Master's Degree in Law
Private law (M/Z)
2022/2023, I year, 12 ECTS
Prof. Fulvio Gigliotti

Course information	Private Law I (M-Z) Master's Degree in Law, 12 ECTS, 90 hours academic year 2022 2023
Professor information	Fulvio Gigliotti, Full professor of Private law (Law, Economics and Sociology Department) Contacts: fulviogigliotti@unicz.it, 0961.3694973 Reception: after each lesson, room 22, "S. Venuta University Campus", Legal-economic area building.
Course description	The course deals with the main institutions of private law contained in the civil code and in complementary laws, in the light of the innovations that have emerged on the legislative and jurisprudential level in recent years and of the doctrinal debate.
Course objectives and expected learning outcomes	The course aims to provide students with the fundamental notions of the Italian civil system, with particular attention to the role of constitutional rules and European law, the importance of jurisprudence and links with other legal disciplines. At the end of the course, the student must be able to describe the main institutions of civil law and the related discipline, must have acquired a method for the analysis and solution of civil law issues of easy and medium difficulty, must know how to use law language, must have acquired mastery in the use of the civil code and the main complementary laws. <u>Knowledge and understanding</u>: The student acquires knowledge of the fundamental lines of the legal system, in its multilevel configuration and with reference to regulatory and jurisprudential changes. <u>Applied knowledge and understanding</u> (i.e., the ability to apply knowledge and understanding): The student is placed in a position to apply the methodological background and the knowledge, framing, addressing and solving, from a legal point of view, the criticalities and concrete problems relating to the discipline. <u>Autonomy of judgment.</u> The student acquires the ability to critically read the fundamental legal issues in the field of private law. The student develops an aptitude for independent legal evaluation with respect to problems and situations concerning the institutions covered by the program. He is also able to provide the most correct legal solutions with respect to cases and exercises. <u>Communication skills</u>: The student becomes capable of formulating reflections, identifying problems and proposing solutions by resorting to an adequate and appropriate technical-legal language. <u>Learning ability</u>: The student is put in a position to be able to independently find and

	interpret regulatory and jurisprudential data, as well as carry out thematic investigations with the help of doctrinal sources. The student is also able to participate in study seminars, conferences, conventions and other didactic-scientific initiatives in the private sector.
Program (contents, methods of development); Possible distinction of programs between attending and non-attending students	The juridical phenomenon: objective law and social rules; private law in the legal system. The juridical norm: the sources of law; classification of sources: hierarchical principle and principle of competence; structure and characteristics of the norm; mandatory, dispositive and supplementary rules; spatial and temporal effectiveness of legal regulations; interpretation, analogy and general principles. Legal situations: concept of legal situation and legal effect; legal causality; active and passive legal situations; legal relationship. Legal entities: subjectivity and legal capacity; ability to act; legitimation. Natural person: existence; domicile, residence and dimora; kinship and affinity; disqualification and incapacitation; support administration; disappearance, absence and declaration of presumed death; death and commorience. Legal persons: associations and foundations. Unrecognized bodies: unrecognized associations, committees. Non-profit organizations and social promotion associations. The person and the rights of the personality: constitutional principles on the protection of the human person; acts of disposition of one's body; transplants; civil protection of the human person: the rights of the personality; physical integrity and moral integrity; right to a name; right to image; right to personal identity; right to confidentiality and processing of personal data; transexualism and the right to sexual identity. The legal object: things and assets; heritage; categories of goods. Public goods. Asset universality. Relevance. Fruits. Property (general concepts and constitutional principles; building ownership; methods of purchase; legal limits and neighborly relations; actions in defense of property). Real rights of enjoyment over other people's property (general notions: nature, content and question of the typicality of real rights; right of superficies; emphyteusis; usufruct, use and habitation; servitude). The real charges and the obligations *propter rem*. Communion and condominium in the buildings. Timeshare. Possession (possession and detention; qualifications and effects of possession; actions to defend possession and actions of nunciation). Legal facts: notions and classifications of legal facts; declarations: of science and of will (negotiated and non-negotiated). Prescription and decadence. Proof of legal facts: burden of proof and individual means of proof (documentary evidence; testimony; presumptions; confession; oath). The contract in general: private autonomy; real deed, legal transaction and contract; classifications of legal transactions; negotiation atypicality; unilateral acts. Subjects and contractual parties; representation; contract for person to be appointed; contract on behalf of whoever is entitled. Essential elements: negotiating will and contractual agreement (pre-contractual negotiations and responsibility; preparatory agreements and preliminary contract; legal and voluntary pre-emption; contract formation process and legal value of silence; option; standardized clauses; divergence between will and declaration (in particular: simulation; other cases of divergence); legal

