UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Constitutional Law and Pluralism

2122-4-A5810256

Learning objectives

From a legal perspective, pluralism represents a “fundamental principle” historically recognized by every modern constitutional system, according to which individuals or groups of individuals with difference in gender, race, language, religion, political opinions or personal and social conditions, can peacefully coexist and actively take part in the public sphere, preserving their traditions and conserving their identity.

From this viewpoint, the course aims to provide the student with the conceptual tools necessary to contextualize, within the European constitutional framework, the concrete operation of the pluralist principle; this one is intended, on the one hand, as a pillar of liberal-democracies and, on the other, as foundation of the internal and supranational protection of fundamental rights.

Contents

The course aims to provide an overview on the most relevant issues of national and European constitutional law with specific attention to the operational dynamics of pluralism.

The course will primarily examine the structure of the principle of equality, analysing its multiple practical forms, with reference to the legal protection of minorities.

In this regard, the course will work in full synergy with the “Observatory of Law and Pluralism” (https://www.lawpluralism.unimib.it) of the Department of Excellence "Law and pluralism", in order to identify the most significant sectors of domestic and supranational case-law, that balances different constitutional interests, through the principle of reasonableness

Detailed program

Having regard to a preliminary reconstruction of the pluralistic principle in national and European constitutional legal framework, the course will examine the practical interactions between this principle and anti-discrimination law.

Classes will be divided into four modules, each one corresponding to some paradigmatic sectors in which the implementation of pluralism offers specific solutions in relation to the principles of equality and reasonableness.

In this light, the course will analyse the different perspectives adopted by internal and supranational legal systems in the implementation of the pluralist principle, considering the respect for democratic rules and national sovereignty.

1) Constitutional pluralism

- The constitutional notion of pluralism
- Pluralism and non-discrimination
- The judgment of equality and reasonableness

2) Political pluralism

- The role of political parties in pluralistic societies
- Political parties' pluralism in constitutional legal systems
- Freedom of expressions and political organisations

3) Ethno-cultural pluralism

- Legal protection of linguistic minorities
- Legal protection of ethnic minorities in constitutional systems
- The right to culture and cultural identity

4) Religious pluralism

- Religious freedom in constitutional legal systems
- Religious freedom and right to work
- Religious symbols in pluralistic societies

Prerequisites

Good knowledge of Italian and European Constitutional Law is required

Teaching methods

The lessons will be seminar and they will proceed mainly through the study of the most representative case-law in the field of anti-discrimination law and protection of minorities rights.

Beside traditional lectures, students will be actively involved into the case-study analysis, having discussion and writing papers on relevant jurisprudence.

According to the Rector's decree, classes will be delivered in presence and online - live streaming (via Webex) - and will be recorded.

Assessment methods

Attending students will take their examination by writing a short article on a judgment recently adopted by the Constitutional Court. The comment will be discussed together with the Professor.

An alternative will be to take an oral assessment.

Non-attending students will take an oral exam

Textbooks and Reading Materials

Attending students are required to know all the cases and materials discussed during classes and available on the e-learning

Non-attending students will agree their reading materials individually with the teacher, by writing an e-mail at the following address: paolo.zicchittu@unimib.it