**Master’s Degree in Law Private law M/Z 2023/2024, I year, 12 ECTS**

**Prof. Fulvio Gigliotti**

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| **Course information** | Private aw I (M-Z)  Master’s Degree in Law, 12 ECTS, 90 hours  academic year 2023 2023 |
| **Professor information** | Fulvio Gigliotti, Full professor of Private law (Diges) Contacts: [fulviogigliotti@unicz.it,](mailto:fulviogigliotti@unicz.it) 0961.3694973  Reception: before and after lessons, 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.  Knowledge and understanding:  The student acquires knowledge of the fundamental lines of the legal system, in its multilevel configuration and with reference to regulatory and jurisprudential changes.  Applied knowledge and understanding (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.  Autonomy of judgment.  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. Communication skills:  The student becomes capable of formulating reflections, identifying problems and proposing solutions by resorting to an adequate and appropriate technical-legal language.  Learning ability:  The student is put in a position to be able to independently find and |

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|  | 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. |
|  | 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 |
| **Program** | rules; spatial and temporal effectiveness of legal regulations; interpretation,  analogy and general principles. Legal situations: concept of legal situation |
| **(contents,** | and legal effect; legal causality; active and passive legal situations; legal |
| **methods of** | relationship. Legal entities: subjectivity and legal capacity; ability to act; |
| **development);** | legitimation. Natural person: existence; domicile, residence and dimora; |
| **Possible** | kinship and affinity; disqualification and incapacitation; support |
| **distinction of** | administration; disappearance, absence and declaration of presumed death; |
| **programs** | death and commorience. Legal persons: associations and foundations. |
| **between** | Unrecognized bodies: unrecognized associations, committees. Non-profit |
| **attending and** | organizations and social promotion associations. The person and the rights |
| **non-attending** | of the personality: constitutional principles on the protection of the human |
| **students** | 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 |

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|  | 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: |

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| **(recommended textbooks, further recommended reading, other didactic material)** | E. GABRIELLI (a cura di), *Diritto privato*,Turin, Giappichelli, last. ed.;  P. PERLINGIERI (a cura di), *Manuale di diritto civile*, Naples, E.S.I., last. ed.;  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. |
| **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** |  |

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| **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. |

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