Information on the Special Focus Area Course in Criminal Sciences

(Version dated: September 2008)

Special Focus Area 6: Criminal Science

1. Aim of the Special Focus Area in Criminal Science

The special focus area in criminal science aims to teach particular skills that reflect the increasing specialisation, interdisciplinarity and inter­nationalisation of the legal professions. In professional practice, this specialisation is becoming increasingly evident even today, with lawyers specialising in criminal law and in the "classical" areas of the police, criminal justice and the penal system. Furthermore, thought must also be given to work in the area of youth or social support institutions in the broader sense; to the work of ethics commissions or specialist medical and bio-medical law tribunals, as well as that of international institutions (in particular international criminal courts). Thus the course in the special focus area covers findings in human and social sciences. It serves to improve theoretical and practical knowledge of German, foreign and international criminal law, including their related subject areas (criminology, medicine, psycho- and social sciences).

1. Classes in the Special Focus Area in Criminal Science

The individual classes should in principle be offered once a year, i.e. in the winter or summer semester.

1. Compulsory module (8 semester weekly teaching hours - SWSs)

The following are offered as compulsory classes in the special focus area of criminal science:

|  |  |
| --- | --- |
| SWS | |
| Criminology I (Basics) | 2 |
| Law of Criminal Procedure (Consolidation) | 2 |
| Juvenile Law | 2 |
| Law of Jurisdiction and European Criminal Law | 2 |

These classes have to make up at least 8 SWSs, and a final examination needs to be written in two classes.

2. Options module (8 SWSs)

In terms of options classes in the special focus area of criminal science, a selection is offered from the following fields:

|  |  |
| --- | --- |
|  | SWS |
| Applied Criminology | 2 |
| The Penal System | 2 |
| Bases of Criminal Law (Consolidation) | 2 |
| International Criminal Law, incl. Humanitarian International Law | 2 |
| Cases and Developments in International Criminal Law | 1 |
| Criminal Defence/Moot Court in Criminal Law | 2 |
| Medical and Bio-medical Law | 2 |
| Forensic Psychiatry/Forensic Medicine | 2 |
| Sentencing and Sanctions | 2 |
| White-collar Criminal Law | 2 |
| Seminar in International Criminal Law | Block class |

These classes have to make up at least 8 SWSs, and a final examination needs to be written in two classes. Some of these classes are offered as seminars so the study paper can be written there.

3. Teaching staff

All professors of criminal law teach in the criminal science special focus area. Students wishing to take over 50% of their examinations with one teacher must give the Admissions Office notice of the same (see Special Focus Area Regulation).

III. Brief description of the areas covered by the 1st compulsory module

The following are offered as compulsory classes:

1.1 Criminology - Basics (Prof. Dr J.-M. Jehle)

Within the special focus area of criminal science, criminology is treated in two classes which build on each other. The first lecture is devoted to the bases of criminology and is regularly held during the winter semester. During the following summer semester, a lecture in applied criminology is then offered (options module). In both classes, students are given the opportunity to write a final examination. Furthermore, a seminar is regularly held on criminology subjects, in combination with issues of juvenile law and the penal system; study papers can be written within this framework. In contrast to the doctrines of criminal law, criminology is an empirical science. It deals with the likelihood of crime. It seeks to identify the forms in which criminality appears and the conditions necessary for it to arise, and to create ways of preventing it. In so doing, it looks not just at the perpetrator and his social environment but is also devoted to the victim and the situational conditions of criminality; it deals not least with the way society and criminal law react to delinquency. Particular focus is given to a critical analysis of criminal law and the reality of criminal procedure. How, according to criminal statistics, does criminality develop? Do they paint a picture that reflects reality? How does one investigate the so-called "dark field" (to this end a study is carried out as part of the class)? How is the "decline" in offender numbers to be explained by the police up to the court? The concepts used to prevent criminality and the role criminal law plays in this will be explained later. Does the deterrent work, and can the re-socialisation of offenders succeed? If nothing else, this involves the explanation of criminality. The broad spectrum of the biological ("the born criminal"), psychological, economic and sociological theories is critically examined for its ability to provide explanations. Particular sections are ultimately devoted to research into the perpetrators (who will become a repeat offender?) and victimology, the theory of the victim of crime.

