

Academic Year: (2023 / 2024)

Review date: 19-05-2023

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

It is an elective subject, whose primary objective is that students acquire knowledge in criminal law and gender procedural law both national and comparative, and also approach the constitutional analysis of the problems presented by domestic and gender violence. and comparative, and also to approach the constitutional analysis of the problems presented by domestic and gender violence. The following points will be dealt with: The magnitude of the phenomenon as an objective reality, the social framework that maintains this violence, and the measures adopted from different spheres to prevent it. and the measures adopted from different spheres to eradicate it. European and Latin American criminal policy and its results will also be addressed. and its results. It will also address the issue that affects the precautionary measures, and the penalties imposed on gender-based crime. crime.

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

FORMATIVE ACTIVITIES

- Theoretical class
- Practical classes
- Theoretical and practical classes
- Group work
- Individual student work

TEACHING METHODOLOGY

- Class lectures by the teaching staff with the support of computer and audiovisual media, in which the main concepts of the subject are developed and the bibliography is provided to complement the students' learning.
- Analysis and discussion of practical cases, with different formats:
 - Group work sessions supervised by the teacher/ subject matter expert.
 - Activities developed in spaces and with specialized equipment.
- Seminars with:
 - Monographic sessions on cases and current topics (national and international).
 - Sessions with guest lecturers/experts.
- Carrying out and/or exposition of works and/or debates on a topic of any of the two subjects of the module (research/test).
- Critical reading of texts recommended by the professor of the subject: press articles, reports, manuals and/or academic articles, either for subsequent discussion in class, or to expand and consolidate the knowledge of the subject.

ASSESSMENT SYSTEM

REGULAR CALL

- Individual or group work done during the course: 20%.
- Final exam: 80%.

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

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| % end-of-term-examination: | 80 |
| % of continuous assessment (assignments, laboratory, practicals...): | 20 |

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