

AMERICAN UNIVERSITY OF CENTRAL ASIA

LAW DIVISION

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CRIMINAL PROCEDURAL LAW

LAW 304.2

(6 Credits)

SPRING 2019

Class Meeting Times:

We: 8:00 AM (L);

Fr: 8:00 AM (Sec. 1) (S) / 9:25 AM (Sec. 2) (S)

Instructor:

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Office Hours: By appointment

COURSE DESCRIPTION AND OBJECTIVES

“Criminal Procedure” is a course intended to introduce students to the fundamentals of criminal procedural law of the Kyrgyz Republic and to develop practical skills necessary to participate as independent parts of the criminal proceeding. Purpose of the course is to give students the necessary information about how criminal proceedings should be carried out.

Students will be familiarized with the Criminal Procedural Code of the Kyrgyz Republic, which is the primary source of the procedural law and will be complemented with books of scholars and readings from articles. The course will introduce with the aims and objectives of criminal proceeding, main participants and their legal status, procedural tactics, investigative acts and legal actions of the judges, as well as procedural judiciary system. Upon successful completion of the course students will be able to operate with fundamentals of criminal proceedings and have some practical skills necessary to handle criminal law cases as a lawyer, prosecutor, investigator or judges.

PROGRAM OUTCOMES

Graduates of the Law Program should have the following competencies:

1. The ability to carry out professional activities in good faith on the basis of developed legal consciousness, legal thinking, and legal culture and with observation of ethical principles of the legal profession.

2. The ability to apply professional judgment and perform quality legal analysis, conduct legal research and solve legal problems.
3. The ability to speak and write in an argumentative, logical, and clear way in the legal context, have skills necessary to draft legal documents, be fluent in the English language at the level of professional communication.
4. The ability to draft normative legal acts and carry out their legal expertise in the field of professional activity.
5. The ability to interpret and apply substantive and procedural norms, provide qualified legal opinions and consultations in concrete types of legal activity.
6. The ability to demonstrate leadership qualities, active citizenship, take and develop initiatives aimed at promotion of civil society and welfare state.
7. The ability to understand the essence and significance of information in the development of modern society and law, and to master the basic methods of working with information and information technologies in the professional sphere.

COURSE LEARNING OUTCOMES

Upon successful completion of the course, students should be able to demonstrate competency in the following areas:

Course Learning Outcome	Law Program Learning Outcomes
Understand the fundamental principles and concepts of criminal procedural law, aims and objectives of criminal proceedings, main subjects of a criminal proceeding, their roles and functions, as well as the criminal proceeding in courts.	1, 2, 5, 7
Understand the organization of the Criminal Procedure Code of the Kyrgyz Republic.	2, 5
Understand the prosecutor's part and their rights and responsibility.	2, 5
Understand the main purpose and ethical duties of the defense part.	2, 5
Understand the judiciary system of criminal hearings.	2, 5
Understand the theory of proving and main requirements of evidence.	2, 5

Understand the special proceeding for the juveniles.	2, 5
Possess the ability to read statutes with the care and precision of a lawyer.	2, 5
Understand the rationale for punishment and the strengths and weaknesses in the criminal justice system's punishment decisions.	7
Understand the professional and ethical roles of defense counsel and prosecutors in arguing a criminal case in an adversarial justice system.	1

COURSE REQUIREMENTS AND POLICIES

1. Class will meet twice a week: 1 lecture and 1 seminar.

Students are expected to be on time for every class. Any student arriving more than 15 minutes late to any class will be marked as "absent" for that class period.

2. Class attendance is required.

Any student accruing more than three (3) unexcused class absences or more than 4 (four) total absences (**excused or unexcused**) during the semester will receive a deduction of 1 point from their final grade score for each class missed in excess of the maximum number of permitted absences. Missing more than 50% of all scheduled classes (excused or unexcused) will result in a final grade of "F" for the course.

3. Students will come to each class prepared and ready to discuss the assigned materials.

Class participation includes participation in class that shows the student's preparation for class through either the use of and/or reference to the course materials that the student was assigned to read or to prepare.

