

CRIMINAL LAW I

Bachelor of Laws LLB [2504110] SEP-2023 CL1n-NLL.1.M.A

Area Public Law and Global Governance

Number of sessions: 30

Academic year: 23-24

Degree course: FIRST

Number of credits: 6.0

Semester: 2^o

Category: BASIC

Language: English

Professor: **MARINA AKSENOVA**

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Dr. Marina Aksenova has extensive experience in comparative criminal law, international criminal law and transitional justice. She holds a Ph.D. in law from the European University Institute. Her thesis focused on modes of participation in international criminal law and, in particular, on the concept of complicity. She holds a Master's Degree in Criminology and Criminal Justice from the University of Oxford, an LL.M. in Public International Law from Amsterdam University, and a B.A. (Hons.) in law from the International University in Moscow.

In the past, she has worked as a legal assistant for the defence at the International Criminal Tribunal for the Former Yugoslavia and as arbitration associate in the Moscow office of White & Case LLC.

She served as a consultant on a number of projects, including the EU Parliament's study on extraterritorial effects of legislation in the EU and US, EU Agency for Fundamental Rights study on border police training in human rights, and Case Matrix complementarity project in Colombia. She conducted legal research at the Extraordinary Chambers in the Courts of Cambodia and acted as an advisor for the Guantanamo defence teams.

Prior to joining the IE, Dr. Aksenova conducted research on symbolism of international criminal law at the Centre of Excellence for International Courts at the University of Copenhagen.

Office Hours

Office hours will be on request. Please contact at:

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SUBJECT DESCRIPTION

This course is designed to introduce the foundations and the general principles of criminal law to students from a comparative and international law perspectives. Given the special nature of the subject, the course has been developed to provide not only a deep knowledge of fundamentals of criminal law (concepts, aims, principles and sources), but also knowledge of legal reasoning tools and theories applied by judiciary. Since this is a comparative criminal law class, we will be focusing on Germany as an exemplification of a civil law system and on the United States as an exemplification a common law system.

LEARNING OBJECTIVES

The aims of the course are as follows:

- I. To provide essential knowledge of the fundamentals of criminal law from a civil law perspective (mainly the German system) and a common law perspective (mainly the US);
- II. To analyze the role of criminal law in modern societies;
- III. To understand legal reasoning used in criminal law and the relationships with other legal disciplines.

Upon successful completion of this course students will be able:

- I. To understand criminal law concepts and institutions;
- II. To identify the elements of the crimes and their role according to different legal theories;
- III. To be able to identify with more precision the particularities of criminal law institutions;
- IV. To engage in an informed discussion on criminal law related issues, using clear and concise terms and to link them to broader policy concerns or arguments;
- V. The ability to apply theoretical framework of criminal law to practical settings.

TEACHING METHODOLOGY

IE University teaching method is defined by its collaborative, active, and applied nature. Students actively participate in the whole process to build their knowledge and sharpen their skills. Professor's main role is to lead and guide students to achieve the learning objectives of the course. This is done by engaging in a diverse range of teaching techniques and different types of learning activities such as the following:

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	33.33 %	50.0 hours
Discussions	10.0 %	15.0 hours
Exercises in class, Asynchronous sessions, Field Work	20.0 %	30.0 hours
Group work	16.67 %	25.0 hours
Individual studying	20.0 %	30.0 hours
TOTAL	100.0 %	150.0 hours

PROGRAM

SESSIONS 1 - 2 (LIVE IN-PERSON)

Topics:

- Participants and Steps in the Criminal Justice Process
- Sources of Criminal Law in Civil Law countries
- Sources of Criminal Law in Common Law countries

Other / Complementary Documentation: Slides 1-2 (s-c)

Book Chapters: Principles of Criminal Law (ced)

Book Chapters: Comparative, International and Global Justice (ced)

SESSIONS 3 - 4 (LIVE IN-PERSON)

Topics:

- Theories of Punishment I: Retribution and Prevention
- Theories of Punishment II: Rehabilitation and Incapacitation
- The Death Penalty

Other / Complementary Documentation: Slides 3-4 (s-c)

Book Chapters: Principled sentencing : readings on theory and policy (Desert, pp. 103 – 114) (See Bibliography)

Book Chapters: Principled sentencing : readings on theory and policy (Deterrence, pp. 39-48) (See Bibliography)

Book Chapters: Principled sentencing : readings on theory and policy (Incapacitation, pp. 75 – 82) (See Bibliography)

Book Chapters: Principled sentencing : readings on theory and policy (Rehabilitation, pp. 1 – 10) (See Bibliography)

Book Chapters: Principled sentencing : readings on theory and policy (Restorative justice, pp. 163 - 172) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (United States v. Blarek) (U.S. District Court, Eastern District of New York 7 F. Supp. 2d 192 (E.D.N.Y. 1998) (See Bibliography)

