

Academic Year: (2023 / 2024)

Review date: 28-04-2023

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

Coordinating teacher: VILLALBA LOPEZ, NOEL

Type: Compulsory ECTS Credits : 3.0

Year : 1 Semester : 1

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Bachelor degree in Law.

Basic understanding of Criminal Law institutions is required.

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.

You can identify the constitutional principles that are the basis of the criminal justice system.

You can characterize penal institutions in its constitutional reading.

DESCRIPTION OF CONTENTS: PROGRAMME

Module 1. Fundamental rights and criminal law (2 sessions)

a. Criminal law

a.1. Formal perspective: behavioral norms, sanctioning norms, adscription criteria

a.2. Material perspective: harmfulness, penalties, security measures

b. Fundamental rights

b.1. Formal perspective: constitutional norms, structure of iusfundamental norms

b.2. Material perspective: essential content, proportionality

c. Criminal law and fundamental rights

c.1. Fundamental rights and criminal law principles

c.2. Actors

c.3. Proceedings

c.4. Multilevel protection

Module 2. The fundamental right to criminal legality (3 sessions)

a. Principle of legality and the fundamental right to criminal legality

b. Fundamental right to legality in criminal law

b.1. Non-delegable legislation

b.2 (Ir)retroactivity

b.3. Mandate of certainty

b.4. Mandate of typicality

Module 3. The principle of criminal proportionality (2 sessions)

a. Proportionality

b. Principle of proportionality

b.1. Legal nature

b.2. Criteria for proportionality

c. Principle of proportionality in criminal law

c.1. General issues

c.2. Proportionality of the standard of conduct

c.3. Proportionality of the sanctioning rule

Module 4. The fundamental right to ne bis in idem (2 sessions)

a. Bis in idem

a.1. Concept

a.2. Bis in idem and constitutional principles

b. Formal manifestations

c. Material manifestations

Module 5. The principle of culpability (1 session)

a. Culpability and the principle of culpability

b. Personal and facts-based liability

c. Subjective attribution

Module 6. Criminal sanctioning of fundamental-right exercise

a. Systematic framing

b. Case-study

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: they will be conducted daily through Skype/Google Meet/Blackboard Collaborate or via email.

Attendance week in Madrid: the students shall attend the scheduled activities, conferences and seminars.

ASSESSMENT SYSTEM

ORDINARY SESSION

- Resolution of a case study or report - 45%.
- Participation in forums - 15%.
- Final multiple-choice exam - 40%.

In order to be able to add the distance assessment mark to the face-to-face assessment, the student must have a minimum mark of 3 out of 6 in the continuous assessment and 1.8 out of 4 in the final exam. If the student does not obtain this score, he/she will fail the course and will have to attend the extraordinary exam in June.

EXTRAORDINARY EXAMINATION (June)

- Multiple-choice exam - 100%.

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

BASIC BIBLIOGRAPHY

- BARENBOIM/HICKEY/SILKENAT (eds.) The Legal Doctrines of the Rule of Law and the Legal State, Springer, 2014
- CARBONELL MATEU/CUERDA ARNAU/GONZÁLEZ CUSSAC/ORTS BERENGUER Constitución, derechos fundamentales y sistema penal (semblanzas y estudios con motivo del setenta aniversario del profesor Tomás Salvador Vives Antón), Tirant Lo Blanch, 2009
- CARBONELL/GONZÁLEZ CUSSAC y otros Constitución, Derechos fundamentales y sistema penal, Libro

Homenaje a Tomás Vives,, Tirant Lo Blanch, 2009

- CORCOY BIDASOLO/MIR PUIG Constitución y sistema penal, Marcial Pons, 2012
- CORCOY BIDASOLO/MIR PUIG (dirs.) Constitución y sistema penal, Marcial Pons, 2012
- GALLARDO CASTILLO Los principios de la potestad sancionadora: teoría y práctica, Iustel, 2008
- LAMARCA PÉREZ Legalidad penal y reserva de ley en la Constitución española, Revista Española de Derecho Constitucional, 1987
- LASCURAÍN SÁNCHEZ/RUSCONI El principio de proporcionalidad penal, Ad Hoc, 2014
- MIR PUIG Bases constitucionales del Derecho penal, Iustel, 2011
- MIR PUIG (dir.) Constitución y principios del Derecho penal. Algunas bases constitucionales, Tirant lo Blanch, 2010
- MÍNGUEZ ROSIQUE Penas crueles e inusuales. El debate sobre los límites constitucionales al castigo en los Estados Unidos, Atelier, 2020
- ROBLES PLANAS (coord.) Límites al Derecho penal. Principios operativos en la fundamentación del castigo, Atelier, 2012
- RODRÍGUEZ MONTAÑÉS Libertad de expresión, discurso extremo y delito (Una aproximación desde la Constitución a las fronteras del derecho penal), Tirant lo blanch, 2012
- ÁLVAREZ GARCÍA Sobre el principio de legalidad, Tirant lo Blanch, 2010