Criminology is a science with inter-disciplinary and international aspects. Its findings are of great practical significance in relation to crime prevention, the evaluation of existing forms of punishment and the outlook for future offending.

1. Law of Criminal Procedure (Prof. Dr G. Duttge)

The law of criminal procedure serves to implement the substantive criminal law (see Schmidt), i.e. the authority of the legal community's demand for sanctions (the so-called "demand for punishment") cannot be tested and enforced without the operation of the authorities appointed for that purpose (the public prosecutor's office, police and courts). For the sake of the freedom of the individual, this requires binding and precise regulations to limit the power of the prosecuting authority to a tolerable degree; thus the law of criminal procedure becomes "applied constitutional law" (Sax). What requires standardisation is the whole "legal process" within this context, including those involved, with their own rights and obligations, starting with the "initial suspicion" and (ideally) concluding with a legally enforceable sentence.

As a component part of the compulsory criminal law material covered by the First Legal Examination, Article 16 II No. 2b) of the (new) NJAVO provides "the basics" for the mastery of selected aspects of the law of criminal procedure, specifically: "Parties to criminal proceedings; procedural prerequisites, in particular the initiation of a prosecution and statute of limitations; coercive measures and interference with fundamental rights; how cases proceed in courts of first instance; principles of the main proceedings; communication within criminal proceedings, for example testimony and questioning; law relating to proof; res judicata (law of double jeopardy); types of legal remedy". The material is taught during the foundation course (3rd university semester) as part of the "Law of Criminal Procedure" lecture, successful participation in which (proved through the passing of the final examination) can at the same time count towards the intermediate examination (with four credits) (Article 15 of the Intermediate Examination Regulation). Within the "criminal science" special focus area, this only very general introduction to the background to the law of criminal procedure is first of all extended and improved. There is increased focus on, among other things, "modern" phenomena within criminal proceedings, such as "deals", witness protection measures and the application of video technology, which could lead to the fundamental issue of a (root-and-branch) reform of the law of criminal procedure. These and other further aspects will be looked at in greater detail within the context of a "Consolidation Lecture in the Law of Criminal Procedure" (compulsory module) and in a "Seminar on the Law of Criminal Procedure" (options module), in which the practical dimensions of the subject are at the same time clarified through role play (simulation games, Moot court).

1. Juvenile law (Prof. Dr J.-M. Jehle)

Juvenile law is regularly covered within the special focus area of criminal science in the context of a two-hour lecture in the summer semester. At the end of the class, students are given the opportunity to write a final examination. The class covers the substantive and formal special provisions of the law of criminal procedure as they apply to young people and adolescents. These are set out in greater detail in the Youth Court Act. It includes regulations on the liability of juveniles under the criminal law, and for this group replaces the sentencing regulations of the Criminal Code with its own sentencing law, which includes educational regulations, disciplinary measures and youth custody as the only custodial sentence. Along with these sentences imposed by judges, other – informal – ways of concluding proceedings (so-called "diversion") have acquired increasing significance. The basis for its own sentencing law is the education consideration; the ways the juvenile law reacts is guided by the perpetrator's education requirement. Article 105 of the Juvenile Courts Act even facilitates a sanction on young people, i.e. 18- to 20-year-olds, under the juvenile law on adolescents. Juvenile law is routinely applied to this group.

The Juvenile Courts Act also sets out a whole series of special procedural law regulations. It explains the course of juvenile proceedings and the role of the various people involved, from the youth court judge to the youth court prosecutor, and from the youth court service to the legal guardians. In so doing, it sets out in particular the proceedings before the court of first instance, but also the right of appeal under the Juvenile Courts Act itself.

The class focusses on teaching the substantive juvenile law and the procedural law that goes with it. However, empirical findings in relation to youth criminality and the effectiveness of juvenile law are also integrated, as well as findings in relation to the assessment of the prospects and the educational needs of those concerned.

