

English Courses

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Lesson 2 : Criminal law

Some translations

Criminal law: Droit penal القانون الجنائي

The Offenses : Les infractions, الجرائم

Crimes (sensu stricto) ; Crimes, الجنايات

Misdemeanors : Délits, الجنح

Contraventions : Contraventions, المخالفات

Punishment : sanction, peine, عقوبة

The aggravating circumstances : Les circonstances aggravantes, الظروف المشددة

The Mitigating circumstances : Les circonstances atténuantes, الظروف المخففة

The recidivism : La Récidive, العود

Definition

Criminal law is the body of law that relates to crime. It prescribes conduct perceived as threatening, harmful, or otherwise endangering to the property, health, safety, and welfare of people inclusive of one's self. Most criminal law is established by statute, which is to say that the laws are enacted by a legislature. Criminal law includes the punishment and rehabilitation of people who violate such laws¹.

¹ Criminal law, Wikipedia, https://en.wikipedia.org/wiki/Criminal_law

Criminal law varies according to jurisdiction, and differs from civil law, where emphasis is more on dispute resolution and victim compensation, rather than on punishment or rehabilitation.

Criminal procedure is a formalized official activity that authenticates the fact of commission of a crime and authorizes punitive or rehabilitative treatment of the offender.

Classification of criminal law تصنيف القانون الجنائي

Criminal law is a branch of public law for the simple reason that in a Rule of law, an offense committed against an individual, part of a nation, is supposed to be committed against the entire nation. Criminal law offences are viewed as offences against not just individual victims, but the community as well². This results in a trial which pits the offender against the State, represented by the Public Prosecutor's Office.

The terms “private criminal law” and “public criminal law” are completely false. This is an erroneous translation from Arabic to French, of two terms used to define what falls under general criminal law (and not public) and what is the responsibility of special (and not private) criminal law.

The elements of the offense عناصر الجريمة

The offense is constituted by the combination of three elements:

1/ The legal element : There can be no offense or criminal sanction in the absence of a legal text criminalizing the facts³. This is what the article states first of the Algerian penal code.

2/ The material element : These are the facts constituting the act legally incriminated. The material element is established even when the planned offense has not been committed, or failed. It is enough that there is an attempted offense to convict the author.

² Brody, David C.; Acker, James R.; Logan, Wayne A. (2001). "Introduction to the Study of Criminal Law". *Criminal Law*. Jones & Bartlett Publishers, p. 2.

³ Article 1 of the Algerian penal code provides : “ There is no offense, penalty or security measures without law”. Ordinance No. 66-156 of June 8, 1966 relating to the penal code, amended and supplemented.

3/ The moral element_: This is the intention to harm. But criminal law condemns also offenses committed accidentally when they harm others. The moral element is established in this case by the fact of having lacked caution, while being aware of the risk involved. This is the case for involuntary homicides or injuries caused by traffic accidents, for example.

Classification of offenses أقسام الجرائم

According to their seriousness, offenses are classified into three categories

1/ Crimes: Include the most serious offenses. The crimes are liable to the heaviest penalties ranging from long-term criminal imprisonment (between 5 and 20 years) or life imprisonment, to the death penalty. These penalties are also accompanied by heavy fines. Among the crimes: assassination, murder (or homicide), theft armed force, rape...etc

2/ Misdemeanors: Are less serious offenses than crimes. The offenses are punishable by imprisonment ranging from two months to five years, and fines. Among the crimes: theft, bad checks, involuntary manslaughter, etc.

3/ Contraventions: Are the least serious offenses. They are liable imprisonment of one day to two months and fines much less heavy than those provided for crimes and misdemeanors.

Additional penalties may be imposed for all infractions. These include, for example, a stay ban, house arrest, the deprivation of certain rights or the confiscation of property... These penalties cannot be pronounced independently of the main sentences

The circumstances of the offense ظروف الجريمة

The aggravating circumstances change the classification of the offense, and increase the penalty incurred.

For example, theft is a misdemeanors which becomes a crime if committed with a weapon. The port weapon is therefore an aggravating circumstance which changes the classification of the offense and increases the sentence.

Mitigating circumstances reduce the sentence without changing the qualification of the offense.

The Recidivism, on the other hand, increases the penalty incurred without changing the qualification of the offense.