



COURSE DATA

Data Subject

Code	35215
Name	Criminal Law I
Cycle	Grade
ECTS Credits	9.0
Academic year	2018 - 2019

Study (s)

Degree	Center	Acad. year	Period
1303 - Degree in Law	Faculty of Law	2	Annual
1921 - D.D. in Business Management Administration-Law	Doubles Studies Faculty of Law - Faculty of Economics	3	Annual
1922 - D.D. in Law-Political and Public Administration Sciences	Faculty of Law	3	Annual
1923 - D.D. in Law-Criminology	Faculty of Law	2	Annual

Subject-matter

Degree	Subject-matter	Character
1303 - Degree in Law	13 - Criminal law	Obligatory
1921 - D.D. in Business Management Administration-Law	4 - Year 3 compulsory subjects	Obligatory
1922 - D.D. in Law-Political and Public Administration Sciences	4 - Year 3 compulsory subjects	Obligatory
1923 - D.D. in Law-Criminology	3 - Year 2 compulsory subjects	Obligatory

Coordination

Name	Department
GONZALEZ CUSSAC, JOSE LUIS	72 - Criminal Law

SUMMARY



The course *Criminal law. General Part I* has an obligatory character and lectures will be hold in the second course of Law's Grade. Preliminars requirements are not needed. The course computes 9 credits ECTS (225 hours).

Analysis of the State's power of punishing and of the theory of the penal norm. Criminal law as a branch of the Legal Order and as a formalized system of social control. Constitutional principles of Criminal law; limits to the power of punishing. Legal theory of crime: analysis from the doctrinal and political-criminal perspective. Legal theory of punishment and of other penal consequences derived from the commission of a crime.

PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

There are no specified enrollment restrictions with other subjects of the curriculum.

Other requirements

OUTCOMES

1303 - Degree in Law

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LEARNING OUTCOMES

Regarding the specific competencies:

- Competence number 1: Capacity to recognize the importance of Law as regulatory system of social relationships (regarding to the competence in terms of outcome of learning – hereinafter T.A. nº1).



- Competence number 2: Capacity to know the content and application of each branch of the Legal Order (regarding to the competences T.A., nº 1, 2, 3).
- Competence number 3: Capacity to understand the unitary carácter of the Legal Order and the necessary interdisciplinary view of legal problems (regarding to the competences T.A., nº 1 y 2).
- Competence number 4: Capacity for using the constitutional principles and values, the respect of human rights, paying special attention to the equality among men and women, sustainability and the peace culture, as means of work in the interpretation of the Legal Order (regarding to the competences T.A., nº 1, 2)
- Competence number 5: Capacity for knowing the constitucional framework, political institutions of the State and its running (regarding to the competences T.A., nº 1).
- Competence number 7: Capacity for managing the legal sources (legal, jurisprudential and doctrinal ones) (regarding the competence T.A., nº 1).
- Competence number 8: Capacity of reading and interpreting legal texts (regarding to the competences T.A., nº 2, 3)
- Competence number 10: Capacity to analyze the legal problems and of summarizing its approach and solution (regarding to the competences T.A., nº 3)
- Competence number 11: Capacity of achieving a critical opinión in the analysis of the legal order and of developing the legal dialectic (regarding to the competences T.A., 1, 2, 3)

In the field of the general competences:

- Instrumental competences:

- Competence nº.1: Capacity to search, find, analyze and choose properly the different sources of legal information.



- Competence n°.2: Capacity to analyze and summarize in the comprehension of legal texts, jurisprudence and doctrine.
- Competencia n°.5: Capacity for communicate properly in an oral and written way.
- Competence n°.7: Capacity to take decisions based on legal reasonings.
- Interpersonal Competences:
 - Competence n°.9: Capacity to work inside an interdisciplinary team in the legal field
 - Competence n°.11: Capacity for recognizing and assessing the diversity and multiculturality.
- Competence n°.12: Capacity for developing a critical reasoning.
- Systemic competences:
 - Competence n°. 21: Capacity for having a sensitive attitude towards matters of the social, economical and environmental reality.

DESCRIPTION OF CONTENTS

1. CRIMINAL LAW: CONCEPT AND PRINCIPLES

Concept of Criminal law. The penal norms: concept and structure. Crime and legal consequences of crime. The function of Criminal law: retribution and prevention. Criminal law in force in Spain.