1.4 European Criminal Law and Law of Jurisdiction (Prof. Dr K. Ambos, regional court judge)

The increasing internationalisation in the field of criminal science is expressed primarily in three areas: the law of jurisdiction, international criminal law and European criminal law (cf. Ambos, Internationales Strafrecht [*International Criminal Law*], Munich 2nd Edition 2008). A total of four classes is offered in these areas: in each winter semester "International Criminal Law including Humanitarian International Law" (options module, see 2.4. below); in the summer semester "Law of Jurisdiction and European Criminal Law" (compulsory module, see immediately below) and "Cases and Developments in International Criminal Law" (options module, see 2.5. below); as well as a seminar each semester, depending on demand, on all sub-areas, with the possibility of submitting a study paper. The listed classes may also be taken as options by Special Focus Area 5 students ("International and European Public Law") (for more details see Special Focus Area 5).

The Law of Jurisdiction and European Criminal Law lecture is offered each summer semester, and counts as a compulsory module. In the case of the law of jurisdiction, this concerns the question of the circumstances under which German criminal law is applicable to cases abroad. Given the EU, foreign cases such as these are an everyday occurrence for the authorities that decide jurisdiction, and are gaining increasing importance even where the facts of these cases have taken place outside Europe. In this connection, just the cross-border prosecution of human rights abuses (the Pinochet case) and white-collar crimes (the Schneider case) are named. The law of jurisdiction also counts in its essentials towards the compulsory subject matter of the first state examination (Article 16 Para. 2 No. 2 a) of the NJAVO [Statutory Order under the Lower Saxony Law on the Training of Lawyers]).

The area of European Criminal Law deals with the multi-layered and complex influence of European integration on domestic criminal law. On the one hand, this influence occurs via the Council of Europe by way of criminal law conventions, primarily the European Convention on Human Rights and the case law of the European Court of Human Rights. On the other hand, European substantive law and primarily procedural law standards exist which influence domestic law. Ultimately, a growing institutionalisation is evident through the creation of European investigating authorities (Olaf, Europol, Eurojust, where relevant the European Office of Public Prosecutions). These authorities have an effect on the prosecution of cross-border cases, and there are instances of cooperation and overlaps with national criminal law.

2. Options module

Consolidation classes building on the core areas of criminal law and on the lectures featuring in the compulsory module are held as part of the options (own-choice) module:

2.1 Applied Criminology (Prof. Dr J.-M. Jehle)

Following on from Criminology - Basics (see above), this two-hour lecture deals with the results of research into offenders and sanctions and their practical applicability in criminal law practice for the purposes of forecasting, sentencing and sanctions. In this connection, the bases of sentencing and the pre-conditions to the most important special preventative measures, in particular suspended sentences, community work and offender-victim conciliation, as well as the custodial measures of rehabilitation and incapacitation, are presented, while the effect of sanctions is examined under the aspect of reoffending. Also presented is the function of the Social Services of Justice (*Soziale Dienste der Justiz*) and how they operate. In addition, the significance of the victim in criminal proceedings as well as specific areas of crime (e.g. sex offences) is examined. Practitioners are involved.

2.2 The Penal System (Prof. Dr J.-M. Jehle)

In the lecture (with final examination) regularly held in the winter semester, law and the reality of the imposition of a custodial sentence under the Penal System Act (*Strafvollzugsgesetz*) are examined in combination with an excursion to a penal institution. Thanks to the federalism reform, law and the practice of punishing offenders have entered a state of flux. Admittedly, in most German states the previous federal law on the enforcement of custodial sentences and measures continues to apply; however, the state of Lower Saxony has, for example, passed its own law, the particular features of which are examined in the class. Similarly, the special features of the Juvenile Punishment Act (*Jugendstrafvollzugsgesetz*) will also have an effect. Specifically, this concerns the aim of the penal system, its internal organisation, the rights and obligations of prisoners and protection of rights.

1. Foundations of Criminal Law and the History of Criminal Law (all Criminal Law teachers)

Fundamental questions of substantive criminal law are examined in greater depth in the context of seminars. This also includes the historical attitudes of the criminal law to certain subjects. In addition, a stand-alone, two-hour class on the history of criminal law is held at irregular intervals.

