

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

Code	44551
Name	Rights-based criminal proceedings: new trends
Cycle	Master's degree
ECTS Credits	3.0
Academic year	2021 - 2022

Study (s)

Degree	Center	Acad. year	Period
2217 - M.U. en Derecho, empresa y justicia 17-V.2	Faculty of Law	1	First term

Subject-matter

Degree	Subject-matter	Character
2217 - M.U. en Derecho, empresa y justicia 17-V.2	4 - Proceso penal garantista: nuevas tendencias	Obligatory

Coordination

Name	Department
MARTINEZ GARCIA, ELENA	45 - Administrative and Procedural Law

SUMMARY

This course is aimed at training the students on new trends of criminal proceedings in a global environment where crime knows no borders, especially thanks to technology and new forms of electronic commerce. But it is a space where the prosecution of the crime is constant hindrance when it comes to conduct an investigation and where collaboration between either country to obtain evidence, arrest a person or protect a victim stands as an important space collaboration. This cross-border element puts into question the sovereignty of states, not always willing to assist in this type of interference or even willing to cooperate, but with unsatisfactory results given the different level of constitutionality and legality ordinary that a single act or right have in different countries. The challenge of this subject is to identify the weakest sides in the field of process and investigate and reflect on the incipient degree of European cohesion in the time we met, when the main shaft of democracy revolves around procedural safeguards criminal. Many of the questions raised have a unique solution for this purpose and answer the following guidelines and lines of thought.



PREVIOUS KNOWLEDGE

Relationship to other subjects of the same degree

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

Other requirements

Preferably, legal knowledge from Law or Legal Sciences Degree, in accordance with the Master's verifica.

OUTCOMES

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- Students should be able to integrate knowledge and address the complexity of making informed judgments based on incomplete or limited information, including reflections on the social and ethical responsibilities associated with the application of their knowledge and judgments.
- Students should possess and understand foundational knowledge that enables original thinking and research in the field.
- Saber aplicar los conocimientos adquiridos durante el curso, a través de la resolución de problemas puntuales y multidisciplinarios desde la óptica de la actividad comercial nacional e internacional y la seguridad jurídica.
- Identificar, analizar e interpretar los problemas jurídicos complejos conforme a criterios jurídicos y deontológicos, con el debido respeto a valores democráticos y a principios fundamentales, sin que tenga cabida la discriminación por razón de sexo, creencia o lugar de procedencia.
- Profundizar y valorar la interrelación e interdependencia de los diferentes sectores del ordenamiento jurídico, tanto desde una perspectiva nacional como internacional, con el propósito de garantizar el valor de la seguridad jurídica.
- Capacidad de implementación práctica de los conocimientos aprendidos en los debates y discusiones, así como ser capaces de dirigirlos e identificar y analizar las conclusiones más relevantes.
- Identificar y valorar los problemas jurídicos de interés en una sociedad globalizada en el ámbito de la actividad empresarial que requieren de una profundización en la investigación jurídica para ser afrontados de forma plural.
- Capacidad para afrontar los retos y dificultades que una sociedad globalizada y, por ende, un mercado global, plantean, para poder identificar y aplicar soluciones que minimicen sus efectos y consecuencias.
- Utilizar los conocimientos avanzados adquiridos aplicables a la realidad empresarial de forma solvente, tanto de forma individual como en equipo, desde una perspectiva pluridisciplinar.



- Analizar los problemas jurídicos que plantea la sociedad empresarial desde una perspectiva interdisciplinar que permita integrar y relacionar los conocimientos adquiridos -sustantivos y especializados- doctrinales, legislativos y jurisprudenciales.
- Identificar y valorar el papel de los mecanismos ADR (Alternative, Dispute & Resolution, que engloba figuras tales como la mediación, el arbitraje o la negociación), en la resolución de los conflictos en sociedades modernas y complejas.
- Conocer las nuevas tendencias y los problemas que de ellas derivan de la aplicación del proyecto de consolidación de una justicia europea, analizando la situación desde las diversas ramas del derecho.

