of criminality, principle of guilt, principle of presumption of innocence.

III. International legal instruments: 1. 2. Inter-American Commission of Women. 3. European Union.

#### iv. Legal and criminal treatment in Spain

1. Introduction. Concept and general aspects of Gender Violence. Manifestations. Legislative and jurisprudential developments up to LO 1/2004 of 28 December on Comprehensive Protection Measures against Gender Violence. From crimes of domestic violence to crimes of gender violence: increase in punishment, concept of habituality and extension of the scope of application of typical behaviour.

2. Analysis of specific criminal types. A. The crime of occasional abuse (art. 153 CP). General issues. Protected legal asset. Active and passive subjects. Typical conduct. Specific aggravations: in the presence of minors, using weapons, which takes place in the common home or in the home of the victim, which is carried out in violation of a penalty of those contemplated in article 48 of the CP or a precautionary or security measure of the same nature. Specific mitigation. Competitions. B. The crime of habitual violence (Art. 173.2 and 3). General issues. Protected legal good. Active and passive subjects. Typical behaviour. The concept of habitability. The bankruptcy rule. Specific aggravations. C. Injuries of art. 148.4º and 5º. D. Threats of art. 171, 4, 5 and 6. E. Coercions of art. 172.2 and art. 620.2 last paragraph. F. Reference to the mixed circumstance of kinship (art. 23).

3. Penalties. Accessory penalties (arts. 39, 48, 57). Precautionary measures (art. 544 ter of the Criminal Code). Security measures (art. 105. 1 g). Breach of penalties and precautionary measures. Control of compliance with the restraining order: special reference to electronic devices in aid of victims.

4. Suspension (art. 83.1 CP), substitution (88.1,3), conditional release (93 CP and 64 LO 1/2004).

#### V. Comparative law.

1. European Criminal Codes: A) Germany B) Austria C) France E) Italy
2. Reference to the Latin American systems.

#### VI. Other manifestations of gender-based violence.

### LEARNING ACTIVITIES AND METHODOLOGY

Exposition of theoretical material, seminars with invited speakers/experts, practical cases analysis.

### ASSESSMENT SYSTEM

#### REGULAR CALL

- Continuous evaluation: 40%.
- Exam: 60%.

Attendance at the classes and activities that make up the module is mandatory.

#### EXTRAORDINARY CALL

In the extraordinary call, the examination will consist of the development of a practical case at the proposal of the teacher

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

### BASIC BIBLIOGRAPHY

- Barona Vilar, Silvia Retrato de la justicia desde el pensamiento dialógico feminista: ¿Por fin ruptura del petrificado discurso androcéntrico?, Retrato de la justicia desde el pensamiento dialógico feminista: ¿Por fin ruptura del petrificado discurso androcéntrico? Silvia Barona Vilar Claves de la justicia penal: feminización, inteligencia artificial, supranacionalidad y seguridad, 2019
- Etxebarria Estankona, K.; Ordeñana Gezuraga, I. y Otazua Zabala, G. (Dir.) Justicia con ojos de mujer: cuestiones procesales controvertidas, Tirant lo Blanch, 2018
- Fernández Carballo-Calero, Ricardo Perspectiva penal de la Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género, La Ley, nº 4, 2005
- García Vitoria, Aurora El cumplimiento del alejamiento e incomunicación del agresor con la víctima. Métodos tecnológicos de control, Revista de la Facultad de Derecho de la Universidad de Granada, 8, 2005
- García Vitoria, Aurora El cumplimiento del alejamiento e incomunicación del agresor con la víctima. Métodos tecnológicos de control, Revista de la Facultad de Derecho de la Universidad de Granada, 8,

2005

- Jiménez Segado, Carmelo El elemento intencional en violencia de género, La Ley penal, revista de Derecho penal, procesal y penitenciario, nº 66, 2009
- Martínez García, Elena La orden de protección europea: la protección de víctimas de violencia de género, Tirant lo blanch, 2016
- Otero González, Pilar La libertad vigilada aplicada a ¿imputables?: presente y futuro, Dykinson, 2015
- Otero González, Pilar Control telemático de penados: análisis jurídico, económico y social, Tirant lo Blanch, 2008
- Ramón Ribas, Eduardo La protección frente a la violencia de género: tutela penal y procesal , Dykinson, 2010

#### ADDITIONAL BIBLIOGRAPHY

- Roig Torres, M. (Dir.) Últimas reformas legales en los delitos de violencia de género: perspectiva comparada, Tirant lo Blanch, 2018
- Villacampa Estiarte, C. Política criminal española en materia de violencia de género: Valoración crítica, Tirant lo Blanch, 2018