intent); cause (notion; cause and type of negotiation; abstract contract; indirect contract; trust agreement; negotiation link; illicit cause; fraud of the law; reasons); object (concept; requirements; arbitration; substantive relatio); form (notion; *ad substantiam, ad probationem* and *ad regularitatem* forms; conventional forms; formal *relatio*). Accidental elements (condition, term and burden); presupposition. Interpretation of the contract and integration. Effects of the contract (principle of relativity; contract in favor of third parties; withdrawal; real effects and mandatory effects; conventional prohibition of alienation; conflict of rights; promise of the fact of the third party). Invalidity and ineffectiveness (non-existence; nullity of the legal transaction and immoral negotiation; annulment of the legal transaction (in particular: incapacity and vices of will); action for annulment). Termination of the contract. Termination of the contract (termination due to non-fulfillment; termination by law; contractual self-defense; termination due to supervening impossibility; termination due to excessive burdens occurring). Penalty clause and deposit. Consumer contracts. Transfer of the contract. Advertising and transcription. Obligations (general notions: structure and characteristics; natural and civil obligations; events of the obligatory relationship: sources, subjective and objective changes, extinction (fulfillment and ways of extinction other than fulfillment); breach and default of the debtor; default of the creditor; kind of obligations (pecuniary, alternative, joint and indivisible obligations); patrimonial responsibility; legitimate causes of pre-emption (privileges, pledge and mortgage) and the prohibition of the commission agreement; the means of conservation of the asset guarantee; forced execution. Individual contracts (sale; exchange; lease and rent; procurement contract, transport contract; mandate; deposit; loan; mortgage; game and bet; surety; transaction; transfer of assets to creditors; work contract; autonomous guarantee contract). Unilateral acts and promises (unilateral receptive and non-receptive acts; unilateral promises: promise of payment, recognition of debt, promise to the public). The management of other people's affairs. The undue payment. Uncaused enrichment. The unlawful facts (foundations of civil liability and "harmful lawful acts"); contractual and extra-contractual liability, constituent elements of the civil offense (the fact, the psychological element, the unjust damage, causality); exemptions from liability; imputability and guilt; the special cases of non-contractual liability regulated in the civil code; the main cases of aquilian liability regulated in other sources (producer responsibility, environmental damage); biological damage; non-pecuniary damage.

Estimate of the commitment required for individual study in terms of hours	300 hours.
Teaching methods	The course will take place through lectures and seminars with the use of slides.
Learning resources	It's recommend the use of one of the following manuals, alternatively, in relation to the parts indicated in the program:

(recommended textbooks, further recommended reading, other didactic material)	E. GABRIELLI (a cura di), *Diritto privato*,Turin, Giappichelli, 2020; P. PERLINGIERI (a cura di), *Manuale di diritto civile*, Naples, E.S.I., ult. ediz.; A. TORRENTE – P. SCHLESINGER, *Manuale di diritto privato*, F. Anelli and C. Granelli (eds.), Milan, Giuffrè, last ed.; A. TRABUCCHI, *Istituzioni di diritto civile*, G. Trabucchi (ed.), Padua Cedam, last. Ed.; M. PARADISO, *Corso di istituzioni di diritto privato*, Turin, Giappichelli, last ed. The study of private law institutions requires the consultation of an updated civil code text. The professor may indicate alternative texts as well as in-depth readings during the course. Supplementary and supporting didactic material is distributed in the classroom during lessons.
Support Activities	Reception activities and seminars.
Modality of Attendance	Attendance is not compulsory. Attending students will be able to take intermediate tests.
Modality of Assessment of knowledge	(see table below)

Grade	Knowledge and understanding of the topic	Ability to analyze and synthesize	Use of references
Fail	Severe shortcomings and inaccuracies	Irrelevant. Frequent generalizations. Inability to synthesize	Completely inappropriate
18-20	Sufficient. Important shortcomings.	Sufficient capabilities	Sufficient
21-23	Basic knowledge	The student is capable of correct analysis and synthesis, argues logically and consistently	The student uses standard references
24-26	Satisfactory. Good knowledge	The student has good analysis and synthesis skills. The arguments are expressed consistently	The student uses standard references
27-29	Very Good	The student has considerable skills in analysis and synthesis	The student deepened the topics of the exam
30-30L	Excellent	The student has excellent analysis and synthesis skills	Important insights.