# Criminal Law I

## Prof. Gabrio Forti

1. ***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to introduce students to the fundamentals of Criminal Law and the constitutional principles of European and supranational justice, to which the definition and application of its principles should be inspired. The course aims at dealing with criminal issues and principles not only in strict connection with the fundamental constitutional principles but also within an interdisciplinary setting of an ‘integrated’ criminal framework, i.e. studying legal concepts with the associated empirical, social and criminal sciences. Particularly relevant for understanding the general theory of crime is a discussion of meanings and aims of punishment and imprisonment. At the end of the course students are expected to have acquired an appropriate knowledge and understanding of the principles, institutions and methods of the so-called general part of criminal law in order to be able to analyse and contextualise the “special part” regulations and apply them to an essential judicial case study. Particularly significant in the intended learning outcomes is the improvement of the students’ use of the language, not only the technical-legal one, as well as their ability to understand – within a transdisciplinary scenario – the ethical, social, and cultural implications of the different regulatory and sanctioning options and solutions discussed. Thanks to frequent invitations to debate, practical exercises, and opportunities to experience real institutional and professional situations, students are expected to improve their communication and relational skills.

***COURSE CONTENT***

 First Part

* The distinctive features of “criminal” law. The idea of punishment and reparation. Prison as an indispensable element of criminal reflection. The ‘self-awareness’ of prisoners.
* Ethics, morality and criminal law.
* Criminal policy and criminal dogma.
* The idea of 'integrated criminal science' and the relationship between criminal law and criminology.
* Fundamental issues and principles of the criminal system. Legality and subsidiarity of criminal law.
* The protection of the innocent and the safeguarding of victims.
* The interpretation of criminal law, legal positivism and strict interpretation.
* Legal interests and the principle of offensiveness.
* The theory of punishment.

Second Part

* Criminal law in totalitarian, authoritarian and liberal-democratic States: the principles on criminal law enshrined in the Italian Constitution and international conventions.
* The effectiveness of criminal law over time: technological, scientific and social evolution, and the evolution of criminal laws through the centuries.
* Relationship between substantive law and the law of evidence, in particular the relationships between criminal law on the one hand and civil law, civil procedure and administrative law on the other.
* Rules of evidence in criminal and civil trials.
* European and International developments in criminal law.
* Globalisation and the principles of territoriality and universality.
* The structure of crime.
* The classic notion of criminal law events: harm and risk of harm.
* Main distinctions among the various types of crime.
* Substantive law and judicial evidence of the elements of a crime.
* Criminal law and scientific knowledge.
* Causation.
* Intention. Negligence. Defences. Vicarious liability.
* Error of fact and error of law: the relationship between authority and liberty.
* Strict liability.
* The circumstances of the offence.
* Attempted crimes.
* Concurrent offences.
* Complicity in a crime.
* Administrative offences and corporate liability for crimes.

Third Part

* The system of sanctions: general outline and principles.
* The deterrent function served by the sentence compared to the function served by sanctions in other legal areas.
* Constitutional provisions on punishment. The notion of rehabilitation and its implications. Legality and discretion in responding to crime. The principle that the punishment must fit the crime.

***READING LIST***

Students that attended the course regularly are expected to prepare the exam on the basis of lecture notes, auxiliary slides made available at the end of each semester and, in particular for those topics not covered during the lectures, they should refer to the following text:

G. Marinucci-E. Dolcini, *Manuale di diritto penale. Parte generale,* 10th edition, Giuffrè, 2022 (or in any case the latest edition available at the beginning of the course).

In addition to the integral study of the mentioned manual, non-attending students have to study thoroughly the following volume:

F. Stella, *Giustizia e modernità. La protezione dell'innocente e la tutela delle vittime,* Giuffrè, 2003.

Other reading material affording an in-depth analysis of paramount criminal law issues will be specified during the academic year.

The exam will require knowledge of the relevant constitutional and criminal law provisions, constant referral to which in a fully up-to-date criminal code is highly recommended, including during lectures.

***TEACHING METHOD***

Lectures with usage of multimedia tools in class and, if necessary, online learning with the usage of advanced technology. In-depth study seminars. Visits to prisons. Conferences held by academics and judges on topical criminal questions.

To get an in-depth analysis of specific topics that have been covered, the course will include *moot trials*, during which students will be invited to analyse and discuss legal cases in class. Students’ active participation in the *moot trials*, tested during the Criminal Law I exam, will award students an ECTS credit according to the University regulations.

Students who so wish may also participate in further series of dedicated lessons or seminars of criminal or criminological interest during the academic year for which the Faculty may decide to award credits. Amongst them it will be staged the series of seminars on “Giustizia e Letteratura” (Law and Literature).

***ASSESSMENT METHOD AND CRITERIA***

The assessment of the students’ preparation will be mostly based on an oral exam at the end of the academic year in which students will be asked to answer on essential principles of the subject, on fundamental institutions of criminal law and penal system. Students will be assigned a pass to satisfactory mark if they demonstrate suitable mastery of the main notions and the ability to relate the constitutional principles to norms and institutions of positive law, as well as to the explanatory case study of the special part. Students with a more in-depth knowledge of the norms, institutes, and principles of the subject, as well as those who stand out for their particularly correct use of the language and accurate references to legislation, and critical approach, will be assigned an excellent mark.

***NOTES AND PREREQUISITES***

Prerequisite for a fruitful course attendance and successful completion of the exam is an appropriate knowledge of the constitutional law. In addition, for a better understanding of the issues connected to the fundamentals of criminal liability, students’ knowledge of historical-legal concepts and of the philosophy of law may be useful, in addition to mastery of the Italian language.

When assigning a degree thesis in Criminal Law, preference will go to those students who have obtained an adequate mark in the relevant exam, have taken an examination in Criminology, and have a good knowledge of either English or German.

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.