

Academic Year: (2023 / 2024)

Review date: 28/04/2023 13:02:00

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.

Knowledges of Criminal Law and International Public Law are required.

OBJECTIVES

Its primary purpose is to familiarize students with the essential elements of the General Part and the Special Part of international criminal law. Since the entry into force of the Statute of the International Criminal Court (ICC) on July 1, 2002, the legal scope of reference of international criminal law is composed of the Statute of the International Criminal Court, the crimes within the jurisdiction of the ICC and the functioning of this institution.

For this reason, the subject of "International Criminal Law" aims to provide students with an in-depth vision of the crimes of international criminal law, the main forms of intervention in the offenses included in the ICCPR, the sources of law and general principles of international criminal law. It is also essential that students learn about the functioning of the ICC, the exercise or activation of its jurisdiction, the admissibility of situations before the ICC and the main future challenges facing the International Criminal Court after two decades of operation.

DESCRIPTION OF CONTENTS: PROGRAMME

§ 1. International Criminal Law: Concept and origins. The establishment of the ad hoc international tribunals for the former Yugoslavia (1993) and Rwanda (1994). Other mixed international tribunals: Cambodia, Sierra Leone, Lebanon, Kosovo, Cambodia and Timor Leste.

§ 2. The International Criminal Court. Jurisdiction and functioning. The exercise of jurisdiction of the ICC. The principle of complementarity of the jurisdiction of the ICC to national jurisdictions. Preliminary research. The admissibility of a case and its challenge. Causes of inadmissibility. The confirmation of charges decision by the Trial Chamber. The sentence and the verdict of the Trial Chamber. The appeal of the judgment and other court decisions. The review of the judgment. Cooperation and judicial assistance.

§ 3. The general principles of international criminal law and applicable law. Principle of legality of offenses and penalties, and non-retroactivity of the Rome Statute. Irrelevance of official position and lack of immunities. Applicability of crimes under international criminal law.

§ 4. The general part of international criminal law.

1) Individual criminal responsibility: the forms of ownership and active participation (art 25 ECPI) and superior responsibility for failure to act (Article 28 ECPI).

2) The intent and its forms (art 30 ECPI).

3) The error of fact and law (Article 32 ECPI).

4) Causes of exclusion of liability: a) legitimate self-defense or third parties; b) Coercion imminent; c) Intoxication; d) Serious illness or mental deficiency. The limited effect of the so-called "due obedience".

§ 5. The crimes under international criminal law.

- 1) genocide. objective and subjective elements.
- 2) crimes against humanity. Elements of context and various typical behavior (murder, torture, disappearances, rape, etc.).
- 3) War crimes. Elements of context and typical behaviors.
- 4) The crime of aggression.

§ 6. Transitional Justice processes. The issue of amnesty and pardon. Notes the jurisprudence of the Inter-American Court of Human Rights: Principles of Truth, Justice and Reparation and guarantees of non-repetition.

LEARNING ACTIVITIES AND METHODOLOGY

During the two weeks of online learning the students shall review and study the materials, power points , judgments and the audiovisual material provided. They must also solve a practical case.

Tutorials : The tutorials will be conducted through google meet or email.

ASSESSMENT SYSTEM

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

ORDINARY EXAMINATION:

- Up to 15% participation in the forum
- Up to 45% resolution of a practical case or report.
- Up to 40% multiple-choice exam

The student must obtain at least a grade of 3 out of 6 in the continuous evaluation (forum and resolution of a practical case / report), and 1.8 out of 4 in the multiple-choice exam. If he/she does not obtain this score, he/she will be failed and will have to attend the extraordinary call.

EXTRAORDINARY EXAMINATION:

- 100% essay/case study

BASIC BIBLIOGRAPHY

- Alicia Gil Gil Derecho penal Internacional. El delito de genocidio, Techos, 1999
- Alicia Gil Gil Derecho penal Internacional. El delito de genocidio, Tecnos, 1999
- DE VICENTE MARTÍNEZ, R. (dir.). AAVV. Derecho Penitenciario. Enseñanza y aprendizaje, Tirant lo Blanch, Última edición
- Gerhard Werle/Florian Jessberger/Boris Bourghardt Tratado de Derecho Penal Internacional, Tirant lo blanch, 2ª ed: 2011
- Kai Ambos La parte general del Derecho penal internacional. Bases para una elaboración dogmática, Konrad Adenauer Stiftung/TEMIS/ Duncker & Humblot, 2005
- Kai Ambos/Ezequiel Malarino/Elser Gisela Justicia de Transición, 2009, Konrad Adenauer Stiftung
- VVAA- Gil Gil/Maculan (Directoras) Derecho penal internacional, Dykinson, 2016