Class participation points: 1 to 3 points added to or deducted from your final grade score.

Class participation is very important to your comprehension of the course material, as well as to your grade. Broadly speaking, there are two types of participation – good and unsatisfactory. I will add 1 to 3 points to your final grade for "good participation;" I reserve the right to subtract 1 to 3 points from your final grade for "unsatisfactory participation."

"Good participation" means coming to class on a regular basis and arriving on time; doing the assigned reading carefully; being ready to answer questions if I call on you; and occasionally volunteering questions or comments. To be a good participant, you do not always need to have the "right" answer, but you do need to give in-class problem-solving your best shot and to demonstrate that you've read and thought about the assignment. It is the quality, not the quantity of your participation that counts!

“Unsatisfactory participation” means being unprepared when I call on you; routinely coming to class late; carrying on conversations or surfing the Web when others (including myself) are speaking; and/or missing more than the allowed number of classes (See No. 2 above).

4. Written assignments must be submitted by the set deadline and by the means specified.

Late submissions are NOT allowed. This rule applies to any student who was aware or should have been aware of an assignment and the deadline no matter whether he was sick or had any other excuse on the date of the deadline.

5. The use of cell phones (talking, texting, etc.) and / or any other electronic devices during class for any purpose not related to the furtherance of the class objectives is strictly prohibited.

Students violating this policy will be given one (1) warning. Each subsequent violation of this policy will result in one (1) point being taken off your final grade score.

6. Students are expected to follow the AUCA ACADEMIC HONESTY code.

All types of plagiarism are strictly prohibited. If a student fails to observe this requirement, I may assign an “F” for the work or an “F” for the whole class, depending on the type of assignment and relevant circumstances.

Students are expected to read and follow the section on the Student Academic Dishonesty of the AUCA Code of Student Rights, Responsibilities and Conduct.

7. This syllabus is subject to change.

The course syllabus is subject to change. Any changes to the syllabus will be announced in class and the updated version of the syllabus placed on E-Course. It is each student’s responsibility to stay informed of any changes made.

8. Students must self-enroll for this class on E-Course.

The purpose of the e-course system is to allow students to get access to course materials, upload their course assignments, and benefit from a variety of interactive learning opportunities.

The E-Course enrollment key for this class is “LAW3242”.

GRADING POLICY

During the semester, students will have two (2) written assignments, one (1) midterm exam and one (1) final exam. Each of them will be in written form.

The midterm exam will be given at middle of the semester and will be limited to the materials covered in this part of the semester. It may include definitions, short-answer questions, multiple-

choice questions, true/false questions, essays and/or other forms of questions, such as analysis of hypothetical fact patterns, and will be based on materials discussed in class as well as any out-of-class assigned readings.

Absent a medical emergency on the day of the midterm exam or prior excusal, missed exams **cannot** be made up.

The final examination will be “cumulative” (i.e., could include materials from each unit throughout the semester).

There will be **no extra credit assignments** given.

The final course grade will be determined based on the following components:

Two (2) written assignments	30%
Midterm examination	30%
<u>Final Examination</u>	<u>40%</u>
TOTAL	100%

Class Attendance/Participation/Homework assignments as follows:

14-16 points – 10%

13-11 points – 8%

10-8 points – 6%

7-5 points – 4%

4 points – 2%

GRADING SCALE

A	94-100%	C	68-73.9%
A-	90-93.9%	C-	64-67.9%
B+	86-89.9%	D+	60-63.9%
B	80-85.9%	D	54-59.9%
B-	77-79.9%	D-	50-53.9%
C+	74-76.9%	F	Below 50%

UNDERSTANDING THE COURSE SYLLABUS

Below is an outline of the course content. Each class session identifies the general topic to be discussed during that meeting, as well as the required readings and homework that relate to that topic.

Required readings and homework, if any, are to be completed **before** the beginning of each class

meeting (not after!). Each session’s lecture and discussion will be based on these materials. In order to understand the day’s topic and be better prepared for discussion of the same, you will need to have read the assigned materials and completed the homework assignments.

