UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

SYLLABUS DEL CORSO

Storia del Processo Penale

2122-4-A5810136

Learning objectives

The aim of the course is to analyse the main stages in the history of criminal proceedings in Italy and Europe, starting from the Middle Ages and continuing into the contemporary age, in order to provide all students with an adequate understanding of the ways in which criminal judgments are carried out in a perspective of comparison between past, present and future. By examining historical sources, the course aims to guide students in acquiring a greater critical awareness of the history of law and of the criminal process in general, as well as in relation to the existence of deep connections between criminal law and politics, to the regulatory choices made by rulers and to the protection of the fundamental rights of suspects and defendants.

Contents

The course will provide an overview of the historical evolution of the criminal law and procedures focusing on some particularly significant topics such as the political character of criminal procedure, the principles ruling the kind of trials, the rights of the accused, the proof system, the powers of the judge, the role of legislation, law scholars and jurisprudence in the creation of criminal procedure. These topics are going to be examined in some relevant historical moments connoting the changes of societies during times, from the Middle Ages to the Modern and Contemporary era.

Detailed program

ATTENDING STUDENTS

Forms of justice in the early Middle Ages. Criminal justice in medieval communes: the accusatory and inquisitorial rite. The criminal trial in Europe in the modern age. Enlightenment and criminal trial. The codification of criminal

procedural law in France and Austria between the 18th and 19th centuries. The Italian experience: from Unification to fascist legislation.

NON-ATTENDING STUDENTS

The programme contained in the texts adopted for the examination.

Prerequisites

None

Teaching methods

Traditional and interactive lessons; analysis of historical sources and documents; slide show.

Assessment methods

The final examination will be oral. Attending students will be questioned in order to ascertain their knowledge of the topics developed in the lessons and covered in the handouts provided on the e-learning platform at http://elearning.unimib.it/. For students who decide not to attend the lectures, the oral examination will take the form of an interview aimed at ascertaining knowledge of the topics covered in the textbook indicated in the "Textbooks and Reading Materials" section.

Textbooks and Reading Materials

ATTENDING STUDENTS:

Lectures notes will be provided during class meetings and they will also be available on the E-learning Faculty Homepage (http://elearning.unimib.it/).

NOT ATTENDING STUDENTS:

E. Dezza, *Breve storia del processo penale inglese*, Giappichelli, Torino, 2009

A. Cavanna, *Storia del diritto moderno in Europa*, 2, *Le fonti e il pensiero giuridico*, Giuffrè, Milano, 2005: pp. 78-87 (from § 2. *L'illuminismo giuridico: caratteri comuni e differenziazioni interne nel giudizio della storiografia* to § 4. *Alle radici comuni di illuminismo e assolutismo illuminato: il contrattualismo*); pp. 190-222 (Capitolo II, *Lumi solari,*

Cesare Beccaria); pp. 474-514 (Capitolo IV, *La codificazione penale rivoluzionaria*); pp. 597-606 (§ 2. *Il codice di procedura penale 1808*)