UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

History of Obligations and Contract Law

2122-4-A5810135

Learning objectives

To achieve skill and mastery of the subject

Contents

1. Freedom of Contract in Italy from the Codes to European Contract Law.
2. The Italian-French Project of Obligations and Contracts (1927) and the reform of French contract law (2016).
In 19th century Civil Law Codification, Law of Obligations and Contracts is based on the freedom of contract. The late 18th revolutions do not undermine the fundamentals of the Law of Contracts: contract will is not affected by the effects of the legislative reforms. Instead, the Civil Law dogmas, the freedom to contract and the intangibility of the agreements are undermined by the late 19th century social economical changes and the First World War. At the end of the XIX century they begin to underline defects and lacks both in the Italian Civil Code and the Commercial Code. Moreover, after the World War I, legislation out of the Code grows significantly and some new special laws deal with trade and contract relations. The codes are charged with granting too much freedom to the parties to a contract: contracts have a social function and the parties can not negotiate freely, as judges and political authorities can question the contractual clauses. In 1918 they suggest to frame an Italian-French Obligations and Contract Code, in order to attempt to harmonize the European Civil Law. The draft of this code absorbs some reforming demands but it is severely criticized too and does not come into effect. In the following 1930's Italian jurists try to achieve a balance between contract autonomy and state control and to draft a new Civil Code.

Detailed program

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Prerequisites

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Teaching methods

Lessons

Assessment methods

Attending students:
Oral examination. Written papers made during the course will be evaluated.
Not attending students:
Oral examination.

Textbooks and Reading Materials

Attending students:
1. Lectures notes will be available at the e-learning website of the course 2020.
Please for further information always look at the page of the course on the platform of the School of Law.

Not attending students:
1. G. CHIODI, Clausole generali e abuso della libertà contrattuale. Esperienze del primo Novecento, in D/Q, 2028/2, pp. 87-104 (available on line in the website of the review Diritto e questioni pubbliche)

2. G. CHIODI, Interpretazione dei contratti e poteri del giudice: riletture del codice civile in Francia e in Italia tra Otto e Novecento, in L'interpretazione tra legge e contratto. Dialogando con Aurelio Gentili, Bari 2019, pp. 51-86.
3. G. CHIODI, Un esperimento di diritto privato sociale. Il progetto italo-francese e la sua parabola dall'età liberale al fascismo, in Bürgerliches Recht im nachbürgerlichen Zeitalter, Frankfurt am Main 2020 (forthcoming publication, pp. 3-44 (available online in the website E-learning di Storia del diritto delle obbligazioni e dei contratti 2021.

4. Costruire una nuova legalità: il diritto delle obbligazioni nel dibattito degli anni Trenta, in Birocchi I., Chiodi, G, Grondona, M. (eds.), *La costruzione della "legalità" fascista negli anni Trenta*, Roma, RomaTrePress, 2020 [La cultura giuridica. Testi di scienza, teoria e storia del diritto], pp. 201-260

The articles are also available in the website E-learning Storia del diritto delle obbligazioni e dei contratti 2021.