

INTERNATIONAL CRIMINAL LAW (LAW 4515)

Academic semester and course instructor:

Spring 2017, Sergey Sayapin LLB, LLM, Dr. iur.

Course schedule:

Tuesday, Thursday, 14:30 – 15:45, NAB, classroom 117

Course outline:

After the Second World War, but especially since the 1990s – that is, after the establishment of the International Criminal Tribunals for the Former Yugoslavia and Rwanda – international criminal law (ICL) is gaining in significance. States' cooperation in penal matters, whose function consists in the prevention and repression of the most serious crimes of international concern, is developing in bilateral and multilateral formats. In conjunction with the key concepts of the law of international security, international humanitarian law and international human rights law, this course covers the substantive issues of international criminal law – that is, jurisdiction, the general part of ICL, crimes under international law (genocide, crimes against humanity, war crimes and the crime of aggression) – and the fundamentals of international criminal procedure, including the operation of the International Criminal Court. The implementation of ICL in the CIS countries and selected common law and civil law jurisdictions is also covered.

Prerequisites and co-requisites:

The completion or parallel study of the Criminal Law of the Republic of Kazakhstan, General Part (LAW 2106) and the Criminal Law of the Republic of Kazakhstan, Special Part (LAW 2107) courses is an advantage but not essential.

Course content:

Week 1: Introduction

Introduction to the course
The notion(s) of international criminal law (ICL)

Week 2: ICL as international aspects of domestic criminal law (“Strafanwendungsrecht”, “droit penal international”)

Principles of criminal jurisdiction

Week 3: ICL as law of mutual legal aid in criminal matters (“Rechtshilferecht”)

Ne bis in idem
Inter-State cooperation in penal matters
Extradition vs. surrender, rendition, transfer, etc. Legal regulation of extradition.
Legal assistance
Execution of foreign penal sentences
Recognition of foreign penal judgments
Transfer of criminal proceedings
Freezing and seizing of assets deriving from criminal conduct
Intelligence and law-enforcement information-sharing
Regional and sub-regional “judicial spaces”
Overview of the 1993 Minsk Convention and the 2002 Kishinev Convention
Overview of Kazakhstan’s bilateral treaties on mutual legal aid in criminal matters
Overview of INTERPOL

Week 4: ICL as law of “core crimes” under international law (ICL *stricto sensu*, “droit international penal”)

Historical evolution of ICL *stricto sensu* / principal models of international criminal justice
Introduction to the International Criminal Court (ICC) and the Malabo Protocol

Week 5: Case study: Eichmann case

Group work, moot court exercise

Week 6: General part of ICL

Principles of ICL
Nullum crimen / nulla poena sine lege
 Non-retroactivity *ratione personae*
 Individual criminal responsibility
 Exclusion of jurisdiction over persons under eighteen
 Irrelevance of official capacity
 Responsibility of commanders and other superiors
 Non-applicability of statute of limitations
 Mental element
 Grounds for excluding criminal responsibility
 Mistake of fact or mistake of law
 Superior orders and prescription of law

Week 7: Genocide and crimes against humanity

Historical evolution of genocide and crimes against humanity
Corpus delicti of genocide and crimes against humanity

Week 8: War crimes

Historical evolution of war crimes
Corpus delicti of war crimes

Week 9: Crime of aggression

Historical evolution of the crime of aggression
Corpus delicti of the crime of aggression

Week 10: Case study

Group work, moot court exercise

Week 11: Terrorism

Overview of the main conventions against terrorism

Week 12: Corruption

Overview of the United Nations Convention against Corruption

Week 13: Other transnational crimes

Overview of other transnational crimes

Week 14: Case study

Group work, moot court exercise

Week 15: The future of international criminal law

Course evaluation
 Public lecture

Didactic methods:

Interactive lectures, students' research, case studies, quizzes

Learning assessment procedures:

1st midterm assignment (30 points, including two 5-point quizzes), 2nd midterm assignment (30 points, including two 5-point quizzes), final assignment (40 points)

Reference texts:

M. Cherif Bassiouni, *Introduction to International Criminal Law* (Transnational Publishers, 2003)
 A. Cassese, *International Criminal Law*, 2nd edition (Oxford University Press, 2008)
 A. Cassese, P. Gaeta, L. Baig, M. Fan, C. Gosnell and A. Whiting, *Cassese's International Criminal Law*, 3rd edition (Oxford University Press, 2013)
 R. Cryer, H. Friman, D. Robinson, E. Wilmschurst, *An Introduction to International Criminal Law and Procedure* (Cambridge University Press, 2007)
 K. Kittichaisaree, *International Criminal Law* (Oxford University Press, 2001)

- C. McDougall, *The Crime of Aggression under the Rome Statute of the International Criminal Court* (Cambridge, 2013)
- Ch. Safferling, *International Criminal Procedure* (Oxford University Press, 2012)
- Ch. Safferling, *Internationales Strafrecht: Strafanwendungsrecht, Völkerstrafrecht, Europäisches Strafrecht* (Springer, 2011)
- H. Satzger, *Internationales und Europäisches Strafrecht: Strafanwendungsrecht, Europäisches Straf- und Strafverfahrensrecht, Völkerstrafrecht*, 7. Auflage (Nomos, 2016)
- C. Stahn (ed.), *The Law and Practice of the International Criminal Court* (Oxford University Press, 2015)
- S. Sayapin, *The Crime of Aggression in International Criminal Law: Historical Development, Comparative Analysis and Present State* (T. M. C. Asser Press / Springer, 2014)
- G. Werle and F. Jessberger, *Principles of International Criminal Law*, 3rd edition (Oxford University Press, 2014)
- И. Ш. Борчашвили, *Комментарий к Уголовному кодексу Республики Казахстан: Общая часть* (том 1) (Алматы, 2015)
- И. Ш. Борчашвили, *Комментарий к Уголовному кодексу Республики Казахстан: Особенная часть* (том 2) (Алматы, 2015)
- Г. Верле, *Принципы международного уголовного права* (Феникс – ТрансЛит, 2011)

Please refer to the course folder on the instructor's L drive, for further reading materials.