

DRT

DPCR2344 Comparative Criminal Law and Criminal Procedure

[30h] 4.5 credits

Teacher(s): Maria Luisa Cesoni
Language: french
Level: 2nd cycle course

Aims

The main purposes of the course are to provide students with an understanding of specific concepts of the criminal law systems which are studied and to familiarise them with foreign legislation.

The course is intended in particular to make students capable of developing critical analysis based on an understanding of the relativity of each different legislative choice, of the basis of these differences and of their consequences in terms of respect of fundamental rights.

The aim of the interactive method is to stimulate the capacity of the students to elaborate their own field of analysis, both on the basis of the information provided by the professor and of that discovered by the students themselves.

Main themes

With regard to the subject, the course consists of a general part which introduces the comparative approach to criminal law with the aim of providing a typology of the major legal systems (particularly the continental and the common law systems, the Islamic one, etc), and of a special part which consists of a comparative examination of some specific topics.

More precisely, the course comprises a comparative study of the criminal law of four countries (France, Italy, Switzerland and England/Wales) in relation to the principal "determining elements" - i. e. the fundamental rules which characterise the totality of a national legal system (Constantinesco, 1983) - and some secondary elements, which characterise only a part of each system, in order to study their differences and their similarities, according to the definition of comparative criminal law given by Pradel (1995).

Content and teaching methods

The course deals with the principal characteristics of criminal procedures, both mixed (Geneva and France) and accusatory (Italy and England), in particular as regards prosecution, judgment, evidence and defendant's rights. Some general principles of criminal law are dealt with, for instance as regards criminal liability. Several offences, in particular those which are significant in the framework of the evolution of European law (drug trafficking, corruption, organised crime, terrorism...) or which show the processes of decriminalisation in progress in certain countries (use of drugs, euthanasia, etc), are analysed, taking related procedural questions into account.

Method

At the beginning, the teacher makes available to the students a compilation of documents relating to the topics as well as a basic bibliography.

The course is founded on a continuous interaction between the teacher and the students and among the students themselves.

The teacher provides a general presentation of the course and its objectives, as well as a general introduction to the subject.

The students has to give an oral presentation on certain topics agreed with the teacher. These talks are followed by a discussion with the teacher and the other students.

The purpose of this exercise is to stimulate and check the capacity of the students to integrate the chosen readings into a coherent talk, and to subject the questions treated to a collective discussion.

Other credits in programs

CRIM22 Deuxième licence en criminologie