UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

COURSE SYLLABUS

Constitutional Justice

2425-4-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 will be delivered in 24 lectures of 2 hours each delivered in face-to-face delivery mode. If necessary, 2 lectures of 2 hours each may be delivered in asynchronous remote delivery mode (recorded lectures), at the discretion of the lecturer, to cope with exceptional situations and in order to ensure the continuity of teaching activities. More details will be provided during the semester. Beside traditional lectures and speeches of distinguished speakers, students will be actively involved into jurisprudential case-studies.

Assessment methods

The examination is oral. Students who wish to do so may take a written test at the end of the course on a case drawn from constitutional case-law.

They will be provided with a Constitutional Court ruling and asked to answer six questions related to the ruling. All questions will be on aspects explored in depth during class hours.

Textbooks and Reading Materials

Texts 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, last ed., Giappichelli, Torino, limited to chapters I, II, III, VIII and IX.

Sustainable Development Goals

PEACE, JUSTICE AND STRONG INSTITUTIONS