



UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

SYLLABUS DEL CORSO

Teorie dell'Interpretazione

2223-3-A5810033

Learning objectives

This course aims to provide students with a critical knowledge about the linguistic, epistemological and legal assumptions of interpretation, as well as to the development of theoretical and practical skills which are fundamental for different interpretative operations related to the practice of law, with specific reference to some interpretative techniques and the use of topical grids in the construction of legal arguments.

Contents

The course will be divided into four parts.

The *first part* will be devoted to the acquisition of some basic categories of contemporary linguistics and semiotics that are essential for the understanding of interpretation in general and legal interpretation in particular.

The *second part* will be devoted to a critical reflection on the role of legal norms as "schemes of interpretation" of social phenomena and to the theoretical distinction between subjective legal meaning and objective legal meaning. The *third part* will be devoted to the critical discussion of the main theories of legal interpretation, and in particular to the comparison of cognitive theories and skeptical theories of interpretation.

In the *fourth part*, which is more specifically oriented to the acquisition of practical skills, the main interpretative techniques in use in the field of legal interpretation will be examined and a reflection will be introduced on some of the tools that topics and rhetoric can offer for the analysis and construction of interpretative arguments in legal practice.

Detailed program

1. Fundamental categories of semiotics

1.1. The concept of sign: natural signs and artificial signs

- 1.2. The concept of meaning
- 1.3. Interpretation and categorisation
- 1.4. Interpretation and conversation
- 1.5. Doing things with words: linguistic acts and law
- 1.6. The problems of meaning: vagueness, ambiguity, ambivalence

2. Legal rules as schemes of interpretation

- 2.1. Natural fact vs. legal meaning
- 2.2. Causal interpretation vs. legal interpretation
- 2.3. Subjective legal meaning vs. objective legal meaning
- 2.4. The dynamic structure of law and the necessity of interpretation

3. Theories of legal interpretation

- 3.1. Cognitive, reproductive and normative interpretation
- 3.2. The role of courts and interpretation in determining the law
- 3.3. Cognitive theories of interpretation: interpretation as an act of knowledge
- 3.4. Skeptical theories of interpretation: interpretation as an act of will

4. Interpretative techniques and argumentation

- 4.1. Interpretative techniques and arguments
- 4.2. Argumentation, topic and rhetoric in legal

Prerequisites

There are no specific prerequisites to attend classes, except for a general knowledge of the basic legal concepts (legal system, legal norm, role of the judge), which will in any case be discussed during classes.

The fundamental notions of semiotics and linguistics necessary for the acquisition of the course learning objectives will be provided and discussed during the first part of the course.

Teaching methods

Classes will be in Italian.

They will be frequently based on a dialogical confrontation between the students and aim to the acquisition of knowledge and skills through critical reasoning.

The autonomous identification of problems concerning interpretation, and the critical acquisition of the relevant categories for the achievement of the training objectives, will be solicited. The development of argumentative skills will be promoted, also through the confrontation in the classroom between the students.

For students who are interested, it is possible to analyze and discuss in flipped classroom a short text to be agreed with the teacher.

Assessment methods

The assessment method consists in an **oral interview** that will aim to ascertain the awareness of the theoretical and practical problems related to the legal interpretation, the acquisition of the fundamental conceptual categories to aptly face them, and the ability to rigorously build critical arguments, with particular attention to the autonomous reasoning on critical points of the program.

Textbooks and Reading Materials

Textbooks and reading materials for attending students.

Given the interdisciplinarity of the topics concerned, textbooks and reading materials **for attending students** will be determined during the lectures and include materials from the following works:

1. Lorenzo CANTONI/Nicoletta DI BLAS, *Comunicazione. Teoria e pratiche*. Milano, Apogeo, 2002.
2. Umberto Eco, *I limiti dell'interpretazione*. Milano, La nave di Teseo, 2016.
3. Ugo VOLLI, *Manuale di semiotica*. Roma-Bari, Laterza, 2003.
4. Lorenzo Passerini Glazel, *La forza normativa del tipo. Pragmatica dell'atto giuridico e teoria della categorizzazione*. Macerata, Quodlibet, 2005.
5. H. Paul GRICE, *Logica e conversazione*. In: Marina SBISÀ (ed.), *Gli atti linguistici. Aspetti e problemi di filosofia del linguaggio*. Milano, Feltrinelli, 1978, 1995, pp. 199-219.
6. Hans KELSEN, *Lineamenti di dottrina pura del diritto*. Torino, Einaudi, 1952.
7. Hans KELSEN, *Che cos'è la giustizia? Lezioni americane*. Seconda edizione, Macerata, Quodlibet, 2021.
8. Riccardo GUASTINI, *Le fonti del diritto e l'interpretazione*. Giuffrè, Milano, 1993.
9. Riccardo GUASTINI, *Lezioni di teoria del diritto e dello stato*. Torino, Giappichelli, 2006.
10. Lelio Lantella/Raffaele Caterina, *Se X allora Y. Volume II: lavorare con le regole*. Torino, Giappichelli, 2009.
11. Giovanni PASCUZZI, *Riconoscere e usare gli argomenti interpretativi*. In "Diritto e formazione", 7 (2007), n. 2, pp. 289-297.

Textbooks and reading materials for non-attending students.

In order to allow non-attending students to reach a full understanding of the topics of the course, textbooks and reading materials **for non-attending students** are detailed as follows:

1. Lorenzo CANTONI/Nicoletta DI BLAS, *Comunicazione. Teoria e pratiche*. Milano, Apogeo, 2002 (chapter 1.).
2. Umberto Eco, *I limiti dell'interpretazione*. Milano, La nave di Teseo, 2016 (pp. 13-19).
3. Ugo VOLLI, *Manuale di semiotica*. Roma-Bari, Laterza, 2003 (chapter 1., §§ 1.1., .12., 1.3.).
4. Lorenzo Passerini Glazel, *La forza normativa del tipo. Pragmatica dell'atto giuridico e teoria della categorizzazione*. Macerata, Quodlibet, 2005 (chapter 3.).
5. H. Paul GRICE, *Logica e conversazione*. In: Marina SBISÀ (ed.), *Gli atti linguistici. Aspetti e problemi di filosofia del linguaggio*. Milano, Feltrinelli, 1978, 1995, pp. 199-219.
6. Hans KELSEN, *Lineamenti di dottrina pura del diritto*. Torino, Einaudi, 1952 (chapter VI. *L'interpretazione*).
7. Hans KELSEN, *Che cos'è la giustizia? Lezioni americane*. Seconda edizione, Macerata, Quodlibet, 2021 (§§ 1.-5- e 7. of the first lecture).
8. Riccardo GUASTINI, *Le fonti del diritto e l'interpretazione*. Giuffrè, Milano, 1993 (chapters I, II, XXIV, XXV, XXVI, XXIX).
9. Riccardo GUASTINI, *Lezioni di teoria del diritto e dello stato*. Torino, Giappichelli, 2006 (Second part, chapters I, II e III).
10. Lelio Lantella/Raffaele Caterina, *Se X allora Y. Volume II: lavorare con le regole*. Torino, Giappichelli, 2009 (chapter 1. and §§ 2.1. e 2.2.1. of chapter 2.).
11. Giovanni PASCUZZI, *Riconoscere e usare gli argomenti interpretativi*. In "Diritto e formazione", 7 (2007), n. 2, pp. 289-297

Sustainable Development Goals

PEACE, JUSTICE AND STRONG INSTITUTIONS

