

Procedural Criminal Law

Code: 100457
ECTS Credits: 6

Degree	Type	Year	Semester
2500257 Criminology	OB	3	1

Contact

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Use of Languages

Principal working language: spanish (spa)
Some groups entirely in English: No
Some groups entirely in Catalan: No
Some groups entirely in Spanish: Yes

Teachers

Juan Félix Alarcón Gutiérrez

Prerequisites

Do not apply.

Objectives and Contextualisation

The main goal of this course is that the student could be able to explain to anyone the basic structure of our Criminal process system. Especially it is intended that the student could be able to provide information to a defendant Criminal process about its structure, the different kinds of Courts, the parties that can be involved and about the legal appeals against the judgment.

Furthermore, others aims are as follows: a) Ensure that the student can draw up a Criminological report required by the Judge during the pre-trial stage of the Criminal process and/or advises the Judge regarding the adoption of a precautionary measure against the accused; b) Ensure that the student can cooperate with the different persons who are in charge of the investigation, particularly with the police in the criminal investigations.

Competences

- Ability to analyse and summarise.
- Clearly explaining and arguing a carried out analysis about a conflict or crime problem and its responses in front of specialised and non-specialised audiences.
- Drawing up an academic text.
- Identifying the most appropriate and effective penal intervention for each particular case.
- Properly using the legal, psychological, pedagogical and sociological language.
- Respectfully interacting with other people.
- Students must demonstrate they know the legal framework and operating model of the crime control agents.

- Students must demonstrate they know the legal/penal response framework to criminality (constitutional law, police law, procedural law and criminal law).
- Using non-discriminatory and respectful language when referring to the several parties involved in conflict and criminality.
- Verbally transmitting ideas to an audience.
- Working autonomously.

Learning Outcomes

1. Ability to analyse and summarise.
2. Applying effectiveness criteria when using law in the field of criminology.
3. Applying the constitutional law in the criminological field.
4. Arguing criminality arguments in a verbal and polite way and without bias.
5. Arguing with accuracy legal concepts at a forum.
6. Drawing up an academic text.
7. Effectively communicating by using specific law terms.
8. Respectfully interacting with other people.
9. Using the legislation and its means of implementation to the criminal act.
10. Verbally transmitting ideas to an audience.
11. Working autonomously.

Content

I. Constitution and criminal procedure

1. The constitutionalization of procedural rights
2. The consequences of the constitutionalization of procedural rights
3. Types of procedural rights
 - 3.1. Right to an effective judicial protection
 - 3.2. Prohibition of lack of defence
 - 3.3. The right to the ordinary judge predetermined by the law
 - 3.4. The right of defence
 - 3.5. The right to be informed of the accusation
 - 3.6. The right to a public trial
 - 3.7. The right to proceedings with all the guarantees
 - 3.8. The right to proceedings without undue delay
 - 3.9. The right to the presumption of innocence

II The principles of the criminal process

1. Principles arising from the Constitution
2. Technical Principles

III. Systems of criminal prosecution

1. The accusatory system

2. The inquisitive system
 3. The mixed system
 4. The different functions of the criminal process
- IV. The Spanish judicial organization
1. The criminal jurisdiction
 2. Limits of the criminal jurisdiction
 - 2.1. Territorial limits
 - 2.2. Subjective limits
 - 2.3. Objective limits
 3. The criminal jurisdiction
 - 3.1. The objective jurisdiction
 - 3.2. The functional jurisdiction
 - 3.3. The territorial jurisdiction
 - 3.4. Connection between crimes
- V. The activity of the parties in the criminal process
1. The criminal action
 2. The civil action derived from the crime
- VI. The parties in the criminal process
1. The concept of party in the criminal process
 2. The prosecuting parties
 - 2.1 The public prosecutor
 - 2.2. The popular actor
 - 2.3. The offended party
 - 2.4. The private prosecutor
 - 2.5. The civil actor
 3. The accused parties
 - 3.1. The investigated person
 - 3.2. The responsible person in the civil action
 4. The legal representation in the Criminal process
- VII. Prevention measures in the criminal process
1. Notion and function of the prevention measures
 2. Requirement to apply prevention measures

