UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

European Constitutional Law - Fundamental Rights

2223-4-A5810232

Learning objectives

The course aims to deepen the problem of the protection of fundamental rights according to a multilevel perspective. The different constitutional traditions and a common European cultural matrix are in continuous dialogue, sometimes clashing and more often harmonizing thanks to thethe constitutional and supranational courts's case law. Through the analysis of emblematic cases we will provide the tools to understand the protection of fundamental rights today.

The course aims to:

a) build up conceptual and analytical tools to study the evolution of the fundamental right’s protection in the European scenario, with particular reference to the multilevel issues;

b) experience applications of this knowledge for analysing the case law of the supranational courts

Contents

The development of fundamental rights protection in Europe represents one of the hallmarks of the s.c. "European Constitution": in this sense, European constitutional law mainly serves the purpose of promoting the respect of human rights in the EU context, a necessary complement to the already well established principles of market economy. Besides, as it is well known, the institution of a European citizenship marked a watershed in the protection of fundamental rights in an integrated Europe.

Thus, fundamental rights transcend national borders and significantly develop in a supranational dimension. Today the European citizen enjoys many rights, protected by national constitutions, the European Union as well as many international instruments, among them the European Convention on Human Rights and the EU Charter of Fundamental Rights. Needless to say, though, fundamental rights in the words of a constitutional or a supranational court can mean very different things: it suffices to think of the different conceptions of the right to life,

family life's rights, freedom of religion etc... The steady dialogue between supreme Courts on these capital issues has gradually developed a significant and unique system of multilevel protection of fundamental rights in Europe, in which the different national legal orders and a common European constitutional tradition converge.

The course will leave ample room for discussion of case studies, through which it will be possible to compare the different national constitutional identities and the emergence of a separate European constitutional tradition. In the first classes the general framework regarding the protection of fundamental rights in a integrated Europe will be explored as well as the ongoing process of integration through human rights.

Detailed program

1. The emergence of the protection of Fundamental Rights in the European Union through the case law of the European Court of Justice and the Charter of Fundamental Rights proclaimed in Nice. The EU system of protection of fundamental rights and national constitutions

2. The European Convention of Human Rights in dialogue with the EU Charter of Fundamental Rights and the national bill of rights.

3. Domestic constitutional tradition and common constitutional tradition in Europe. In adopting the case-law perspective, the principal topics covered will include the s. c. hard cases (for example, abortion, same-sex marriage, medically assisted procreation, EU citizenship, international measures against terrorism, the principle of democracy and the emergence of social rights in Europe).

Prerequisites

Considering that the course involves the analysis of supranational and international Courts' case law, it is required to read and comprehend a text in english.

The Course is given in Italian.

It may be useful, but not mandatory, to have already attended the courses of international law and EU law

Teaching methods

1. First part of the course: introductory lectures.

2. Second part of the course: case-studies analysis; working groups; students' presentations; seminars with Italian and international guests.

In case of a possible Covid-19 emergency period the lessons will be held remotely synchronously, with some classes divided in small groups of students.

Assessment methods

For the attending students, the exam will be written: the written part will be a comment on a case, i.e. the solution of a legal problem in the field of the course. The examination procedures will be explained in class.

For not attending students, the exam will be oral on the texts sent by e-mail by the teacher: it will involve, therefore, open questions on the readings indicated.

Textbooks and Reading Materials

Students attending the course are required to read the suggested cases in advance of the class, in order to be able to participate and contribute to the class discussion. All the materials will be online on the e-learning website.

For students not attending class the exam will focus on materials to be asked by mail (stefania.ninatti@unimib.it) and it will be based on essays published on law reviews and on the following book: Puma G. (a cura di), *Diritto internazionale e sistema delle fonti. Tra modello accentrato e modello diffuso del controllo di costituzionalità*, Bari, Cacucci Ed., 2020.

Sustainable Development Goals

PEACE, JUSTICE AND STRONG INSTITUTIONS