UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Constitutional Justice

2122-4-A5810082

Learning objectives

Constitutional Justice is the jurisdictional protection of the Constitution against acts, including law, and conducts carried out by Public Powers.

Various models of Constitutional Justice are nowadays present in almost every democratic legal systems. They aim at assuring the binding feature of the Constitution and the guarantee of fundamental rights protected by the Constitution, besides the observance of the boundaries between the competences of central State and local governments.

The first part of the course concerns the historical and comparative study of different Constitutional experiences, including the existing link between constitutional justice and democracy.

The main subject of the course is the Italian Constitutional Justice system, which will be studied from the origin, through its historical and concrete evolution.

Particular relevance will be given to different aspects of the constitutional legitimacy ruling, such as the way of access to the Constitutional Court and its decisions' effects in the protection of fundamental rights. Therefore, the students will experience a sort of 'constitutional law in action'.

Contents

Origins of Constitutional Justice. European and American models.

The Italian Constitutional Court, its history, features, composition, organization and functioning

The 'incidental' system of constitutional review: Constitutional Court and ordinary judges in the Italian Republic

Particular relevance will be given to the different kind of final decisions and to their effects.

The ECHR and the EU law before the Italian Constitutional Court.

Detailed program

The judicial review of legislation and its different mechanism in common law and civil law legal systems

The judicial review of legislation in the Italian legal system: the debate during the Constituent Assembly

The Italian Constitutional Justice's sources of law

The Italian Constitutional Court and its composition

Organization and functioning of the Italian Constitutional Court

The reasoning in the Italian constitutional case law

The referring judge

The referral order and its requisites

Decisions and Judgments and their effects

The Italian Constitutional Court and the European Courts (the Court of Justice of the European Union and the European Court of Human Rights)

Prerequisites

Good knowledge of the Italian Constitutional Law is required

Teaching methods

The course duration is on three-weekly lectures basis (2 hours each).

Because of its tutorial feature it is addressed to attending students.

Beside traditional lectures and speeches of distinguished speakers, students will be actively involved into jurisprudential case-studies.

Assessment methods

Attending students will take a written exam on a case study

Non-attending students will take an oral examination.

Textbooks and Reading Materials

Attending students are due to know the relevant normative material, the case-law discussed in class and the following textbook: E. Lamarque, *Corte costituzionale e giudici nell'Italia repubblicana. Nuova stagione, altri episodi*, Editoriale Scientifica, Napoli, 2021.

Texts for non-attending students are: E. Lamarque, *Corte costituzionale e giudici nell'Italia repubblicana. Nuova stagione, altri episodi*, Editoriale Scientifica, Napoli, 2021 and E. Malfatti - S. Panizza - R. Romboli, *Giustizia costituzionale*, VII ed., Giappichelli, Torino, 2021, limited to chapters I, II, III, VIII and IX.