

Academic Year: (2024 / 2025)

Review date: 09-09-2024

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

- 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

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. Humanity of punishment (1 session)

- a. Historical development
- b. Basis and limitation
- c. Manifestations
- d. Comparative perspective
- e. Reconstruction

Module 7. Resocialisation and equality (1 session)

- a. Resocialisation: concept, models and critiques
- b. The Spanish case: regulation and constitutional jurisprudence
- c. Premises, pillars and content. Comparative perspective
- d. Equality: concept and manifestations
- e. Criminal relevance and practical application

This subject is fully aligned with the Sustainable Development Goals, mainly related to Goal 4 on gender equality, Goal 16 on Peace, Justice and Strong Institutions.

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

The assessment system, both in ordinary and extraordinary exams, will consist of a final exam at the end of the course, consisting of short questions (4-6).

Attendance at the classroom sessions 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

- 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
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- 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/QUERALT JIMÉNEZ 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

- 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