**CRIMINAL PROCEDURE AND COURTS**

**Criminal Justice 2020/2021**

**Lecturers:**

* Karolina Kremens, LL.M., PhD
* Wojciech Jasiński, PhD, hab.
* Michał Basa (classes)

**Scope of lectures:**

1. Introduction to the Course. An Overview of Criminal Law, Criminal Procedure, Evidence Law. Terminology and Different Approaches
2. Introduction to Comparative Law
3. History of Criminal Law and Procedure. Roots of common and civil law systems. Sources of criminal procedure
4. Principles and objectives of Criminal Procedure. Criminal Justice Systems around the world. Phases of criminal process: overview. The participants to criminal process.
5. Investigation. The balance of power between the Police and public prosecutor. The role of investigative judge (*judge d’instruction*).
6. Pre-trial. The file of criminal process. The access to a file. Disclosure and discovery.
7. Trial. The role of the court (judge) in a trial. The role of the jury.
8. Negotiated Justice. Out-of-court settlements. Plea bargaining. Trial-avoiding procedures
9. The role of European Convention on Human Rights and EU law in criminal proceedings
10. European standards regarding criminal courts
11. Right to a fair trial
12. Minimum defence rights I
13. Minimum defence rights II
14. Gathering of evidence and human rights protection
15. Illegally obtained evidence in criminal proceeding

**Scope of classes (classes start in the second part of the semester)**

1. Introduction to the classes. The criminal process through the case-law approach
2. Phases of criminal process: overview. The participants to criminal process.
3. OJ Simpson case, Oscar Pistorious case, etc. – issue of circumstantial evidence, rules of evidence and rules of facts finding of criminal law,
4. Tomasz Komenda case etc. – state’s liability for wrongful convictions
5. Ladent v. Poland case, etc. – frisk, arrest and detention; state’s responsibility for unlawful use of preventive measures in criminal procedure,
6. Gafgen v. Germany case, Rotaru v. Romania, etc. – illegal evidence, outer procedural means of gathering evidence, invigilation – of which one pair shall deal with notion of illegal evidence (including fruits of poisonous tree doctrine) and another with issue of invigilation and outer – procedural evidence gathering by state’s authorities,
7. Oliviera v. Portugal, Gradinger v. Switzerland, Zolotukhin v. Russia, A and B vs. Norway case, etc. – ne bis in idem rule,
8. Niemietz v. Germany, Jalloh v. Germany etc. – search and seizure.

**COURSE MATERIALS:**

* provided by lecturers
* Darryl K. Brown, Jenia I. Turner, Bettina Weisser (eds.), *The Oxford Handbook of Criminal Process*, Oxford: Oxford University Press 2019.

**EXAM:**

**Take-home exam (48 hours)**

* Take-home exam will be held during the exam session, which means that you will receive two questions from us online on a given date (via Teams) and you will be asked to prepare a short essay **on one of the topics** (upon your choice). You will be given 48 hours to submit the answer to BOTH of your lecturers.

**Length and Format:**

Length: between 3-7 pages (excluding footnotes and bibliography)

Formatting guidelines:

* font: Times New Roman 12 points
* space between lines - 1,5
* footnotes (please do not use endnotes) and bibliography formatted using COHERENT system (e.g. OSCOLA, Blue Book etc.)
* include full bibliography of cited sources
* do not forget to put your name and student’s number on the front page

File formats: Word

Format for submission of research paper:

* research papers should be submitted in an electronic form
* electronic version of research paper should be sent as **an email simultaneously** to the following addresses: [wojciech.jasinski@uwr.edu.pl](mailto:wojciech.jasinski@uwr.edu.pl) and [karolina.kremens@uwr.edu.pl](mailto:karolina.kremens@uwr.edu.pl)

Penalty for late submissions:

10% of the value of assignment for every day, or part of the day, by which the assignment is overdue

**Academic Fraud:**

Students are reminded of the rules on academic fraud. All instances of fraud will be reported for investigation and sanction. **Assignments submitted must be your own work.** Please be careful while citing materials – always provide the relevant citation of all sources including those available online. However, you are welcome to use all available materials (law, case-law, books, articles, course materials etc. – **just cite them properly**).

**Exam Marking Guidelines:**

* research (sources used): comprehensive, varied, current – 30%
* analysis (Content): thorough (complete), breadth, persuasive, critical, plausible, flow – 55%
* structure and Style: logical, organized: introduction/body/conclusion, clear & understandable, proofreading (grammar & spelling) – 10%
* formal requirements: correct formatting and citing, complete bibliography, proper use of footnotes – 5%