

## 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	2015-2016
Nature	Fall
ECTS Credits	1 credit
Department	Law
Area	Law
Teaching staff	Carlos Gómez-Jara

Data on the teaching staff	
Teaching staff	Dr. Carlos Gomez-Jara
e-mail	cgj@corporatedefense.es
Tutoring Schedule	Upon request from students

## SPECIFIC DATA ON THE SUBJECT

Pre-requisites
Knowledge of EU Law and Criminal Law
Contribution of the degree to the professional profile
Expertise on substantial and procedural instruments of EU Criminal law

## COMPETENCES TO BE IMPROVED

Generic Competences
Instrumental
Basic legislation and enforcement procedures of criminal law across the EU
Interpersonal

<b>Systemic</b>
Global understanding of the functioning of EU law in criminal matters
<b>Specific competences of the subject</b>
<b>Conceptual (knowing)</b>
Understanding the principles of EU mutual recognition, EU Policy in Criminal matters
<b>Procedural (doing)</b>
Basic procedures on European Arrest Warrants, European Assests Forfeiture Warrants, European Ne Bis in Idem
<b>Professional (knowing how)</b>
Filing motions and defending petitions on European Arrest Warrants, European Assests Forfeiture Warrants, European Ne Bis in Idem

## THEMATIC AREA AND CONTENT

<b>AREA 1:</b>
<b>Theme 1:</b>
<p>THE EUROPEAN CRIMINAL LAW SITUATION PRIOR TO THE LISBON TREATY</p> <ul style="list-style-type: none"> <li>I.1.- Introduction</li> <li>I.2.- Preliminary issues <ul style="list-style-type: none"> <li>I.2.- Vertical and horizontal federalism in both Unions</li> </ul> </li> <li>I.3. EU Criminal law, Europeanized Criminal Law and European Criminal Law: “ante portas” or “intra muros?”</li> <li>I.4.- Crime policy <ul style="list-style-type: none"> <li>I.4.1.- Introduction</li> <li>I.4.2.- European Criminal Policy</li> <li>1.4.3.- Federal Crime Policy in the US System</li> </ul> </li> <li>I.5.- Criminal law scholarship <ul style="list-style-type: none"> <li>I.5.1.- Introduction</li> <li>I.5.2.- European criminal law scholarship</li> <li>I.2.4.- US Federal Criminal Law Scholarship</li> </ul> </li> <li>I.6.- The Fundamentals of Europeanized Penal Law: The Principle of Mutual Recognition <ul style="list-style-type: none"> <li>I.6.1.- Introduction</li> <li>I.6.2.- The Application of the Principle of Mutual Recognition to the Criminal Law Field</li> </ul> </li> </ul>

I.6.2.1.- Introduction

I.6.2.4.- It had it coming: The Ruling of the German Constitutional Court on 18<sup>th</sup> July 2005

I.6.3.- The Full Faith and Credit Clause in the US System: A valid comparison?

## Theme 2:

### THE FEDERAL CRIMINAL LAW DIMENSION IN THE LISBON TREATY

II.1.- Introduction

II.2 The First Federal Dimension of the Unions' criminal law: Crimes affecting the Unions' interests

*II.2.1.- Introduction*

II.2.2.- The Protection of the EU's financial interests (art. 325 TFEU)

II.2.3.- The Protection of Direct Federal Interests in the US Constitution

II.3. - The Second Federal Dimension of the Unions' Criminal Law: Interstate Criminality and the Enforcement of the Unions' Policies

II.3.1.- Introduction

II.3.2.- Criteria for federalizing crimes

II.3.2.1.- Introduction

II.3.2.2.- Criteria for the Inclusion of Matters within the *Space of Liberty, Security and Justice* (Article 83)

II.3.2.3.- A Brief Note on the Matters addressed by US Federal Criminal law; **Error!**

**Marcador no definido.**

II.3.3.- Interstate Criminality

II.3.3.1.- Introduction

II.3.3.2.- EU's serious cross-border criminality (Art. 83)

II.3.3.2.1 Catalogue of Matters Expressly Contemplated in Article 83.1 TFEU; **Error!**

**Marcador no definido.**

II.3.3.2.2. First path to open the catalog (Art. 83.1 TFEU *in fine*)

