# Criminal Law I

## Prof. Matteo Caputo

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

1. *Course aims*

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.

*Intended learning outcomes*

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***

The course content is structured as follows:

First part

– Functions, limits, and legitimacy of criminal law.

– The ‘criminal field’ and the theories of punishment.

– Integrated forensic science.

– Criminal law as an insurmountable limit of criminal policy.

– The rule of law 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 concurrence of norms.

– The principle of guilt and strict liability.

– The offense principle and the importance of the legal asset.

– The *extrema ratio* principle.

– The principle of re-education of convicts and the role of prison.

– The principle of reparation and the rights of victims.

– Discretion and humanity in sentencing.

– The principle of effectiveness.

Second Part

* The distinctions between the various types of crime.
* The general theory of crime.
* The structure of the typical offence.
* The causal link and the relationship between criminal law and science.
* Contents and functions of illegality: the causes of justification.
* Contents and functions of guilt: imputability; wilful misconduct and negligence; excuses; awareness of the offence.
* Punishment events.
* The attempt.
* Circumstances of the crime.
* Concurrence of people in a crime.
* Concurrence of offences.
* General elements of the sanctioning system.
* Administrative offense and criminal liability of entities.

***READING LIST***

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

G. Marinucci-E. Dolcini-G.L. Gatti, *Manuale di diritto penale. Parte generale,* 11th edition, Giuffrè Francis Lefebvre, 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 two of the following volumes, chosen by the student:

H. Arendt, *Responsabilità e giudizio,* Torino, Einaudi, 2004.

C. Beccaria, *Dei delitti e delle pene*, qualunque edizione disponibile.

M. Catino, *Trovare il colpevole. La costruzione del capro espiatorio nelle organizzazioni*, Il Mulino, Bologna, 2022.

G. Forti, *La cura delle norme. Oltre la corruzione delle regole e dei saperi*, Vita e Pensiero, Milano, 2018.

W. Hassemer, *Perché punire è necessario*, Il Mulino, Bologna, 2012.

F. Stella, *La giustizia e le ingiustizie,* Il Mulino, Bologna, 2006.

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***

*Assessment method*

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.

*Assessment criteria*

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***

*Notes*

Attendance is strongly recommended. Attending students are those who have attended at least 75% of the lessons and in-depth seminars.

The preferential criteria for the assignment of the degree thesis in Criminal Law are having passed the Criminology exam and good knowledge of the English or German language, in addition to the achievement of a mark equal to or higher than 27/30 in this subject.

*Prerequisites*

To successfully attend the course and pass the exam, students are required to have already passed the Constitutional Law exam. In particular, for a better understanding of the problems connected to the foundations of criminal liability, historical-juridical knowledge, knowledge of philosophy of law, and an adequate command of the Italian language can be useful.

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.