

Academic Year: (2024 / 2025)

Review date: 09-09-2024

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
- International Public Law

OBJECTIVES

With the study of this discipline, the students will learn the functioning and concept of International Criminal Law. They will study the historical origins of this discipline, and the jurisdiction of the International Criminal Court. Students will also have the opportunity to learn the main principles and imputations forms of the substantive part, and the four crimes part of the International Criminal Law: genocide, war crimes, crimes against humanity and war crimes.

This subject is fully aligned with the Sustainable Development Goals, mainly related to Goal 16 on Peace, Justice and Strong Institutions.

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 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 investigation. 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. Non-Applicability of Statute limitations.

§ 4. The general part of international criminal law.

- 1) Individual criminal responsibility: the forms of perpetration and participation (art 25 ECPI) and superior responsibility for failure to act (Article 28 ECPI).
- 2) The intention and knowledge (art 30 ECPI).
- 3) The error of fact and law (Article 32 ECPI).
- 4) Grounds of exclusion of criminal responsibility: a) self-defense or third parties; b) Coercion; c) Intoxication; d) Mental disease. 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 conducts (murder, torture, disappearances, rape, etc.).

3) War crimes. Elements of context and conducts

4) The crime of aggression.

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

§ 7. Universal Jurisdicción principle: legislative changes, specific problems and challenges of the future.

LEARNING ACTIVITIES AND METHODOLOGY

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

ASSESSMENT SYSTEM

% end-of-term-examination: 100

% of continuous assessment (assignments, laboratory, practicals...): 0

Final exam: multiple choice 100% (ordinary and extraordinary examination).

Attendance at the sessions of the subject is compulsory. Unjustified absence of more than 25% of the total number of sessions (3 sessions) will result in the failure of the subject in the ordinary exam.

The use of Generative AI to create graded text is not permitted, and its use will be academically penalized by a failing grade for the entire master's course involved. However, the use of Generative AI to create graphs, statistics, or images, or as an auxiliary tool, is allowed as long as it is not used to create evaluable texts (such as term papers or reports).

In any case, if the use of AI by the student leads to academic fraud by falsifying the results of an exam or work required for the accreditation of academic performance, the provisions of the Regulation of the Carlos III University of Madrid of the partial development of Law 3/2022, of February 24, on University Coexistence will be applied.

BASIC BIBLIOGRAPHY

- Alicia Gil Gil Derecho penal Internacional. El delito de genocidio, Techos, 1999

- 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

- VVAA- Gil Gil/Maculan (Directoras) Derecho penal internacional, Dykinson, 2º ed., 2019

ADDITIONAL BIBLIOGRAPHY

- Garrocho Salcedo, Ana M. Imprudencia y derecho penal internacional: algunas consideraciones sobre su previsión en el Estatuto de la Corte Penal Internacional, Revista Electrónica de Ciencia Penal y Criminología, 2017 , <http://criminet.ugr.es/recpc/19/recpc19-14.pdf>

- Maculan, Elena Límites a la expansión de la persecución por crímenes internacionales y al papel del juez-historiador: la aportación de la STS 101/2012, Revista de Derecho Penal y Criminología,, 2012, nº 8

BASIC ELECTRONIC RESOURCES

- . <https://www.icc-cpi.int/sites/default/files/Publications/Estatuto-de-Roma.pdf>: <https://www.icc-cpi.int/sites/default/files/Publications/Estatuto-de-Roma.pdf>