UNIVERSITÀ
DEGLI STUDI DI MILANO-BICOCCA

SYLLABUS DEL CORSO

Il Processo Civile in Materia Familiare

2526-5-A5810253-A581025302

Learning objectives

The course is part of a module on “The protection of the international family” and aims to provide students with the basic knowledge governing the new civil proceedings concerning individuals, minors, and families, including at the European and international level, with a particular focus on disputes involving foreign elements. With this in mind, the course aims to complete the training of lawyers, which began in the civil procedural law and European Union law courses, by examining the specific regulations governing family and juvenile justice, particularly with foreign elements, especially in more complex cases such as international child abduction.
Finally, one of the educational objectives is to develop sensitivity and aptitude for examining practical cases.

Contents

The first part examines the principles governing the division of jurisdiction between the Ordinary Court and the Juvenile Court, the rules of the Code of Civil Procedure governing family and juvenile proceedings, with particular reference to its subjective interpretation, investigating the specific characteristics, activities, powers, and duties relating to the various parties involved in the proceedings.
The second part of the course explores the dynamic structure and rules of proceedings concerning individuals, minors, and families.
The third part also refers to the specific rules of domestic proceedings in the field of international child abduction (Law 64/94).
The fourth part concludes with references to consensual justice and its implications in cross-border disputes.

Detailed program

The course will cover the following topics:

1. The division of jurisdiction between TM and TO.
2. Proceedings concerning individuals, minors, and families (Articles 473-bis et seq. of the Italian Code of Civil Procedure).
3. The parties involved. The judge, the public prosecutor, the parties, the defense attorneys, the minor, the guardian, the guardian ad litem of the minor, the court-appointed expert, and other assistants and experts, social services.
4. General principles.
5. The stages of the trial. The introductory phase. The first hearing. The preliminary investigation. The decision-making phase. Appeals.
6. International child abduction: 1980 Hague Convention and Ratification Law 64/94: administrative procedure (Central Authority) and judicial procedure.
7. Consensual justice: proceedings on joint application, family mediation and assisted negotiation, agreements between the parties on jurisdiction and applicable law.

Prerequisites

The course requires institutional knowledge of substantive and procedural civil law and European Union law, without prejudice to the prerequisites provided for.

Teaching methods

10 two-hour lessons delivered in person
1 two-hour lesson delivered remotely

Assessment methods

Each student can choose between two different exam modes: written or oral.
The written exam will be held in the classroom and will consist of solving one practical case related to issues of private international family law.
The cases will allow for the assessment of the knowledge imparted during the lessons, in relation to which a comprehensive reasoned opinion must be provided.
During the lessons, some guided simulations will be carried out.
The written exam is open to all, subject to registration on the platform. Students who wish to do so may take the written exam for both modules together (developing the profiles for both modules in the same case).

The oral exam consists of preparing the indicated material, as supplemented by the teaching material available on the online platform. The interview is designed to test knowledge of the fundamental and characteristic institutions and concepts of the system, the ability to think independently, terminological accuracy, and the ability to express oneself clearly and independently.

Textbooks and Reading Materials

Reference text for all students

R. Donzelli, Manuale del processo familiare e minorile, Torino, Giappichelli, 2024.
Preferably the sections listed below:
• Chapter I (Scope of Application);
• Chapter II (The Prosecutor and the Judge);
• Chapter IV (The Unified Proceedings);
• Chapter VII (Domestic or gender-based violence: exclusively paragraphs 1 through 7);
• Chapter IX (Appeals: exclusively paragraphs 2.1; 2.2; 3.2.)
For the purposes of the exam, knowledge of the rules of procedure governing family and juvenile matters and the rulings uploaded to the e-learning platform is required.
N.B. When studying, it is recommended to use a code updated to reflect current legislation (Legislative Decree 164/2024, known as the “Cartabia Amendment”).

Translated with DeepL.com (free version)

Sustainable Development Goals

PEACE, JUSTICE AND STRONG INSTITUTIONS