

Academic Year: (2022 / 2023)

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

Coordinating teacher: GARROCHO SALCEDO, ANA MARIA

Type: Compulsory ECTS Credits : 3.0

Year : 1 Semester : 1

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Bachelor Degree in Law

- Criminal law: general and special part

OBJECTIVES

Grasping the characteristics and creative capacity of the Constitutional Court.

Knowing the hermeneutics of constitutional norms

Knowing the characteristics of a criminal law oriented Constitution.

Learn to build a system that starts directly from the basic text and the declaration of fundamental rights.

Controlling the principles that emerge for the formation of the penal system from the Constitution.

You can expose the complex picture that is derived from a construction of key constitutional criminal justice system.

The students shall identify the constitutional principles that are the basis of the criminal justice system.

The student shall identify characterize penal institutions in its constitutional reading.

DESCRIPTION OF CONTENTS: PROGRAMME

Construction of criminal law in constitutional jurisprudence. Criminal law has lived traditionally behind his constitutional reading, to the extent that the rules with criminal constitutional contents have been ¿leyendo¿ according to what was available criminal laws and not vice versa. This subject is taught to build the penal system from which should form their own bases: the constitutional order.

They will be analyzed

among other issues Hermeneutics of constitutional norms; the concept and functions constitutional legal right key;

Principle of legality (Reserve Organic Law, Analogy,

Blank criminal law: the problem of regional regulations supplement);

the

basic principles that should inspire or criminal law (ultima ratio, harmfulness, guilt, subjective responsibility, humanity, proportionality, effectiveness, non bis in idem, equality).

some key issues such as the changing boundaries will also be discussed between the honor, freedom of expression and freedom of information. As the constitutional orientation purposes of punishment.

I. GENERAL CONSIDERATIONS (3 sessions)**1. CONSTITUTION AND CRIMINAL LAW.****2. DOGMATIC PRINCIPLES OF SUBSTANTIVE CRIMINAL LAW.**

- a) The principle of legality
- b) The principle of minimum intervention
- c) The principle of culpability

- d) Principle of harm
- 3. RECOGNITION IN HUMAN RIGHTS TEXTS
 - a) Universal scope
 - b) European regional scope
 - c) American regional scope
 - d) Spanish State level
- 4. THE DIFFERENT SCOPE OF RECOGNITION
- 5. THE EVOLVING NATURE OF THE RECOGNITION OF CRIMINAL PRINCIPLES AS FUNDAMENTAL RIGHTS IN CONSTITUTIONAL JURISPRUDENCE
 - a) Problems due to the absence of recognition
 - b) Evolutionary instruments.

II. THE PRINCIPLE OF LEGALITY (2 Sessions)

- 1. CONCEPT AND BASIS
- 2. THE CONCEPT OF SANCTION
 - A) Material concept of sanction
 - B) Criteria for determining the sanctioning nature of a penalty
- 3. THE LEGALITY MANDATE
 - A) The requirement of a public and written Law
 - B) The requirement of parliamentary law
- 4. THE MANDATE OF CERTAINTY
 - A) The requirement of quality of the law
 - B) The prohibition of analogy
- 5. THE PROHIBITION OF RENVOI: A BLANK CRIMINAL LAW
 - A) Permissible cross-referrals
 - B) The prohibition of blank criminal law

III. THE PROHIBITION OF DOUBLE DEVALUATION: NON BIS IN IDEM (2 sessions)

- 1. CONCEPT AND BASIS
 - a) Concept of duplicity of devaluation
 - b) The basis for its prohibition
 - c) Its jurisprudential recognition
- 2. CRITERIA OF DUPLICITY OF DEVALUATION
- 3. PROHIBITED MANIFESTATIONS
 - a) Recidivism and objective accumulation
- b) Double subsumption of typical elements

IV. CRIMINAL (IR)RETROACTIVITY (2 sessions)

- 1. THE MANDATE OF NON-RETROACTIVITY:
 - a) Concept and basis
 - b) Regulatory and jurisprudential recognition
 - c) Problematic cases
- 2. THE MANDATE OF FAVORABLE RETROACTIVITY
 - a) Concept and basis
 - b) Constitutional recognition?
 - c) Problematic cases
- 3. THE DETERMINATION OF THE MOST FAVORABLE RULE

V. MATERIAL LIMITS OF CRIMINAL LAW (3 sessions)

- 1. THE PROHIBITION TO PUNISH THE EXERCISE OF FUNDAMENTAL RIGHTS:
 - a) Concept and basis
 - b) Problematic cases
- 2. THE MANDATE OF PROPORTIONALITY
- 3. THE CULPABILITY MANDATE:
 - a) Personal responsibility
 - b) Subjective imputability

LEARNING ACTIVITIES AND METHODOLOGY

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

ASSESSMENT SYSTEM

% end-of-term-examination/test:	100
% of continuous assessment (assignments, laboratory, practicals...):	0

Final exam multiple choice, 100%

Assessment is continuous and class attendance is compulsory.

The unjustified absence to classes of more than 10 % of the sessions of each subject may be accompanied by non-qualification of the subject and the necessity to retake classes.

The extraordinary examination (June) shall consist in a multiple choice exam.

BASIC BIBLIOGRAPHY

- CARBONELL/GONZÁLEZ CUSSAC y otros Constitución, Derechos fundamentales y sistema penal, Libro Homenaje a Tomás Vives,, Tirant Lo Blanch, 2009
- Gallardo Castillo, M.J Los principios de la potestad sancionadora: teoría y práctica, IUstel, 2008
- Rodriguez Montañés, Teresa Libertad de expresión, discurso extremo y delito (Una aproximación desde la Constitución a las fronteras del derecho penal), Tirant lo blanch, 2012
- Rodriguez Montañés, Teresa "Expansión del Derecho Penal y límites constitucionales", en Carbonell et al, Constitución, Derechos fundamentales y sistema penal, Libro Homenaje a Tomás Vives,, Tirant lo blanch, 2009
- VVAA Límites al Derecho penal. Principios operativos en la fundamentación del castigo, Atelier, 2012
- VVAA Constitución y Principios del Derecho penal: Algunas bases constitucionales. , 2010, Tirant Lo blanch