3. Elements

4. Kinds of preventive measures

5. Detention

6. Bail

7. Pre-trial detention

8. The procedure for adopting prevention measures.

VIII. The initiation of the criminal process

1. The criminal report

2. The criminal complaint

3. The initiation by the judge

IX. The investigation (Pre-trial stage)

1. Investigation measures

2. The end of the investigation

3. The dismissal

X. The trial stage

1. The accusation pleading (or provisional qualification)

2. Preliminary questions

3. The evidence

3.1. The trial as the only scenario of the evidence

3.2. The right to submit evidence

3.3. Means of proof

3.4. The evaluation of the evidence

3.5. The procedure of evidence

4. Suspension and interruption of the trial

XI. The end of the trial

1. The criminal judgement

2. The prejudicial questions

3. Effects of the judgment: res judicata

4. Challenging res judicata

XII. The appeal

1. Appeal and its effects

2. Appeals against the interlocutory orders.

3. Appeals against final judgments

3.1. The Ordinary appeal

3.2. The ordinary appeal against the judgments and interlocutory orders given by the Jury

3.3 The appeal in front the Supreme Court.

XIII. Ordinary criminal proceedings

1. The process for minor offenses

2. The abbreviated process

3. The process for serious offenses

4. The process for the trial by Jury

XIV Ordinary criminal proceedings (Cont.)

1. Summary judgements

2. The procedure for juvenile offenders

Methodology

Classes of the "criminal process" will combine lectures and seminars. The first part of the class will be devoted mainly to the learning of the Criminal process based on the professor's explanation. Previously, the student will need to study in detail the subject in question. Sometimes, after the lecture, students will be tested in order to verify thier knowledge of the subject.

The second part of the class will be dedicated to the correction and commentary of the works presented by the students as well as to doubts and questions about the topic raised by students. Finally, it will be possible to discuss the news appeared along the week into the media regarding the reality of the Criminal process in Spain.

Activities

Title	Hours	ECTS	Learning Outcomes
Type: Directed			
Discussion and resolution of practical cases	4.5	0.18	5, 4, 7, 8, 1, 10
Practical cases	15	0.6	5, 4, 7, 6, 8, 1, 10, 9
Resolution of doubts, discussions and conferences	4.5	0.18	2, 3, 5, 4, 7, 8
Tasks revision	15	0.6	2, 3, 7, 8, 9
Type: Supervised			
Assessment	5	0.2	3, 5, 7, 6, 1
Type: Autonomous			

Assessment

There is only one evaluation model: the "continuous evaluation", that requires an assistance to 80% of the classes. Failure to comply with duties due to illness, force majeure or supervening circumstances will be considered, provided there is a valid certification.

The final grade for the course will be the average grade of the different works (individual practices + working groups) that the student has to present along the course (25%+25%) as well as of the grades of two tests that the student will pass (50%). Students need to obtain a minimum mark of 5 in each of the two exams.

In the case of failure of one of the two items of assessment (works and tests) with at least a mark of 4, a second chance will be given.

The student that cheat or attempt to cheat in the exam will fail it and will lose the right to a second chance. Plagiarism will conduct to a fail the essay. In case of recidivism, the student will receive a fail mark.

Assessment Activities

Title	Weighting	Hours	ECTS	Learning Outcomes
Exams	50%	0	0	2, 3, 7, 6, 1, 11, 9
Individual practices	25%	0	0	2, 3, 5, 4, 7, 6, 1, 10, 11
Working groups	25%	0	0	2, 3, 5, 4, 7, 8, 9

Bibliography

Mandatory readings:

Navarro, Carmen & Tamarit J.M. (2017). *Introducción al derecho procesal penal: jurisdicción, competencia, partes y estatuto jurídico de la víctima en AAVV, Manual de litigación penal*. València: Tirant lo blanch, pp. 179 a 205.

Ramos F. (2016). *Enjuiciamiento criminal. 12ª lectura constitucional*, Barcelona: Atelier (chapters 3, 7 and 12. pp. 85 a 121; 221 a 291 i 415 a 435).

Other reference handbooks:

Armenta, Teresa (2018). *Lecciones de Derecho Procesal Penal*, Madrid, Marcial Pons.

Cortés, V. & Moreno, V. (2017), *Derecho procesal penal*. València: Tirant lo blanch.

Gimeno, V. (2018). *Derecho procesal penal*. Madrid: Dykinson.

Montero, J., Gómez J.K, Montón A, & Barona, Silvia (2018), *Derecho jurisdiccional*, vol. III (Proceso penal). Valencia: Tirant lo blanch.