



FICHA TÉCNICA DE LA ASIGNATURA

Datos de la asignatura	
Nombre completo	Derecho penal comunitario contra la criminalidad transfronteriza y financiera / EU Cross-Border Corporate and Financial Crime
Código	E000001227
Título	Máster Universitario en Derecho Internacional y Europeo de los Negocios (International and European Business Law) , por la Universidad Pontificia Comillas
Impartido en	Máster Universitario en Derecho Internacional y Europeo de los Negocios [Primer Curso]
Créditos	1,0 ECTS
Carácter	Obligatoria

Datos del profesorado	
Profesor	
Nombre	María Massó Moreu
Departamento / Área	Centro de Innovación del Derecho (CID - ICADE)
Correo electrónico	mmasso@icade.comillas.edu

DATOS ESPECÍFICOS DE LA ASIGNATURA

Contextualización de la asignatura

Competencias - Objetivos	
Competencias	
GENERALES	
CG01	Capacidad de análisis y síntesis
CG03	Capacidad de gestión de la información
CG06	Capacidad de trabajo en equipo
CG07	Capacidad de trabajo en un contexto internacional
CG08	Capacidad de razonamiento crítico
CG10	Capacidad de desarrollo de un aprendizaje autónomo
CG11	Motivación por la calidad
CG12	Capacidad de aplicar los conocimientos teóricos a la práctica
ESPECÍFICAS	



CE02	Dominar los principales tratados internacionales con relevancia en el ámbito del tráfico económico internacional, distinguiendo los instrumentos vinculantes de las simples recomendaciones o instrumentos meramente interpretativos u orientadores (soft law)
CE04	Dominar las principales normas de derecho comunitario y de derecho internacional con relevancia para el desarrollo de negocios internacionales
CE05	Ser capaz de diseñar estrategias de reestructuración de grupos de sociedades y/o de las actividades intra-grupo y de mercado para maximizar las ventajas del marco legal
CE06	Identificar de manera precisa los riesgos contingentes derivados de las normas relevantes y establecer adecuadamente medidas de evitación o minimización

BLOQUES TEMÁTICOS Y CONTENIDOS

BIBLIOGRAFÍA Y RECURSOS

METODOLOGÍA DOCENTE

Aspectos metodológicos generales de la asignatura

RESUMEN HORAS DE TRABAJO DEL ALUMNO

HORAS PRESENCIALES
HORAS NO PRESENCIALES
CRÉDITOS ECTS: 1,0 (0 horas)

EVALUACIÓN Y CRITERIOS DE CALIFICACIÓN

En cumplimiento de la normativa vigente en materia de **protección de datos de carácter personal**, le informamos y recordamos que puede consultar los aspectos relativos a privacidad y protección de datos que ha aceptado en su matrícula entrando en esta web y pulsando "descargar"

<https://servicios.upcomillas.es/sedelectronica/inicio.aspx?csv=02E4557CAA66F4A81663AD10CED66792>

SUBJECT DETAILS

Data on the subject	
Full Name	EU Cross-Border Corporate and Financial Crime
Code	E000001227
Degree	Postgraduate in Master in International and European Business Law
Year	2021-22
Nature	Fall
ECTS Credits	1
Department	Law
Area	Law
Teaching staff	María Massó Moreu

Data on the teaching staff	
Teacher	
Name	María Massó Moreu
Department / Area	
e-mail	mmasso@comillas.edu
Telephone	
Tutoring Schedule	Upon request from students

SPECIFIC DATA ON THE SUBJECT

Framework of the subject
Pre-requisites
None
Contribution of the degree to the professional profile
Knowledge about substantial and procedural instruments of EU Criminal law.

Competences - Goals
Competences to be developed
Generic Competences

- GC 1: Analysis and synthesis abilities
- GC 3: Ability to manage information
- GC 6: Team work skills
- GC 7: Ability to work in an international context
- GC 8: Critical appraisal skills
- GC 10: Ability to develop autonomous learning skills
- GC 11: Concern for quality
- GC 12: Ability to apply theoretical knowledge into practice

Specific Competences

- SC 4 Mastering the main rules of EU law and international law that are relevant to international business development
- SC 6 Accurately identifying the contingent risks arising from the relevant rules and establishing appropriate measures of risk avoidance or minimization

COURSE SYLLABUS AND CONTENT

Content

Area 1.