1. International Criminal Law, incl. Humanitarian International Law - (Prof. Dr K. Ambos, regional court judge)

The lecture International Criminal Law, including Humanitarian International Law is also held in the winter semester, and counts towards the options area. International Criminal Law has gained increased importance with the establishment of the ad-hoc tribunals for the former Yugoslavia and Rwanda, and the foundation of the permanent International Criminal Court, as well as the creation of numerous mixed international tribunals. In this area too, more and more German expertise is required, as the increasing number of German lawyers on the named tribunals demonstrates. But even beyond that, international criminal law is gaining in importance as the supra-national criminal law for certain fundamental crimes (genocide, crimes against humanity and war crimes). In Germany, the Rome Statute of the International Criminal Court has led to two important new laws, namely the International Criminal Code (*Völkerstrafgesetzbuch*) and the International Criminal Court-Implementation Act (*IStGH-Ausführungsgesetz*). International criminal law is in many cases influenced by Humanitarian International Law (law of armed conflict), primarily in relation to the degree to which crimes committed in armed conflict are punishable.

1. Cases and Developments in International Criminal Law (Prof. Dr Ambos, regional court judge)

In this class held in English, which is always run as an optional class in the summer semester (initially a one-hour class), selected current international criminal law decisions of particular importance are to be analysed and discussed. The class is, for logical reasons, conditional upon participation in the lecture "International Criminal Law, including Humanitarian International Law". If necessary, an examination leading to the award of an English language certificate may also be offered.

1. Criminal Defence/Moot Court in Criminal Law (teacher tbc.)

The criminal proceedings class held as part of the compulsory module is supplemented by a seminar on the law of criminal procedure, in which the practical dimension is clarified through simulation (the moot court), among other things.

Classes are also offered that demonstrate strong connections to other disciplines, or which teach particular skills in fields of practical importance:

2.7 Criminal Law ­– Medical and Bio-medical Law (Prof. Dr G. Duttge)

This area deals with the central legal questions of medical and bio-medical law from inter-disciplinary perspectives spanning one of the sub-areas of law. The survey lecture that takes place annu­ally covers the classical law applicable to medical doctors (transparency and errors in treatment), so-called assisted dying and the law governing organ transplants, as well as the basic questions of protection of the embryo and of reproductive medicine, as well as a survey of the law of statutory medical insurance and pharmaceutical law (using ethics commissions). The medical-­law seminar permanently on offer, i.e. each semester (Prof. Duttge/Prof. Schreiber), makes these diff­erent subject areas more concrete and treats them in added depth by bringing up current issues within the inter-disciplinary discourse with Medical Faculty members and students.

2.8 Forensic Psychiatry (Prof. Dr J.-M. Jehle, among others)

In the class regularly held (with final examination) in the winter semester, offenders who are mentally ill are presented in cooperation with forensic psychiatrists, and questions are raised concerning criminal capacity and the commitment of offenders to medical institutions. The public reaction to sensational individual cases of serious offences carried out by mentally ill people or by those released from detention in a medical or penal institution shows just how great is the interest in criminal policy linked to these questions. The legal and psychiatric pre-conditions to criminal incapacity and to the measures, in particular the commitment to a psychiatric hospital, also presented as the treatment of the patients, the conditions of release and the associated drawing up of a prognosis, as well as after-care and monitoring of those who have been released, are illustrated in theoretical literature and patient case-studies.

2.9 White-collar Crime (Prof. Dr U. Murmann)

White collar crime has increasingly developed as a specialist area of extreme practical significance within substantive criminal law, with unique features also in the associated criminal proceedings. The General Part of white-collar crime covers in particular the question of the liability of people within the company (e.g. liability for omission, perpetration and participation, decisions by individual bodies), mandatory attribution in the case of particular offences (Article 14 of the Criminal Code), liability for breach of duties of supervision and monitoring (Article 130 of the Law on Regulatory Offences), as well as sanctions against the company's sponsor (Article 30 of the Law on Regulatory Offences, Articles 73 et seq. of the Criminal Code). Provisions of the Particular Part of white-collar criminal law are found in numerous incidental criminal laws (e.g. in the Unfair Competition Act and the Securities Trading Act); in the basic areas of the criminal law Articles 263 and 266 of the Criminal Code in particular play an important role.

White-collar crime is regularly offered as a two-hour lecture (in the winter semester with final examination) and as a seminar (in the summer semester with the opportunity of preparing a study paper).