

## SUBJECT DETAILS

Data on the subject	
Name	EU Cross-Border Corporate and Financial Crime
Degree	Postgraduate in Master in International and European Business Law
Year	2018-2019
Nature	Fall
ECTS Credits	1 credit
Department	Law
Area	Law
Teaching staff	María Massó Moreu

Data on the teaching staff	
Teaching staff	María Massó Moreu
e-mail	mmasso@icade.comillas.edu
Tutoring Schedule	Upon request from students

## SPECIFIC DATA ON THE SUBJECT

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

## COMPETENCES TO BE IMPROVED

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 of the subject

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

### THEMATIC AREA AND CONTENT

#### AREA 1:

##### Theme 1:

SESSION 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
    - 2.2.4 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:

## SESSION 2.- CORPORATE CRIMINAL LIABILITY IN THE E.U.

1. INTRODUCTION
- 2.- VERVIEW 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:

## SESSION 3.- COMPLIANCE & INVESTIGATIONS

1. INTRODUCTION
2. OVERVIEW OF THE AMERICAN SYSTEM: THE F.C.P.A. MODEL
3. WHISTLEBLOWER PROTECTION
- 3.1 INTRODUCTION
- 3.2 OVERVIEW OF WHISTLEBLOWER 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
- 3.2.6 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

## BIBLIOGRAPHY AND RESOURCES

### Basic Bibliography

#### 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)

### SUMMARY OF STUDENT WORK HOURS

Activity	Number of contact hours	Number of independent study hours	Total number of hours
Lecture	4	6	10
Practical class (30' per class to answer the test for each lesson)	2		2
Debate (30' to solve and discuss the exam test for each lesson)	2		2
In class presentation			
Individual work (readings for each class. Tests in each class about the readings)		6	6
Work in collaboration			
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam	2	3	5
Evaluation: exam review			

Others			
ECTS Credits:	10	15	25

### GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work	<p>GC 1: Analysis and synthesis abilities</p> <p>GC 3: Ability to manage information</p> <p>GC 7: Ability to work in an international context</p> <p>GC 8: Critical appraisal skills</p> <p>GC 10: Ability to develop autonomous learning skills</p> <p>GC 11: Concern for quality</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 4 Mastering the main rules of EU law and international law that are relevant to international business development</p> <p>SC 6 - Accurately identifying the contingent risks arising from the relevant rules and establishing appropriate measures of risk avoidance or minimization</p>	<ul style="list-style-type: none"> <li>- Read the required readings per each class (15%)</li> <li>- Complete 3 class tests about readings and lesson presentation (20%)</li> </ul>	35%

Debate	<p>GC 3: Ability to manage information</p> <p>GC 7: Ability to work in an international context</p> <p>GC 8: Critical appraisal skills</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 4 Mastering the main rules of EU law and international law that are relevant to international business development</p> <p>SC 6 - Accurately identifying the contingent risks arising from the relevant rules and establishing appropriate measures of risk avoidance or minimization</p>	Active participation in class/Review and solve class tests	5%
Attendance			10%
Evaluation: exam	<p>GC 1: Analysis and synthesis abilities</p> <p>GC 3: Ability to manage information</p> <p>GC 7: Ability to work in an international context</p> <p>GC 8: Critical appraisal skills</p> <p>GC 10: Ability to develop autonomous learning skills</p>	Exam: test to review the course 3 main topics	50%

	<p>GC 11: Concern for quality</p> <p>GC 12: Ability to apply theoretical knowledge into practice</p> <p>SC 4 Mastering the main rules of EU law and international law that are relevant to international business development</p> <p>SC 6 - Accurately identifying the contingent risks arising from the relevant rules and establishing appropriate measures of risk avoidance or minimization</p>		
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