Book Chapters: Criminal law : a comparative approach (Payne v. Tennessee) (United States Supreme Court 501 U.S. 808 (1991) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (Gregg v. Georgia) (United States Supreme Court 428 U.S. 153 (1976) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (BVerfGE 45, 187) (June 21, 1977. German Federal Constitutional Court) (See Bibliography)

SESSIONS 5 - 6 (LIVE IN-PERSON)

Topics:

1. Scope of Application of Criminal Law (time, persons, space)
2. Statute of Limitation or Prescription
3. Types of Crimes

4. General principles of criminal law

- Legality
- Clarity
- Interpretation

Other / Complementary Documentation: Slides 5-6 (s-c)

Book Chapters: Comparative Concepts of Criminal Law, pp 11-30 (ced)

Book Chapters: Criminal law: a comparative approach (Rogers v. Tennessee) (United States Supreme Court 532 U.S. 451 (2001) (See Bibliography)

SESSIONS 7 - 8 (LIVE IN-PERSON)

Topics:

- Defining the crime: the criminal act ("actus reus")
- Voluntariness
- Omissions
- Causation

Other / Complementary Documentation: Slides 7-8 (s-c)

Book Chapters: Criminal law: a comparative approach (State v. Tippetts, Court of Appeals of Oregon 180 Or. App. 350, 43 P.3d 455 (2002) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (Higher Regional Court (OLG) Zweibrücken 1 Ss. 171/81, AnwBl. 1983, 126 (July 7, 1982) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (State v. Miranda Supreme Court of Connecticut 245 Conn. 209, 715 A.2d 680 (1998) (See Bibliography)

Book Chapters: Principles of Criminal Law (pp. 1-54) (ced)

Book Chapters: Criminal law: a comparative approach (Martin v. State, Court of Appeals of Alabama 31 Ala. App. 334, 17 So. 2d 427 (1944) (See Bibliography)

SESSIONS 9 - 10 (LIVE IN-PERSON)

Topics:

- Defining the crime: the criminal mind ("mens rea")
- Intent
- Strict Liability
- Mistake of Fact/Mistake of Law

Other / Complementary Documentation: Slides 9-10 (s-c)

Book Chapters: Cases and Materials on Criminal Law (ced)

Book Chapters: Criminal law: a comparative approach (People v. Baker, Supreme Court of New York, Appellate Division 4 A.D.3d 606, 771 N.Y.S.2d 607 (2004) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (German Federal Court of Justice 5 StR 35/55, BGHSt 7, 363 (April 22, 1955) Leather Strap Case) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (R. v. City of Sault Ste. Marie Supreme Court of Canada [1978] 2 S.C.R. 1299) (See Bibliography)

SESSIONS 11 - 12 (LIVE IN-PERSON)

Topics:

- Causation

Book Chapters: Slides 11-12 (s-c)

Book Chapters: Basic Concepts of Criminal Law (ced)

Book Chapters: Criminal law: a comparative approach (People v. Kibbe, Court of Appeals of New York 35 N.Y.2d 407, 321 N.E.2d 773 (1974) & German Federal Court of Justice 2 StR 549/89, BGHSt 37, 106 (July 6, 1990) Leather Spray Case) (See Bibliography)

SESSIONS 13 - 14 (LIVE IN-PERSON)

Topics:

- Inchoate offences
 - Attempt
 - Conspiracy
 - Solicitation
 - Renunciation

Other / Complementary Documentation: Slides 13-14 (s-c)

Book Chapters: Comparative Concepts of Criminal Law (pp. 179-210; Intersentia, 2015) (ced)

Book Chapters: Criminal law: a comparative approach (People v. Lehnert Supreme Court of Colorado 163 P.3d 1111 (2007) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (German Federal Court of Justice 1 StR 234/97, BGHSt 43, 177, NJW 1997, 3453 (August 12, 1997) Barwurz Case) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (Pinkerton v. United States Supreme Court of the United States 328 U.S. 640 (1946) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (German Federal Court of Justice 3 StR 233/04, BGH NJW 2005, 1668 (March 10, 2005) Landser Case) (See Bibliography)

SESSION 15 (LIVE IN-PERSON)

Midterm preparation

SESSION 16 (LIVE IN-PERSON)

Midterm

SESSIONS 17 - 18 (LIVE IN-PERSON)

Topics:

- Forms of participation Perpetration: Theories about Perpetration and Roles
- Complicity
- Aiding and Abetting
- Joint criminal enterprise

Readings:

Other / Complementary Documentation: Slides 17-18 (s-c)

Book Chapters: Complicity in International Criminal Law (ced)