Theme 1. Overview of Anti-Bribery Laws in E.U. and international instruments that apply within the E.U. borders

1. Introduction
2. Overview of Anti-Bribery Laws in E.U.
 - 2.1 E.U. Anti-corruption regulation

Article 83 of the Treaty on the Functioning of the European Union states that:

 - 2.1.1 Convention against corruption involving officials
 - 2.1.2 Framework Decision on combating corruption in the private sector
 - 2.2 Transposition in E.U. Member States
 - 2.2.1 France
 - 2.2.2 Germany
 - 2.2.3 Spain

3. International instruments that apply within the E.U. borders
4. Cooperation between the E.U. and other international instruments
5. Conclusions

Theme 2. Corporate criminal liability in the E.U.

1. Introduction
2. Overview of corporate criminal liability in Spain
 - 2.1.Regulation
 - 2.1.1 Nature of the liability (criminal, administrative) and basis (crimes committed by directors or representatives, in the interest of or for the advantage of the company)
 - 2.1.2 Type of crimes/administrative offences from which, according to the legislature, corporate liability may arise
 - 2.1.3 Identification of companies and entities to which liability may apply
 - 2.1.4 Corporate liability for crimes committed abroad by its representatives or subsidiaries
 - 2.1.5 Corporate liability in the case of transactions taking place after the commission of a crime (acquisitions, mergers, demergers, etc.)
 - 2.2.Applicable sanctions
 - 2.2.1 Type of sanctions applicable to the company
 - 2.2.2 Interim measures, cease and desist orders, bans and confiscatory measures
 - 2.2.3 Liability of directors or managers for not having adopted (intentionally or negligently) measures for the prevention of the crime
 - 2.3.Judicial proceedings to determine corporate liability
 - 2.3.1 Court competent to decide the liability of and penalties applicable to the company
 - 2.3.2 Possibility of the application of interim measures
 - 2.3.3 Plea bargains and related effects on the corporate liability
 - 2.3.4 Imposition of sanctions against the company
 - 2.3.5 Permanence of corporate liability if the crime is extinguished
- Corporate liability in multinational groups

2.4.1 Liability of parent companies located abroad in the case of offences committed by directors, managers or representatives of the local company

2.4.2 Basis of liability and applicable sanctions

3. Case Law

4. Current topics

5. Overview of corporate criminal liability in E.U.

5.1. Introduction

5.2. France

5.3. Germany

5.4. Italy

6. Conclusions

Theme 3. Compliance & Investigations

1. Introduction

2. Overview of the American system: the F.C.P.A. Model

3. Whistle blower protection

3.1 Introduction

3.2 Overview of whistle blower protection in the E.U. and the U.S.

3.2.1 France

3.2.2 Germany

3.2.3 Italy

3.2.4 Spain

3.2.5 United States

4. Corporate Investigations and Legal Privilege

4.1 Introduction

4.2 Overview of corporate investigation and legal privilege regulation in the E.U.

4.2.1 France

4.2.2 Germany

4.2.3 Italy

4.2.4 Spain

5. Conclusions

TEACHING METHODOLOGY

General methodology of the subject
Contact hours methodology: Activities
<p>Presentation by the professor of each Lesson 1 (60 minutes);</p> <p>Test class (30 minutes);</p> <p>Review of the readings and answer questions with regards to those readings (30 minutes).</p>
Outside class methodology: Activities
Individual readings.

SUMMARY OF STUDENT WORK HOURS

NUMBER OF CONTACT HOURS				
Lecture	Practical class	Debate	Individual work	Evaluation : exam
4	2	2		2
NUMBER OF INDEPENDENT WORK HOURS				
Lecture	Practical class	Debate	Individual work	Evaluation : exam
6			6	3
ECTS CREDITS: 1 (25,00 hours)				

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Indicators	Evaluation weighting
Individual work	Complete 3 class tests about readings and lesson presentation.	35%
Debate	Active participation in class/Review and solve class tests	5%
Evaluation: exam (final)	Exam: test to review the course 3 main topics	50%

Attendance	Regular attendance to classes – control by signature of a daily sheet	10%
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BIBLIOGRAPHY AND RESOURCES

Basic Bibliography and Resources

TEXT BOOKS

- The law review, "Anti-bribery and anti-corruption review" (2017)
- Kai Ambos "European Criminal Law" (2018)
- Stanislaw Tosza, "Criminal liability of managers in Europe: punishing excessive risk" (2018)
- Bajo, Feijoo, Gómez Jara, "Tratado de responsabilidad penal de las personas jurídicas" (2012)
- Silva, Montaner "Criminalidad de la empresa y compliance"(2013)