



## Crímenes de guerra y grupos de delincuencia organizada: problemáticas desde el principio de congruencia y la competencia para su juzgamiento [

2018

text (article)

Analítica

Although there are disparate theoretical positions on the nature of the organized crime groups currently operating in Colombia, the hermeneutical rules of the Constitutional Court's jurisprudence establish that it is possible for these groups to commit crimes against persons and property protected by international humanitarian law (also IHL), that is, war crimes. With respect to these crimes, the competence for the objective factor - in its aspect of the nature of the matter - corresponds to the criminal judges of the specialized circuit. However, given the diffuse nature of the relationship between organized crime and armed conflict, it would not be unusual for the prosecutor to lie in the determination of the *nomen iuris* and charge for a common crime, and not for a war crime. The article seeks to answer the question of what solution should be adopted in these events. The proposal presented here is that the judge should opt for the declaration of nullity from the presentation of the indictment, as a way of harmonizing the guarantees of the defendant with the rights of the victims

Although there are disparate theoretical positions on the nature of the organized crime groups currently operating in Colombia, the hermeneutical rules of the Constitutional Court's jurisprudence establish that it is possible for these groups to commit crimes against persons and property protected by international humanitarian law (also IHL), that is, war crimes. With respect to these crimes, the competence for the objective factor - in its aspect of the nature of the matter - corresponds to the criminal judges of the specialized circuit. However, given the diffuse nature of the relationship between organized crime and armed conflict, it would not be unusual for the prosecutor to lie in the determination of the *nomen iuris* and charge for a common crime, and not for a war crime. The article seeks to answer the question of what solution should be adopted in these events. The proposal presented here is that the judge should opt for the declaration of nullity from the presentation of the indictment, as a way of harmonizing the guarantees of the defendant with the rights of the victims

Although there are disparate theoretical positions on the nature of the organized crime groups currently operating in Colombia, the hermeneutical rules of the Constitutional Court's jurisprudence establish that it is possible for these groups to commit crimes against persons and property protected by international humanitarian law (also IHL), that is, war crimes. With respect to these crimes, the competence for the objective factor - in its aspect of the nature of the matter - corresponds to the criminal judges of the specialized circuit. However, given the diffuse nature of the relationship between organized crime and armed conflict, it would not be unusual for

the prosecutor to lie in the determination of the nomen iuris and charge for a common crime, and not for a war crime. The article seeks to answer the question of what solution should be adopted in these events. The proposal presented here is that the judge should opt for the declaration of nullity from the presentation of the indictment, as a way of harmonizing the guarantees of the defendant with the rights of the victims

<https://rebiunoda.pro.baratznet.cloud:28443/OpacDiscovery/public/catalog/detail/b2FpOmNlbGVicmF0aW9uOmVzLmJhcmF0ei5yZW4vMzEzMTcwODg>

---

**Título:** Crímenes de guerra y grupos de delincuencia organizada: problemáticas desde el principio de congruencia y la competencia para su juzgamiento [electronic resource]

**Editorial:** 2018

**Tipo Audiovisual:** organized crime war crime internal armed conflict competition for the objective factor principle of congruence procedural nullity crimen organizado crimen de guerra conflicto armado interno competencia por el factor objetivo principio de congruencia nulidad procesal crime organizado crime de guerra conflicto armado interno competição pelo fator objetivo princípio de congruência nulidade processual

**Documento fuente:** Opinión Jurídica: Publicación de la Facultad de Derecho de la Universidad de Medellín, ISSN 1692-2530, Vol. 17, N°. 34, 2018 (Ejemplar dedicado a: Julio-diciembre), pags. 45-61

**Nota general:** application/pdf

**Restricciones de acceso:** Open access content. Open access content star

**Condiciones de uso y reproducción:** LICENCIA DE USO: Los documentos a texto completo incluidos en Dialnet son de acceso libre y propiedad de sus autores y/o editores. Por tanto, cualquier acto de reproducción, distribución, comunicación pública y/o transformación total o parcial requiere el consentimiento expreso y escrito de aquéllos. Cualquier enlace al texto completo de estos documentos deberá hacerse a través de la URL oficial de éstos en Dialnet. Más información: <https://dialnet.unirioja.es/info/derechosOAI> | INTELLECTUAL PROPERTY RIGHTS STATEMENT: Full text documents hosted by Dialnet are protected by copyright and/or related rights. This digital object is accessible without charge, but its use is subject to the licensing conditions set by its authors or editors. Unless expressly stated otherwise in the licensing conditions, you are free to linking, browsing, printing and making a copy for your own personal purposes. All other acts of reproduction and communication to the public are subject to the licensing conditions expressed by editors and authors and require consent from them. Any link to this document should be made using its official URL in Dialnet. More info: <https://dialnet.unirioja.es/info/derechosOAI>

**Lengua:** Spanish

**Enlace a fuente de información:** Opinión Jurídica: Publicación de la Facultad de Derecho de la Universidad de Medellín, ISSN 1692-2530, Vol. 17, N°. 34, 2018 (Ejemplar dedicado a: Julio-diciembre), pags. 45-61

---

## Baratz Innovación Documental

- Gran Vía, 59 28013 Madrid
- (+34) 91 456 03 60
- [informa@baratz.es](mailto:informa@baratz.es)