

**COURSE DATA****Data Subject**

Code	36767
Name	Criminal Law: General Part
Cycle	Grade
ECTS Credits	7.5
Academic year	2022 - 2023

Study (s)

Degree	Center	Acad. year	Period
1933 - D.D. in Law-Economics 2022	Doubles Studies Faculty of Law - Faculty of Economics	2	Second term

Subject-matter

Degree	Subject-matter	Character
1933 - D.D. in Law-Economics 2022	2 - Asignaturas de segundo curso	Obligatory

SUMMARY

The subject Criminal Law. General Part is compulsory and is taught in the second year of the Double Degree in Law + Economics

There are no previous enrolment requirements and its teaching load is 7,50 ECTS credits.

Study of the punitive power of the State and the theory of criminal law. Criminal Law as a branch of the Legal Order, and as a system of formalized social control. Constitutional principles affecting Criminal Law; limits to punitive power. Legal theory of crime: dogmatics and criminal policy analysis. Legal theory of punishment and other legal 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

Relationship with other subjects of the same degree course

No enrolment restrictions with other subjects of the curriculum have been specified.

OUTCOMES

LEARNING OUTCOMES

- Knowledge and interpretation of the limits of punitive power and the application of criminal law.
- Identifying the different elements of the criminal offence.
- Knowledge of the different consequences of the offence, its determination and execution procedure.
- Knowledge of the elements of each offence in particular.
- Being able to prepare a written indictment.

DESCRIPTION OF CONTENTS

1. 1. CRIMINAL LAW: CONCEPT AND PRINCIPLES

Definition of Criminal Law. The Concept and Structure of a criminal norm. The criminal offence and its legal consequences. The role of criminal law: retribution and deterrence. Criminal Law in force in Spain.

Principles restraining criminal punishment: the principle of legality, harm principle applied to criminal law (or principle of exclusive protection of legally protected interests); principle of minimal criminalisation and the fragmentary and secondary nature of criminal law; principle of proportionality; principle of equality; principle of culpability; principle of individual liability for the deed; presumption of innocence; the need for humanitarian penalties and the constitutional mandate of rehabilitation and resocialisation.

Spatial framework of application of criminal law: principle of territoriality and extraterritorial application of Spanish criminal law. Place of commission of the offence. The ne bis in idem principle and criteria for solving the concurrence of criminal norms. Temporal framework of application of criminal law: prohibition of retroactivity. Time of the commission of the offence. Personal framework of application: inviolabilities.

2. 2. THEORY OF CRIME I

The concept of crime and classification of offences. The structure of criminal offences.

The Criminal Wrongdoing: concept and nature. The legally protected interest: concept, roles and types.

Concept of action. Reference to the different theories on action. Absence of action: Irresistible (physical) force, reflex movements and behaviour engaged while asleep or unconscious. Concept of legal



definition. Terms of the legal definition. Elements of the legal definition: Active and passive agents, material object. The subjective elements of the legal definition. Objective and subjective (vs. attribution) elements of the legal definition. Varieties of legal definitions: harm and danger offences, mere conduct and result offences; instant, permanent and state of affairs offences; proper and improper special offences; two-step mutilated offences and cut-off result offences.

Natural and legal causation (objective attribution): establishment of causation and criteria for the attribution of results. Particular aspects of legal causation in improper omission offences and in negligent offences. Problematic cases.

Omission: proper and improper omission. Commission by omission: criteria to equate acts to omissions.

Absence of Wrongdoing: Justification and its effects. Distinction between justified and excusable acts. Rationale for justification. Objective and subjective elements of justification. Partial justification. Justifications: self-defence; necessity, legitimate exercise of a right, office or position and fulfilment of a duty. The problem with superior orders. Consent.

3. 3. THEORY OF CRIME II

Culpability: concept and rationale. Structure of the assessment of culpability

Accountability and non-accountability. Causes of non-accountability: Anomaly or psychic alteration and transient mental disorders; full intoxication; underage criminal status. Diminished accountability. Notions on Juvenile Criminal Liability. The *actiones liberae in causa*

Intentional and negligent offences. Intention: notion and types. Absence of intention: the mistake on the circumstances of the legal definition (*vid.* Mistake). Negligence: notion and types. Professional negligence.

Knowledge of wrongdoing. Absence of knowledge of wrongdoing: the mistake of prohibition (*vid.* Mistake). Morally committed perpetrators.

Mistake on the circumstances of the legal definition: legal treatment. Types of mistakes (mistake on causation; *aberratio ictus*, error in objecto/ in persona). Mistake on accidental circumstances. Mistake of prohibition: legal treatment. Types: direct and indirect. The problem of mistake on the objective elements of justification.

Excuses: insurmountable fear and exculpatory state of necessity (see justification).

