UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Diritto Privato Comparato

1819-4-A5810132

Learning objectives

The course aims to provide the student with the knowledge for the analysis of institutions, formants and rules applied in other legal systems, as well as to introduce the student to the comparative methodology useful for the study of Italian and foreign law and, also, for the legal comparison itself. In particular, the student is led to know and read sentences, legislative documents typical of other legal systems and to discuss it with the teacher and the colleagues.

Contents

Module A

The main purpose of the first part of the course (Module A) is to provide an introduction to the different national legal systems and traditions using the methodology of comparative law.
The course will first be devoted to the two main Western Legal Traditions, common law and civil law, analysed in their general and more specific characteristics. Fundamentals of some non Western Legal Tradition systems will also be discussed.
The course will also be devoted to the application of comparative methodologies to specific areas of private law in order to identity the emerging of a new European ius commune and the existing of a so called “gradual convergence” between legal systems. Specific issues of contract law, tort law, property law and trusts will be considered making use of the comparative approach.

Module B (24 hours)

The second part of the course (Module B) deepens the legal comparison in the field of civil liability.

During the course it will be indicate the commencement of Module B according to the classes performed based on the academic calendar.

Detailed program

The program is the same for all students and is detailed as follows:

Module A
- Objects and methodologies of legal comparison
- The legal systemology

- The Western Legal Tradition

- The common law tradition
- The emerging and evolution of the English common law
- The Equity
- The Judiciary reforms
- The American legal system
- The role and formation of the jurists
- Sources of law and precedents
- The process of penetration and imitation of common law
- The Civil law tradition
- Characteristics and evolution of civil law systems
- The era of ius commune
- Formation of the jurists
- The Codification period
- The French legal system
- The German legal system
- The process of penetration of civil law
- Legal comparison and European Law
- Introduction to non western legal tradition law system including Islamic, Latin American, African and ex-soviet legal systems
- The law of contracts: basic notions
- Tort law : basic notions
- Trusts and property law: basic notions

Module B

- Models and functions of civil liability

- Tipicality and typicalness of tort

- The structure of tort: the subjective element

- Recoverable damages

- Class actions and collective action

- Product damages in different systems

N.B. NON-attending students can replace the program of Module B with Soviet, African and oriental systems (see reference text). This part of the course can be carried out by fully preparing the text Gambaro-Sacco, Sistemi Giuridici Comparati, last edition.

Program for attending students

As specified, the program for attending students is the same to that for non attending students. Preparation for attending stipends may, however, be carried out with specific preparation of the materials delivered during the lessons or indicated for further study during the course. Obviously, both the additional contents indicated during the lectures and the topic dealt with by guest teachers will be part of the exam.

Program for non-attending students

The non.attending program, as indicated above, is the same to that for attending students to be prepared with indicated texts.

Prerequisites

Preparation in civil law, history of law

Ability to read documents in english

Teaching methods

- Lectures

- Analysis of documents and decisions

- Individual research

Assessment methods

Oral exam

Textbooks and Reading Materials

Texts for all students

Module A
GAMBARO A.- SACCO R., Sistemi giuridici comparati, UTET, Terza Edizione, limitatamente ai seguenti capitoli:

- La comparazione giuridica
- La diversità e l'uniformità nel diritto
- La tradizione giuridica occidentale
- Common law ed Equity in Inghilterra
- L'esperienza giuridica degli Stati Uniti d'America
- Le radici comuni nelle esperienze di Civil law
- Il modello francese
- Il modello tedesco

- I modelli sistemi di Civil Law tra influenze francesi e tedesche
- L’est europeo

Module B
-CERINI, Casi e materiali di diritto privato comparato. La responsabilità civile, 2008
oppure in alternativa:
-M. SERIO, Studi comparatistici sulla responsabilità civile, ultima edizione, Giappichelli

Texts for attending students

The course will be run with a very dynamic approach and will require class discussion and examination of materials during the class hours. Students attending the course have the obligation to prepare the exam with reference to those material and to the result of class hour teaching and discussion and plus the reading of materials suggested by the professor and contained in the books CANDIAN-GAMBARO, Casi e materiali per un corso di Diritto privato comparato. Le tradizioni di civil law e common law, Giappichelli, 2008 and CERINI, Casi e materiali di diritto privato comparato. La responsabilità civile, 2008.