Principles which limit ius puniendi: principle of legality; principle of exclusive protection of legal interests; principle of minimum intervention; fragmentary and subsidiary character of Criminal law; principle of Proportionality; principle of equality; principle of culpability; principle of responsibility for the fact, principle of presumption of innocence; principle of humanity of penalties; principle of reintegration into society.

Principle of legality and sources of Criminal law: blanket criminal clauses. Material content: requirement of legal certainty; prohibition of retroactivity; prohibition of analogy. Specific requisites about interpretation of the penal norm. Another sources of Criminal law. Criminal law's space of validity: requisites of application of the criminal law in the territory and beyond the territory. Place of commission of the crime.

Principle non bis in idem and requisites for solving the joiner of criminal offences.

Field of temporal validity of criminal norm: the prohibition of retroactivity. The time of the crime's commission. Field of validity of criminal norms regarding the person: inviolabilities



2. THEORY OF CRIME I

The crime: concept and classes. Structure of crime.

The wrongfulness: concept and nature. The legally protected interest: concept, functions and classes.

The action: concept. References to the different conceptions about action. Cases of absence of action: irresistible force, knee-jerk reaction and unconsciousness.

The definition: concept. terms of definition. Elements of definition: active and passive individual, material object. The subjective elements of definition. Objective and subjective definition (vid. culpability). Classes of definitions: crimes of harm and crimes of danger; crimes of pure activity and result crimes; crimes of instant consummation, permanents or of state ones; special crimes in strict sense and in broad sense; the denominated "cut-result" crimes and two-acts-cut crimes.

Causality connection and objective attribution: determination of causality and requisites of the result 's attribution. Particular features of the objective attribution in crimes of commission by omission and in negligent crimes. Difficult cases.

The omission: pure omission and commission by omission. The commission by omission: requisites of the equivalence.

Absence of wrongfulness: justification and its effects. Differences between a justified fact and a non blameworthy fact. Causes of justification 's rationale. Objective and subjective elements of justification. Incomplete justification.

Causes of justification: self-defense; Necessity, fulfilment of a duty, legitimate use of a right, profession or post (job). The question of consent. The problem of the due obedience.

3. THEORY OF CRIME II

Culpability: concept and rationale. Structure of culpability's assessment. Accountability and its absence. Causes of non-accountability: Anomalies, psychic disorders and transitory mental disturbance; complete intoxication; disorders in the perception of reality; minority. Reduced accountability. Notions of Criminal law of minors. Attribution by intention and by negligence. Intention (dolus): concept and classes. Absence of dolus (vid. mistake) Negligence: concept and classes. Professional negligence. The knowledge of wrongfulness. Absence of knowledge of wrongfulness: mistake about the prohibition (vid. mistake). Delinquency based on beliefs. Mistake about the definition: legal regulation, classes (error about the causal process, aberratio ictus, error in objecto/person). Mistake about accidental elements. Mistake about prohibition: legal regulation. Classes: direct and indirect one. Difficulties about the mistake about the objective conditions of a cause of justification. Causes of non culpability: insurmountable fear and Necessity as excuse (vid. causes of justification). Actiones liberae in causa: concept, structure and field of application. Iter criminis: internal and external aspects. Rationale of punishing inchoate offenses. Preparatory offenses: conspiracy, proposition and provocation to commit crime. Apology. Differences between to prepare and to commit a crime. Executive acts: attempt; classes and jurisprudential analysis. Voluntary abandonment. Consummation. Perpetrator and accomplice. Distinction between perpetrator and accomplice. Classes of perpetrator: single perpetrator, co-perpetrators and perpetrator-by-means.



Participation: the principle of limited accessorial liability. Classes: incitement, necessary accomplice and non necessary accomplice (accessories). Joinder of people in special crimes. Authorship and participation in negligent crimes. Regulation of criminal liability in crimes committed by mass media. Criminal liability of legal entities

4. THEORY OF LEGAL CONSEQUENCES OF CRIME

The possibility of punishment: concept. Objective conditions of legal punishment. Absolutory excuses, personal causes of exclusion of penalty. Punishment: concept, function and purposes.

Classes of penalties. Guidelines for classification. Penalties which deprive of freedom. Penalties which deprive of rights. Pecuniary penalties. Another penalties. Penalties for legal entities.

Determination of the punishment. Legal rules: specification of the penal framework in abstract terms and of the particular penal framework. Judicial individualization. Determination of penalty in cases of joinder of crimes: real joinder, ideal joinder and continuous crime.