II.3.3.3.- US's criminality affecting Interstate Commerce

II.3.4.- Enforcement of Unions' Policies

II.3.4.1.-Introduction

II.3.4.1.2- Effective Implementation of a EU Policy (Art 83.2 TFEU)

II.3.4.3.- The Necessary and Proper Clause in the US Constitution

II.4.- The Enforcement Federal Dimension in the Unions' criminal law

II.4.1.- Introduction

II.4.2.- European Public Prosecution Office (Article 86)

II.4.3.- Federal Prosecutors in the US: The Raw Discretionary Power

II.3.5.- The Legitimacy Federal Dimension of the Unions' criminal law

II.3.5.1.- Introduction

II.3.5.2.- EU's Legitimacy on criminal law: the democratic deficit debate

II.3.5.23- US's Legitimacy on Criminal law: the Federalism debate

**Theme 3:**

**THE SOVEREIGN DEBT CRISIS AND THE NEED FOR CRIMINAL ENFORCEMENT POWERS OF THE EU**

III.1.- INTRODUCTION

**III.2.- USA v. EUROPE: DIFFERENT APPROACHES TO THE SAME PROBLEM?**

III.2.1.- The Financial Markets' Pressure

III.2.2.- The European Approach

III.2.3.- The American Approach

III.2.4.- The Future Ahead

**III.3.- RECENT DEVELOPMENTS IN THE EU APPROACH**

III.3.1.- Safeguarding Taxpayers Money?

III.3.2.- The so-called Anti-fraud Strategy

III.3.3.- Towards an EU Criminal Policy

III.3.4.- Will this well-intended language suffice?

**IV. THE FIRST BENCHMARK: MARKET MANIPULATION AND LIBOR FIXING**

**V. THE SECOND BENCHMARK: THE PROPOSAL FOR A DIRECTIVE TO PROTECT EUROPEAN FINANCIAL INTEREST THROUGH CRIMINAL LAW**

**VI. THE THIRD BENCHMARK: THE EUROPEAN PROSECUTOR OFFICE**

**AREA 2:**

**Theme 1:**

**1.1 IV. Testing the lack of federalism: How Non-Federal is EU Criminal Law?**

IV. 1.- Introduction

IV.2.- EAW (EU) vs. Intrastate Rendition (Extradition) (US)

IV. 3.- Article 54 Schengen Treaty (Europe) vs. Double Jeopardy (US)

IV. 4.- Mandatory harmonization (EU) vs. Voluntary harmonization (US)

**BIBLIOGRAPHY AND RESOURCES**

**Basic Bibliography**

**Text books**

CARLOS GÓMEZ-JARA DÍEZ, EUROPEAN FEDERAL CRIMINAL LAW, 2014.

ANDRE KLIP, EUROPEAN CRIMINAL LAW: AN INTEGRATIVE APPROACH. 2<sup>ND</sup> ED. (2012);

HELMUT SATZGER, INTERNATIONAL AND EUROPEAN CRIMINAL LAW (2012);

ESTER HERLIN-KARNELL, THE CONSTITUTIONAL DIMENSION OF EUROPEAN CRIMINAL LAW (2012);

VALSAMIS MITSILEGAS, EU CRIMINAL LAW (2009);

SAMULI MIETTINEN, CRIMINAL LAW AND POLICY IN THE EUROPEAN UNION (2011).

**SUMMARY OF STUDENT WORK HOURS**

Activity	Number of contact hours	Number of independent study hours	Total number of hours
Lecture	3	5	
Practical class	7	20	
Debate			
In class presentation			
Individual work			
Work in collaboration			
Evaluation: one minute paper			
Evaluation: class test			
Evaluation: exam			
Evaluation: exam review			
Others			
<b>ECTS Credits:</b>	<b>10</b>	<b>25</b>	

## GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work	Case Law Review	Review arguments and articulate possible solutions	10%
Work in collaboration			
Debate	Thorough understand of the basic concepts of EU criminal law	Ability to convey complex arguments in simple statements	30%
Class presentation			
Attendance			10%
Evaluation: exam	Motion before the European Court of Justice related to EU criminal law issues	Arguments raised, structure of the brief, management of ECJ case law	50%

Grades