This is **YOUR** class. What you learn and take from it will depend as much, if not more, on what you put into it than on what the instructors provide.

COURSE READING MATERIALS

Required:

Constitution of the Kyrgyz Republic (2016)

Class handouts/readings posted to e-course

Recommended:

Criminal Procedural Code of the Kyrgyz Republic (Russian Translation)

Уголовный процесс. Учебник для студентов юридических вузов и факультетов под редакцией Гуценко К.Ф. Москва, изд-во Зерцало-М, 2004.

Уголовный процесс в PDF. Учебник для студентов юридических вузов и факультетов под редакцией Калиновского К.Б. и Смирнова А.А. Москва, изд-во КНОРУС, 2008.

COURSE CONTENT

WEEK #	CLASS DATE	TOPIC
UNIT 1: INTRODUCTION TO CRIMINAL PROCEDURE. THE CONCEPT OF CRIMINAL PROCEDURAL LAW.		
1	1/16	<ul style="list-style-type: none"> - Introduction to the Course and Organizational Matter - Assignment: Read the Syllabus

1	1/18	<p>Enroll in “E-Course”: E-Course Enrollment Key:</p> <p>The concept of Criminal Procedure. The Criminal Procedural Code of 2017. Operation of Criminal Procedural Code in time, space and on persons. Principles of criminal procedure.</p> <p>Read: articles #1-22 of the Criminal Procedural Code of the Kyrgyz Republic; Lecture notes uploaded on e-course.</p>
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**UNIT 2. PARTICIPANTS OF A CRIMINAL PROCEEDING.
LEGAL STATUS OF PARTICIPANTS.**

2	1/23	<p>Definition and classification of main participants of the criminal proceeding. A Judge and the court as main participants of the criminal proceeding. Prosecution part.</p> <p>Read: articles #27-43 of the Criminal Procedural Code of the Kyrgyz Republic; Lecture notes uploaded on e-course.</p>
2	1/25	<p>Defense part. Other additional participants of the criminal proceeding. Circumstances excluding participation in criminal proceedings</p> <p>Read: articles #44-77 of the Criminal Procedural Code of the Kyrgyz Republic Lecture notes uploaded on e-course.</p>

**UNIT 3: THEORY OF PROVING.
DEFIITION AND CLASSIFICATION OF EVIDENCE.**

3	1/30	<p>Theory of proving. Subject and scope of proving.</p> <p>Read: articles #92-97 of the Criminal Procedural Code of the Kyrgyz Republic; Lecture notes uploaded on e-course</p>
3	2/1	<p>Definition and classification of evidences. Testimony of an accused and testimony of witnesses. Physical evidence. Other evidences in criminal proceeding.</p> <p>Read: articles #82-91 of the Criminal procedural Code of the Kyrgyz Republic; Lecture notes uploaded on e-course</p>
<p>UNIT 4: MEASURES TO ENSURE CRIMINAL PROCEEDINGS AND THE GROUNDS FOR THEIR APPLICATION.</p>		
4	2/6	<p>Detention of the suspended Grounds for detention. Personal search of the suspended. Release from detention. Interrogation of suspended.</p> <p>Read: articles #98-105 of the Criminal procedural Code of the Kyrgyz Republic Lecture notes uploaded on e-course</p>
4	2/8	<p>Preventive measures and types of them. Grounds for the application of preventive measures. Other preventive measures</p> <p>Read: articles #106-124 of the Criminal procedural Code of the Kyrgyz Republic Lecture notes uploaded on e-course</p>