The modifying circumstances of criminal liability: mitigating ones, aggravating ones and mixed circumstance because of special relationships.

Suspension and substitution of penalty. The suspension of the execution of penalty. Cases of substitution of penalties which deprive of freedom.

Execution of the penalty which deprives of freedom. Mention to the system of scientific individualization according the LOGP. Parole.

Causes of the penalty's extinguishing and cancellation of the penal records of convictions.

Criminal dangerousness. Safety measures: concepts, requisites for application, classes and legal regulation.

Another legal consequences of crime. Civil liability ex delicto. Accessory consequences. Confiscation.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	90,00	100
Attendance at events and external activities	15,00	0
Study and independent work	90,00	0
Readings supplementary material	15,00	0
Preparation of practical classes and problem	15,00	0
TOTAL	225,00	

TEACHING METHODOLOGY



The teaching in which presence is required, has a length of 90 hours, inside which:

- 75 hours should be spent teaching during the normal timetable in the lecture room. Inside these hours, it is suggested to give over, as minimum, 30 hours to *applied activities*.
- 15 hours will be spent in *complementary activities* as well as in taking the final exam.

Formative activities

Common activities will be assessed regarding the percentage of 30% of the mark, which is the percentage of the mark given to the denominated “continuous assessment”.

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Obligatory and common activities

-*Lecture or common conference*: it implies necessarily that the student carried out a task regarding the lecture –work, questionnaire, commentary- which will be assessed by the lecturer.

-*Practice*: the student should solve a practical case which necessarily will imply a reading of specific doctrinal and/or jurisprudential materials, which will be pointed or provided by the lecturer.

EVALUATION

ASSESSMENT:

The result of the Criminal Law I shall be determined from the marks obtained in continuous evaluation of each group, which corresponds to 30% marks, and the completion of the final examination on the dates set by Faculty, which accounts for 70% marks.

In order to complete and pass the course it will be necessary to pass the final test, regardless of the grade achieved in the continuous evaluation.

The professor’s annex will details the terms and conditions of the continuous evaluation and the final examination, also may establish a partial examination of discharging nature or not, on the dates fixed for this purpose.



Students not involved in continuous evaluation may take final exam. The weighed valued of the grade obtained in this examination is limited to a 70% of the final qualification, so that, at most may be obtained a 7 as final mark of the course.

In case of falling in the first call, the qualification obtained in continuous examination shall be kept in the second call. If the professor's annex establishes that there is some activity as recoverable, it wil determine how to obtain the qualification of the same in second call.

REFERENCES

Basic

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- Carbonell Mateu: Derecho Penal. Concepto y principios constitucionales. 3ª ed, Valencia, Tirant lo Blanch, 1999.
- Cuerda Arnau; Mª. Lª.; Fernández Hernández y otros autores: Vistas penales. Casos resueltos y guías de actuación en sala. 2ª edición, Valencia, Tirant lo Blanch, 2015.
- Cobo del Rosal/ Vives Antón: Derecho Penal. Parte General. Valencia, Tirant lo Blanch, 1999.
- Fletcher: Conceptos básicos de Derecho penal, Valencia, Tirant lo Blanch, 1997.
- González Cussac/ Matallín Evangelio/ Orts Berenguer/ Roig Torres: Esquemas. Derecho Penal. Parte General, Valencia, Tirant lo Blanch, 2007.
- Hassemer/ Muñoz Conde: Introducción a la Criminología y al Derecho penal, Valencia, Tirant lo Blanch, 1989.
- Martínez-Buján Pérez: Derecho Penal Económico y de la Empresa. Parte General, 5ª ed., Tirant lo Blanch, 2016.
- Mir Puig: Derecho penal. Parte General. Bosch, Barcelona, 10ª edición 2015.
- Muñoz Conde/ García Arán: Derecho Penal. Parte General, Valencia, Tirant lo Blanch, 9ª ed. 2015.
- ORTS BERENGUER, E. y GONZÁLEZ CUSSAC, J. L.: Compendio de Derecho penal. Parte general. 7ª edición, Valencia (Tirant) 2017
- Quintero Olivares (dir.) y otros: Derecho Penal Constitucional, Valencia, Tirant lo Blanch, 2015.
- Sánchez-Ostiz Gutiérrez (coord.): Casos que hicieron doctrina en Derecho penal, Madrid, La Ley, 2011.
- Vives Antón: Fundamentos del sistema penal. 2ª edición, Valencia, Tirant lo Blanch, 2010.