



UNIVERSITÀ  
DEGLI STUDI DI MILANO-BICOCCA

## SYLLABUS DEL CORSO

### Diritto Privato Comparato

1920-4-A5810132

---

#### Learning objectives

The course aims to provide the student with the knowledge for the analysis of institutions, legal forms 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 the legal comparison itself. In particular, the student is led to know and read sentences as well as other legislative documents typical of different legal systems and to discuss it with the teacher and the colleagues.

#### Contents

The main purpose of the first part of the course 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 identify 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.

#### Detailed program

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

- 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

#### 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**

### **ATTENZIONE ESAMI MAGGIO PERIODO CORONAVIRUS**

Esame orale e fino a nuova disposizione tramite webex

Istruzioni operative:

Per motivi organizzativi e per facilitare la gestione degli esami è fondamentale che provvediate a iscrivervi entro 5 giorni dalla chiusura dell'appello (indipendentemente dalla data formale di chiusura dell'appello stesso) e che procediate a cancellare l'iscrizione se decidete di non presentarvi.

Occorre inoltre iscriversi all'esame tramite Segreteria online e inoltre occorre iscriversi alla piattaforma e-learning 2019/20 anche se si è iscritti a piattaforme degli anni precedenti e non si sia ancora sostenuto l'esame o non si sia mai stati iscritti ad alcuna piattaforma. La mancata iscrizione o a segreteriaonline o alla piattaforma elearning 19-20 impedisce lo svolgimento dell'esame stesso. Gli studenti fuori corso potranno rivolgersi a [esamigiuris@unimib.it](mailto:esamigiuris@unimib.it) per eventuali dubbi.

Le indicazioni tecniche per la partecipazione all'esame (link utili, eventuali suddivisioni in commissioni parallele o distribuzione in più giorni, inevitabili viste le modalità degli esami da remoto) saranno comunicate direttamente dal docente tramite email inviata o da segreteriaonline o da moodle. "

Oral exam

## **Textbooks and Reading Materials**

### **Texts for all students**

One of the two following texts:

- 1) GAMBARO A.- SACCO R., Sistemi giuridici comparati, UTET, Last edition
- 2) AJANI-FRANCAVILLA-PASA, Diritto Comparato, Lezioni e materiali, Giappichelli

Students can replace the study of chapters X-XIV (from page 297 to page 418) of "Sistemi giuridici comparati" or Part III (p.289-400) of "Diritto comparato, Lezioni e materiali" with the book D.CERINI, Casi e materiali di diritto privato comparato. La responsabilità civile, Giappichelli.

### **Texts for students attending lessons**

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.

---