Iter criminis (Stages of crime): internal and external phases. Basis for the punishment of inchoate offences. Preparatory acts: conspiracy, proposition and provocation. The case of apology - Delimitation between preparation and execution. Executive acts: attempt; types and case law. Abandonment of attempt. Consummation. Distinction between perpetrator and participant. Types of perpetrators: single direct perpetrator, co-perpetratorship, perpetrator-by-means. Participation: the principle of limited accessory liability. Types: abetting, necessary cooperation and complicity. The concurrence of active agents in special offences. Perpetratorship and participation in negligent crimes. Criminal liability for crimes committed using the press or other media. Legal persons: criminal liability.



4. 5. THEORY OF LEGAL CONSEQUENCES OF CRIME

Punishability: concept. Objective conditions of punishability, legal causes for acquittal, personal grounds for excluding punishment.

Punishment: concept, function and rationale.

Types of punishment. Classification criteria. Custodial or prison sentences. Penalties disqualifying from, or restraining, rights. Financial penalties. Other penalties. Penalties provided for legal persons. Other legal consequences derived from the offence

Application of penalties. Legal rules for sentencing. Establishment of the abstract penalty framework and the specific penal framework. Judicial individualisation. The determination of the penalty in cases of concurrence of offences: material concurrence, ideal concurrence and continuous offence.

Circumstances modifying criminal liability. Mitigating circumstances, aggravating circumstances, the mixed circumstance of kinship.

Suspension and substitution of the sentence. Suspension of the execution of the sentence. Cases of substitution of the custodial sentence.

Enforcement of the custodial sentence. Reference to the system of scientific individualisation in the General Prison Organic Act. Parole.

Causes for the extinction of the sentence and cancellation of criminal records.

Criminal dangerousness. Security measures: concept, conditions of application, types, legal regime.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theoretical and practical classes	75,00	100
TOTAL	75,00	

TEACHING METHODOLOGY

Classroom teaching is allocated 75 hours, of which:

- 62,5 hours of normal classroom teaching, of which the recommended minimum number of applied activities is 30 hours.
- The other 12,5 hours will be devoted to complementary activities and the final exam.

Throughout the course, one or more training activities may be proposed to the group, whether a specific group activity or common with the Department of Criminal Law (e.g. attendance at conferences).



EVALUATION

The final grade of the subject Criminal Law I will be determined on the basis of the grades obtained in the continuous assessment carried out, worth 30% of the marks, and sitting the final exam on the dates set by the Faculty, which accounts for 70% of the marks.

It will be necessary to obtain a minimum pass mark (5) in the final exam in order to pass the subject, regardless of the mark obtained in the final exam.

The professor's addendum will detail the conditions for continuous assessment and the oral or written nature of the final exam, as well as whether or not a partial exam will be held, with discharging or without discharging effects, on the dates set for this purpose.

Students who do not take the continuous assessment may sit the final exam at the first sitting, and the mark obtained will be limited to the weighted value that this test has in the final mark (70%), so that, as a maximum, a 7 may be obtained as the final grade.

In the event of failing the first call, the grade obtained in the continuous assessment will be retained for the second call. If the professor's addendum foresees that there is any continuous assessment activity that can be recovered in the second call, the addendum will establish the procedure for making up those activities.

REFERENCES

Basic

- CARBONELL MATEU, Derecho penal. Concepto y principios constitucionales, 3ª ed., Tirant lo Blanch, 1999.
- CUERDA ARNAU, (Dir.), Vistas penales. Casos resueltos y Guías de actuaciones en sala, Tirant lo Blanch, 2017.
- COBO DEL ROSAL / VIVES ANTÓN, Derecho penal. Parte general, Tirant lo Blanch, 1999.
- DÍEZ RIPOLLÉS, Derecho penal español. Parte general, Tirant lo Blanch, 2020.
- LASCURAÍN SÁNCHEZ, Manual de Introducción al Derecho Penal, BOE, 2019
- LUZÓN PEÑA, Lecciones de Derecho penal. Parte general, Tirant lo Blanch, 2016.
- LUZÓN PEÑA (Dir.), Derecho penal en casos. Parte general: estudio analítico práctico, Tirant lo Blanch, 2018a.
- MIR PUIG, Derecho penal. Parte general, Bosch, 2015
- MUÑOZ CONDE / GARCÍA ARÁN, Derecho penal. Parte general, Tirant lo Blanch 10ª ed, 2019
- ORTS BERENGUER / GONZÁLEZ Cussac, Compendio de Derecho penal. Parte general, Tirant lo Blanch, 8ª ed, 2019.



Additional

- BORJA JIMÉNEZ, Curso de política criminal, Tirant lo Blanch, 2021.
- Mir PUIG / CORCOY Bidasolo (Dires.), Constitución y sistema penal, Marcial Pons, 2012.
- DÍEZ RIPOLLÉS, Política criminal y derecho penal: estudios, Tirant lo Blanch, 3ª ed. ampliada, 2020.
- QUINTERO OLIVARES, Derecho penal constitucional, Tirant lo Blanch, 2015.
- ROXIN, Derecho penal. Parte general. Fundamentos. La estructura de la teoría del delito (Trad. DM Luzón Peña et al.), Thomson-Civitas 2008.