UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Diritto Costituzionale Europeo (I Diritti Fondamentali) Mod. Jean Monnet

1819-4-A5810042

Learning objectives

The course aims to: a) build up conceptual and analytical tools to study the evolution of the fundamental right's protection in the European scenario, with particular reference to the multilevel issues; b) to experience applications of this knowledge for analysing the case law of the supranational courts

Contents

The development of fundamental rights protection in Europe represents one of the hallmarks of the European Constitution: in this sense, European constitutional law mainly serves the purpose of promoting the respect of human rights in the EU context, a necessary complement to the already well established principles of market economy. Besides, as it is well known, the institution of a European citizenship marked a watershed in the protection of fundamental rights in an integrated Europe.

Thus, fundamental rights transcend national borders and significantly develop in a supranational dimension. Today the European citizen enjoys many rights, protected by national constitutions, the European Union as well as many international instruments, among them the European Convention on Human Rights. Needless to say, though, fundamental rights in the words of a constitutional or a supranational court can mean very different things: it suffices to think of the different conceptions of the right to life, gay rights, freedom of religion etc... The steady dialogue between supreme Courts on these capital issues has gradually developed a significant and unique system of multilevel protection of fundamental rights in Europe, in which the different national legal orders and a common European constitutional tradition converge.

The course will leave ample room for discussion of case studies, through which it will be possible to compare the different national constitutional identities and the emergence of a separate European constitutional tradition. In the first classes the general framework regarding the protection of fundamental rights in a integrated Europe will be explored as well as the ongoing process of integration through human rights.

Detailed program

The emergence of the protection of Fundamental Rights in the European

Union through the case law of the European Court of Justice and the Charter of Fundamental Rights proclaimed in Nice. The EU system of protection of fundamental rights and national constitutions

The European Convention of Human Rights and national constitutions

Domestic constitutional tradition and common constitutional tradition in Europe. In adopting the case-law perspective, the principal topics covered will include the s. c. hard cases (abortion, same-sex marriage, medically assisted procreation .), EU citizenship, international measures against terrorism, the principle of democracy and the emergence of social rights in Europe.

Prerequisites

Considering that the course involves the analysis of supranational and international Courts' case law, it is recommended the ability to read and comprehend a text in english

Teaching methods

Lectures; case-studies analysis; working groups; students' presentations; seminars with Italian and international guests.

Assessment methods

Attending students: Written and oral exam

Not attending students: oral exam

Textbooks and Reading Materials

Students attending the course are required to read the suggested cases in advance of the class, in order to be able to participate and contribute to the class discussion.

Suggested text for the discussion of the cases in class is:

1) V. Zagrebelsky, R. Chenal, L. Tomasi, Manuale dei diritti fondamentali in Europa, Bologna, Il Mulino, 2016.

Chapters:1, 2, 3, 4 and 5

For students not attending class the exam will focus on the following text:

1) V. Zagrebelsky, R. Chenal, L. Tomasi, Manuale dei diritti fondamentali in Europa, Bologna, Il Mulino, 2016.

Chapters 1, 2, 3, 4 and 5

Chapter 8

Chapter 14

Chapter 15