LEARNING OUTCOMES

The practice of this subject allows the students to acquire the knowledge and skills necessary to know how to face the resolution of practical cases of intervention fundamental rights in criminal proceedings where litigation is resolved transnationally, i.e. with different guarantee systems in each legal system. This is made in order to demonstrate complex and strategic solutions and possible losses of guarantees and legal certainty, as well as to design ethical codes of conduct to secure guarantees, equality, transparency and justice aimed by defining appropriate and lawful conduct in the company ad intra and ad extra, in terms of the current international framework for trade relations and possibilities of self-regulation

DESCRIPTION OF CONTENTS

1. Unit 1. Introduction to guarantee-criminal proceeding

- 1.1. Binomial security - individual rights.
- 1.2. The alarm and criminal law for the enemy.
- 1.3. The response of the criminal law and criminal procedure.

2. Unit 2: Principles and guarantees in a globalized world.

- 2.1. Purpose and importance of procedural guarantees.
- 2.2. Deaf spaces to justice.
- 2.3. The types of criminal transnational crime: Difficulties of the judicial inquiry

3. Unit 3: The wrongfulness of the test and "disconnect unlawfulness". The recognition of foreign judgments. The European Evidence Warrant.

- 3.1. Acts of investigation and evidence acts.
- 3.2. The doctrine of "the fruit of the poisoned tree": a comparative law study.
- 3.3. The theory of disconnection of illegality: Common Law.
- 3.4. Evidence collection between States: the recognition of foreign judgments and the European Evidence Warrant.

**4. Unit 4: Precautionary protection**

- 4.1. Precautionary protection. Recapitulation.
- 4.2. European protection Order.

5. Unit 5: The victim in criminal proceedings. New era. Consumers as active subjects of criminal collective action.

- 5.1. Victimology and restorative justice.
- 5.2. The collective victim: Tutela and satisfaction in collective processes.

WORKLOAD

ACTIVITY	Hours	% To be attended
Theory classes	30,00	100
TOTAL	30,00	

TEACHING METHODOLOGY

Creating discussion forums through Virtual Campuses
Preparation and reading documents and other materials
Virtual tutorials

EVALUATION

- 1. Continuous assessment of each student based on regular attendance and active participation in discussion forums, individual and group tutorials, etc., degree of involvement in the teaching-learning process and the skills and attitudes shown during the activities on line. 55.0%
- 2. Presentations to be carried out each student in virtual sessions. 45.0%

REFERENCES**Basic**

- BARONA VILAR, S., Algoritmización del Derecho y de la Justicia, Valencia, Tirant, 2020
- BARONA VILAR, S., El proceso penal desde la historia, Valencia, Tirant, 2017
- BARONA VILAR, S., Justicia penal. Globalización y digitalización, Thomson Reuters, Santiago de Chile, 2018
- BARONA VILAR, S., Mediación penal. Fundamento, fines y régimen jurídico, Valencia, Tirant, 2011.
- BARONA VILAR, S., Seguridad, Celeridad y Justicia, Tirant lo Blanch, 2004.
- GRACIA MARTIN, L, "Derecho penal del enemigo", Revista electrónica de Ciencia penal y criminología, 2005, n. 07-02
- MARTINEZ GARCIA, E, La orden europea de investigación, Valencia, Tirant, 2015
- MARTINEZ GARCIA, E., La orden de protección europea, Valencia, Tirant, 2014



MARTINEZ GARCIA, E., La construcción de Europa a través de la cooperación judicial en materia de protección de víctima de violencia de género, Valencia, Tirant, 2018

SILVA SÁNCHEZ, J., La expansión del derecho penal, 2ª Edición Civitas, 2001.

Additional

- AAVV, Los nuevos medios de investigación en el proceso penal. Especial referencia a la tecnovigilancia, Cuadernos de Derecho judicial, 2007

ARANGUENA FANEGO, C. (coord.), Cooperación judicial civil y penal. El nuevo escenario de Lisboa, Granada, Comares, 2011.

ARMENTA DEU, T., Prueba ilícita (Estudio Comparado), Madrid, Marcial Pons, 2011.

MARTÍNEZ GARCÍA, E., Actos de investigación e ilicitud probatoria, Tirant lo Blanch, 2009.

ADDENDUM COVID-19

This addendum will only be activated if the health situation requires so and with the prior agreement of the Governing Council

This subject is fully taught on-line during the first semester of the course. Therefore, it is not affected by any exceptional measure adopted due to the COVID-19 pandemic.