# International Criminal Law

Prof. Gabriele Della Morte

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

The course aims to provide students with the key institutional, material, and procedural elements of international criminal law. At the end of the course, students will have developed an in-depth knowledge of the international jurisdictions operating in the field of criminal law, with a focus on the International Court of Justice. Furthermore, they will have gained a better understanding of the so-called *crimina juris gentium* (genocide, crimes against humanity, war crimes and aggression), as well as the major issues that can be found in the penological, procedural, and international cooperation field.

***COURSE CONTENT***

Following a brief introduction focusing on certain terminological and methodological issues (difference between international criminal law and criminal international law, between international and transnational crimes, between national and international repression mechanisms, between State and individual responsibility, etc.), the course will continue with a historical reconstruction.

Within this *excursus*, particular attention will be given to the similarities and differences between the experiences of World War II (Nuremberg and Tokyo International Military Tribunals) and the tribunals established after the fall of the Berlin Wall, whether retroactive and *ad hoc* (such as the International Criminal Tribunals set up for the former Yugoslavia and Rwanda), hybrid or internationally assisted (as in the case of the Extraordinary Chambers in the Courts of Cambodia). Afterwards, the main attention will be paid to the International Criminal Court which has permanent and universal jurisdiction.

Sources and principles will be examined in the light of the most significant practice, with particular reference to competences: *ratione materiae* (genocide, crimes against humanity, war crimes, terrorism, aggressions); *ratione* *temporis* (categories of… methods of participation in criminal conduct); *ratione* *temporis* and *loci* (with particular reference to the activation mechanisms of the International Criminal Law and area of application of relevant jurisdiction.

Finally, the course will consider historical-philosophical issues. To this end, will be examined the limits and opportunities expressed by such experience in a context that is characterised by reconciliatory needs, realised, at times, through forms of transitional justice.

***READING LIST***

For students who attend lectures regularly, exam preparation may be based on the course notes together with the reading list and jurisprudential materials indicated during lectures.

For non-attending students, the following textbooks are useful for exam preparation:

E. Amati-M. Costi-E. Fronza-P. Lobba-E. Maculan-A. Vallini, *Introduzione al diritto penale internazionale*, 4th edition, Turin, 2020 or: R. Aitala, *Diritto internazionale penale*, Milan, 2021. The study of these books must be supplemented with two essays, respectively: G. Della Morte, *La potestà giurisdizionale della Corte penale internazionale: complementarità, condizioni di procedibilità, soggetti legittimati a richiedere l’esercizio dell’azione penale e ne bis in idem*, in G. Carlizzi-G. Della Morte-S. Laurenti-A. Marchesi (edited by), *La Corte penale internazionale: problemi e prospettive*, Naples, 2003, pp. 1-60; and G. Della Morte, *La conferenza di revisione dello Statuto della Corte penale internazionale ed il crimine di aggressione*, in Rivista di diritto internazionale, n. 3, 2010, pp. 697-752.

Students may nevertheless agree with the lecturer on the study of alternative textbooks in English and/or in French.

***TEACHING METHOD***

The teaching method, based on frontal lectures, will be characterised by the active participation of attending students; through the critical analysis of the sources of law and practices, they will be involved in guided discussions over relevant case law.

The most significant topics and issues from a criminal law perspective will be analysed, during the second part of the course, by Dr. Alain Maria Dell’Osso, who is holding a 20-hour module related to this course.

***ASSESSMENT METHOD AND CRITERIA***

Assessment of learning outcomes takes place through oral exams at scheduled deadlines, aimed at verifying students’ learning level, their presentation skills, their critical thinking and argumentative skills. More specifically, the oral exam is structured around issues concerning different sectors qualifying for the course programme. It aims to assess the overall knowledge acquired by students, their ability to critically address studied topics and to connect the various parts of the syllabus. The final mark will be the weighted average of the results for each question.

*Criteria for the attribution of the final mark*

The final mark will be based on students’ argumentative skills, their critical understanding of topics and their ability to connect various parts of the course programme.

Students who achieve a consistent and critical vision of the topics studied in class and demonstrate complete language mastery will obtain marks of excellence. Students who summarise and analyse in a non-structured way and/or use correct but not always appropriate language will obtain an intermediate mark; students with knowledge gaps and/or inappropriate language (even in the case of minimum knowledge) will obtain threshold-pass marks. Students with content gaps (for example, lack of preparation of some textbooks), with inappropriate language and who cannot make references within course topics will obtain no pass mark.

***NOTES AND PREREQUISITES***

Regular attendance is strongly recommended. Having taken or taking the Criminal Law and International Law exam is also recommended.

Achieving a mark not below 27/30 in the exam is a preferential criterion to be assigned a dissertation (*tesi di laurea*) in International Criminal Law.

In case the current Covid-19 health emergency does not allow frontal teaching, remote teaching will be carried out following procedures that will be promptly notified to students.

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.