# Institutions of Criminal Law

## Prof. Matteo Caputo

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to enhance the learning of the institutional elements of the subject; the transmission of an adequate ability to interpret, argue, qualify and evaluate the world facts through the fundamental principles and categories of criminal law; the circulation of technical language aimed at developing terminological appropriateness as a reflection of a preliminary conceptual clarification.

At the end of the course, students will be able to demonstrate their acquisition of: the principles and categories of criminal law; the ability to organise the topics studied in an orderly system of knowledge of the general part of criminal law; the ability to analyse a criminal case, by identifying the constituent elements of the crime; the aptitude for the performance of comparative evaluations among different theories and institutes, and to develop critical arguments; adequate mastery of the presentation of legal concepts and correct use of specific terminology.

***COURSE CONTENT***

Part 1

* Functions, limits and legitimisation of criminal law.
* The ‘criminal field’ and the theories of punishment.
* Integrated criminal justice.
* Criminal law as impassable limit to criminal policy.
* The principle of legality and its corollaries.
* The effectiveness of criminal law in time and space.
* Interpretation in criminal law.
* The principle of specialty and the criteria for solving the apparent conflict of norms.
* The principle of culpability and strict liability.
* The principle of offensiveness and the significance of the legal asset.
* The principle of *extrema ratio.*
* The principle of rehabilitation of the condemned and the role of prison.
* The principle of reparation and victims’ rights.
* Discretion and humanity in sentencing.

Part 2

* Distinctions between the various types of crime.
* General theory of crime.
* Structure of the typical fact.
* Causation and relationship between criminal law and science.
* Contents and functions of wrongfulness: the justifications.
* Contents and functions of legal fault: imputability; malice and negligence; excuses; consciousness of wrongdoing.
* Facts related to punishability.
* The attempt.
* Mitigating and aggravating factors.
* Accomplices to a crime.
* Concurrent offences.

***READING LIST***

Regularly attending students will study on lecture notes, with the support of slides and of additional material distributed on the Blackboard platform.

*Non-attending students* will have to prepare for the exam on the following volume:

G. Marinucci-E. Dolcini-G.L. Gatta, *Manuale di diritto penale*. General part, 10th edition, Giuffrè Francis Lefebvre, Milano, 2021, (or the latest edition available) pp. 3-704.

Preparation for the exam requires learning the relevant constitutional and criminal laws. Their constant consultation in an updated penal code is particularly recommended also during lectures.

***TEACHING METHOD***

Frontal lectures, analysis and guided discussion of case law.

Interested students may also participate in further systematic cycles of lectures or meetings on criminal and criminological issues organised during the academic year, for which the Faculty may award ECTS credits. Among them, particularly noteworthy is the seminar cycle (where activated) on "Law and Literature".

***ASSESSMENT METHOD AND CRITERIA***

The final exam aims to assess students’ achievement of course aims and intended learning outcomes.

Assessment consists of a final oral exam: questions related to significant points of the various parts of the course are designed to verify the overall knowledge acquired by the candidates, their ability to critically address the topics studied and relate the various parts of the course contents, as well as their correct use of specialist language.

 For attending students, the oral exam consists of a series of questions on lecture notes and on the material made available, as well as on the criminal code rules referred to; for non-attending students, the exam will focus on the course textbooks and the criminal code rules referred to in the course.

The final mark is the result of the average of the scores obtained in the answers to the questions. Students’ achievement of a comprehensive view of the topics addressed in class combined with their critical use, as well as the good presentation skills and command of subject-specific language will be assessed with excellent marks. Unstructured synthetical and analytical skills and/or correct but not always appropriate use of the language will be assessed with satisfactory marks. Knowledge gaps and/or inappropriate language – although in a context characterised by minimal knowledge of the examination material, such as adequate familiarity with the fundamental principles and categories - will be assessed with pass marks. Knowledge gaps (such as, for example, ignoring a part of the course textbook or the fundamental rules of the general part of the criminal code), inappropriate language, lack of familiarity with the reading list materials provided during the course will only be assessed with a fail mark.

***NOTES AND PREREQUISITES***

Attendance is strongly recommended. Students must attend at least 90% of the lectures to be considered attending-students.

Being it an institutional and introductory course to criminal matters, there are no content prerequisites for attending it, except for knowledge of the basic notions of public-law (separation of powers, hierarchy of sources, fundamental principles of the legal system etc). For these purposes, passing the Constitutional Law exam is a prerequisite.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=ENG or on the Faculty notice board.