5	2/13	<p>Petitions and complaints</p> <p>Procedural deadlines and expenses</p> <p>Rehabilitation</p> <p>Read: articles #125-147 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
<p>UNIT 5: PRE-TRIAL PROCEEDING</p>		
5	2/15	<p>Pre-trial proceedings on criminal offences and on misdemeanors</p> <p>General terms of pre-trial proceedings</p> <p>Read: articles #148-164 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p> <p>Written assignment #1 (See E-Course for Instructions and Due Date)</p>
6	2/20	<p>Types of survey. Survey of a crime scene.</p> <p>Survey of physical evidences</p> <p>Survey of the corpse.</p> <p>Exhumation.</p> <p>Expertise and grounds for application.</p> <p>Types of expertise. Expert opinion.</p> <p>Read: articles #165-188 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
6	2/22	<p>Interrogation. General interrogation rules</p>

		<p>Interrogation of juveniles Confrontation.</p> <p>Deposition of testimony.</p> <p>Read: articles #189-201 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
7	2/27	<p>Identification Search and seizure On-site verification Investigative experiment Special investigative actions.</p> <p>Read: articles #202-236 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
7	3/1	<p>Suspension and renewal of the pre-trial proceedings Termination of the pre-trial proceedings Judicial monitoring of the pre-trial proceedings.</p> <p>Read: articles #237-262 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
8	3/6	MID-TERM EXAMINATION.
8	3/8	No class. International Women's Day
UNIT 6: COURT HEARING IN THE FIRST INSTANCE.		
9	3/13	<p>Jurisdiction of criminal offences and misdemeanors Pre-trial hearings. General terms of litigation</p>

<p>9</p>	<p>3/15</p>	<p>Read: articles #263-301 of the Criminal procedural Code of the Kyrgyz Republic Lecture notes uploaded on e-course</p> <p>Trial and special judicial actions. Ruling and sentencing</p> <p>Read: articles #302-352 of the Criminal procedural Code of the Kyrgyz Republic Lecture notes uploaded on e-course</p>
<p>10</p>	<p>3/20</p>	<p>- No Class (Spring Break)</p>
<p>10</p>	<p>3/22</p>	<p>- No Class (Spring Break)</p>
<p>11</p>	<p>3/27</p>	<p>Particular trial proceedings Types of particular trial proceedings</p> <p>Read: articles #353-389 of the Criminal procedural Code of the Kyrgyz Republic Lecture notes uploaded on e-course</p>
<p>UNIT 7: COURT OF APPEAL</p>		
<p>11</p>	<p>3/29</p>	<p>Terms of appellation. Types of appellations.</p> <p>Read: articles #390-407 of the Criminal procedural Code of the Kyrgyz Republic Lecture notes uploaded on e-course</p>

12	4/3	<p>Hearing in the court of appeal.</p> <p>Types of decision in court of appeal</p> <p>Read: articles #408-417 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
12	4/5	<p>Execution of sentence</p> <p>Exemption from punishment</p> <p>Read: articles #418-429 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p> <p>WRITTEN ASSIGNMENT #2</p> <p>(See E-Course for Instructions and Due Date)</p>

UNIT 8: PROCEEDINGS BEFORE THE COURT OF CASSATION

13	4/10	<p>Review of court decisions in cassation</p> <p>Court order before the court of cassation</p> <p>Terms of cassation</p> <p>Read: articles #430-441 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
13	4/12	<p>Resumption of cases on new or newly discovered circumstances</p> <p>Grounds for reopening cases on new or newly discovered circumstances</p> <p>Read: articles #442-447 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>

UNIT 9: PARTICULARIZED TYPES OF HEARINGS

14	4/17	<p>Types of particularized hearings. Special proceedings on juveniles</p> <p>Read: articles #448-462 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
14	4/19	<p>Application of compulsory medical measures. Types and grounds for compulsory medical measures</p> <p>Read: articles #463-475 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
15	4/24	<p>Procedural agreements Plea bargaining Agreement about cooperation Agreement on the reconciliation of the parties</p> <p>Read: articles #487-501 of the Criminal procedural Code of the Kyrgyz Republic</p> <p>Lecture notes uploaded on e-course</p>
15	4/26	<p>Review session</p>
16	5/1	<p>No Class. LABOUR DAY</p>
16	5/3	<p>REVIEW</p>
17	TBD	<p>Final Exam: Cumulative</p>

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