Book Chapters: Criminal law: a comparative approach (State v. Tally Supreme Court of Alabama 102 Ala. 25, 15 So. 722 (1894) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (German Federal Court of Justice 4 StR 613/57, BGHSt 11, 268, NJW 1958, 836 (January 23, 1958)) (See Bibliography)

SESSIONS 19 - 20 (LIVE IN-PERSON)

Topics:

- Defences
 - Introduction
 - Self-Defense
 - Necessity
 - Duress
 - Intoxication
 - Insanity
 - Superior Orders
 - Law Enforcement
 - The Consent of the Victim

Other / Complementary Documentation: Slides 19-22 (s-c)

Book Chapters: Basic Concepts of Criminal Law (ced)

Book Chapters: Criminal law: a comparative approach (People v. Craig Court of Appeals of New York 78 N.Y.2d 616, 585 N.E.2d 783 (1991) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (German Federal Court of Justice 2 StR 505/03, BGHSt 49, 166 (May 26, 2004) (See Bibliography)

Book Chapters: Criminal law: a comparative approach (Tennessee v. Garner Supreme Court of the United States 471 U.S. 1 (1985) (See Bibliography)

Book Chapters: Criminal law : a comparative approach (German Federal Court of Justice 1 StR 230/53, BGHSt 5, 371 (March 5, 1954) (See Bibliography)

Book Chapters: Criminal law : a comparative approach (People v. Calvano Court of Appeals of New York 30 N.Y.2d 199, 282 N.E.2d 322 (1972) (See Bibliography)

SESSIONS 21 - 22 (LIVE IN-PERSON)

Practicing defences (see materials for sessions 19-20)

SESSIONS 23 - 24 (LIVE IN-PERSON)

Topics:

- Beyond reasonable doubt
- Principles concerning sentencing
- Aggravating and Mitigating Circumstances
- Concurrence of Offenses
- Pardon and Commutation of Sentences

Assignment:

1. Research internet / legal encyclopaedia to find out what beyond reasonable doubt means
2. Be prepared to discuss in class different standards of proof
3. Please examine your selected Criminal Code and find the lists of
 1. Aggravating factors
 2. Mitigating factors
4. Please find relevant provisions on
 1. Concurrence of offences
 2. Pardon and Commutation of Sentences

Other / Complementary Documentation: Slides 23- 24 (s-c)

SESSION 25 (LIVE IN-PERSON)

Practice sessions: puzzle work (small groups work)

SESSION 26 (LIVE IN-PERSON)

Practice sessions: puzzle work (small groups work)

SESSION 27 (LIVE IN-PERSON)

Practice sessions: puzzle work (small groups work)

SESSIONS 28 - 29 (LIVE IN-PERSON)

Revisions. Puzzle work.

Final exam preparation

SESSION 30 (LIVE IN-PERSON)

Final exam (overview of the whole course).

EVALUATION CRITERIA

Each student has four attempts over two consecutive academic years to pass this course.

Students must attend at least 80% of the sessions. Students who do not comply with the 80% attendance rule will lose their 1st and 2nd chance, and go directly to the 3rd one (they will need to enrol again in this course next academic year).

Students who are in third or fourth call should contact the professor during the first two weeks of the course.

Your final grade in the course will be based on both individual and group work of different characteristics that will be weighted in the following way:

criteria	percentage	Learning Objectives	Comments
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Midterm	20 %		
Class Participation	20 %		
Group Presentation	15 %		
Final Exam	45 %		

RE-SIT / RE-TAKE POLICY

Retake Policy

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility). Grading for retakes will be subject to the following rules: - The retakes will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account. - The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10. - The third attempt will require the student to complete any written assignment(s) required by the instructor and a final exam. This is also applicable to students who do not have required attendance, e.g. sickness. - Dates and location of the retakes will be posted in advance and will not be changed.

BIBLIOGRAPHY

Recommended

- Andrew Ashworth, Jeremy Horder. (2013). *Principles of criminal law*. Seventh edition. Oxford University Press. ISBN 9780199672684 (Printed)
- Markus Dirk Dubber & Tatjana Hornle. (2016). *Criminal law: a comparative approach*. Oxford University Press. ISBN 9780198794226 (Printed)
- MARINA AKSENOVA. (2019). *COMPLICITY IN INTERNATIONAL CRIMINAL LAW*. HART Publishing. ISBN 9781509928903 (Printed)
- George P Fletcher. (1998). *Basic Concepts of Criminal Law*. Oxford University Press. ISBN 9780199729210 (Printed)
- Andrew Von Hirsch, Andrew Ashworth. *Principled sentencing : readings on theory and policy*. ISBN 1256492337 (Digital)
- Johannes Keiler y David Roef. (2019). *Comparative concepts of criminal law*. Intersentia. ISBN 9781780686851 (Digital)

BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

ATTENDANCE POLICY

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

ETHICAL POLICY

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.

