UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Comparative Private Law

2122-4-A5810132

Learning objectives

The course aims to provide the student with the knowledge for the analysis of institutions, legal 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 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.
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.

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
- Legal comparison and European Law
- 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

Very good knowledge of private 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

One of the two following texts:

1)GAMBARO A.- SACCO R., Sistemi giuridici comparati, UTET, Last edition, Chapters I-IX, p.1-297
2) AJANI-FRANCAVILLA-PASA, Diritto Comparato, Lezioni e materiali, Giappichelli, Part I-II, p.1-288

Voci del Digesto, Discipline Privatistiche (disponibili on line sul sito del corso):

- Trust

-Contratto

-Responsabilità civile

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 can prepare the exam with reference to those material and to the result of class hour teaching and discussion.