# Criminal Procedure (with Elements of Criminal Justice System)

## Prof. Gianluca Varraso – Prof. Roberta Casiraghi

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

The course aims to guide students towards the acquisition of the fundamental principles, the structure, and the dynamics of criminal proceedings, as well as the institutional aspects of the legal system, providing them with the tools they need to understand the links between the different institutions related to proceedings and their *ratio* in relation to the system in which they are placed. In particular, the course will focus on the analysis of the procedural activities carried out through the use of IT technologies.

Intended learning outcomes:

*Knowledge and understanding*: at the end of the course, students will be able to orient themselves among the different sources of law, and acquire the knowledge they need to understand not only the institutional aspects of the legal system, but also the procedural dynamics and the general principles governing them; furthermore, they will be able to know the digitalisation tools used for the management of criminal proceedings.

*Ability to apply knowledge and understanding*: at the end of the course, students will be able to:

- carry out a critical analysis of the sources of law, and understand the connections existing between them and constitutional and supranational case law,

- apply the institutions and the principles to concrete case studies, and identify reasoned solutions for complicated legal issues,

- use an appropriate technical-legal terminology.

*Independent judgment*: at the end of the course, students will be able to form an independent opinion in the exegesis of laws and the assessment of their compliance with constitutional principles, as well as in the analysis of case law.

*Communication skills*: at the end of the course, students will be able to present in a clear way and with a great command of language the knowledge they have acquired and the arguments to support their ideas.

***COURSE CONTENT***

The course will be based on lectures focused on the analysis of the most significant problems and their relative solutions in terms of regulations and case law related to the following topics:

– the sources of criminal procedural law;

– criminal procedural law over time and space;

– the organisation of the legal system;

– the subjects and the objects of trial jurisdiction;

– the documents of trials and proceedings;

– the system of evidence;

– precautionary measures;

– preliminary investigations and preliminary hearings;

– defensive investigations;

– special procedures;

– first instance judgments before monocratic and collegial courts;

– the proceeding before the justice of the peace;

– ordinary and extraordinary appeals;

– *res judicata* and its internal and external effectiveness in the criminal proceeding;

– the jurisdiction concerning the determination of the administrative accountability of ‘bodies’.

***READING LIST***

Students can prepare for the exam on the following manuals:

For *attending* students:

AA.VV., *Procedura penale*, Giappichelli, Turin, latest edition available, excluding the following Chapters: XIX (*Il processo penale minorile*), XXVI (*L’esecuzione penale*), XXVII (*Spazio penale europeo e cooperazione giudiziaria internazionale*), XXVIII (*Mandato europeo ed estradizione*), XXIX (*Rogatorie*), XXX (*La cooperazione giudiziaria nell’esecuzione e la nuova disciplina del trasferimento dei procedimenti penali*), XXX (*Il procedimento di prevenzione*).

For *non attending* students:

AA.VV., *Procedura penale*, Giappichelli, Turin, latest edition available (the whole textbook).

Students may use any available edition of the Code of Criminal Procedure, provided it is updated and includes the most significant texts of constitutional and supranational law, in particular the European Convention on Human Rights and related protocols, the International Covenant on civil and political rights, as well as the Treaty of Lisbonthe .

***TEACHING METHOD***

Frontal lectures. The course may also include seminars, practical activities, and other learning activities, such as the possibility to attend a hearing of the District Court of Piacenza or a visit to the Public Prosecutor’s Office at the District Court of Piacenza, that will be communicated in class.

***ASSESSMENT METHOD AND CRITERIA***

The exam will be different for attending and non-attending students.

-          Attending students will have the possibility to take a written interim test aimed to assess the knowledge they have acquired after the lectures of semester 1. The test, having a duration of two hours, will be based on twenty multiple-choice questions and two open-ended questions. With regard to the multiple-choice questions, students will get 0.5 points for each correct answer and 0 points for each wrong answer, while for every answer to an open-ended question they will get a maximum of 10 points. The final mark is expressed in thirtieths. The students who pass the interim test will be exempted from studying the corresponding part of the course content for the final exam, but this will be possible only for one year starting from the interim test. The final assessment will consist in an oral exam based on three questions, where students will get a mark, expressed in thirtieths, resulting from the average calculated with the interim test. Those who do not intend to make use of the mark obtained in the interim test nor the relative partial reduction of the study material for the final exam, will be allowed to take the oral exam following the instructions below for non-attending students.

-            Non-attending students will have to take an oral exam based on the whole content of the course, which is specified in the guide for the Law degree programme together with the reading list that they will have to study: the oral exam will be based on three questions and, for each answer, students can get up to 10 points, that will contribute to the definition of the final mark, expressed in thirtieths.

The assessment criteria for both for the written and the oral exam will take into account the relevance, correctness, and accuracy of the answers, the ability to make connections – also systematic – between different institutions, and the capacity to organise the exposition in a methodical way and using an appropriate terminology. The presence of significant knowledge gaps, the use of an inappropriate terminology, and the lack of critical thinking skills will determine negative marks.

***NOTES AND PREREQUISITES***

Students should take the Criminal procedure exam after taking – and possibly passing – the following exams: Criminal law and Civil procedural law.

Information on office hours available on the teacher's personal page at http://docenti.unicatt.it/.