

**Master's degree in law, LMG/01**  
**Civil law**  
**A.Y. 2023/2024**  
**Course Year: V - I Semester - 7 ECTS**

**Prof. Geremia Romano**

<b>General Information</b>	Civil law, 7 ECTS, academic year 2023/2024, I semester
<b>Professor</b>	<p>Geremia Romano - Full Professor of Civil Law  Department of Law, Economics and Sociology  Director's Office, second floor of Department building  e- mail: g.romano@unicz.it  Reception:  During the semester of the course, at the end of each lesson:</p> <ul style="list-style-type: none"> <li>- Tuesdays from 5:30 pm</li> <li>- Wednesdays from 12:30 pm</li> <li>- Thursday from 10:30 am</li> </ul> <p>Or by appointment (on the Meet platform or at University), by sending an e-mail.</p>
<b>Course Contents</b>	The course (53 hours of lessons) deals with the main institution of civil law. Seminars will be scheduled during the course.
<b>Course Targets and Expected Learning Outcomes</b>	<p>The aim of the course is to improve the critical and systematic reconstruction of the protection forms of subjective legal situations of civil law, through the analysis of the plurality of argumentative and hermeneutical models.  The high educational content of the course allows the student to acquire a critical and reconstructive spirit about the main institutions of civil law.</p>
<b>Program (contents, methods of development)</b>	<p><b>Section A: Principles and rules.</b> Social reality and legal system. Sources of law. Principles. Fact and legal effect. Subjective situation and legal relationship. Dynamics of subjective situations. Legal method and interpretation.</p> <p><b>Section B: Existential and patrimonial subjective situations.</b> Actionability of existential situations. The promotion of the human person and protective institutions. The protection of the elderly. "Right to health" and psycho-physical integrity. Informed consent. Advance treatment</p>

provisions. Legitimacy of health treatment. Acts of disposition of one's body. Sex change. Artificial insemination and genetic manipulation. Right to quality of life and environment. Person and pluralism of social formations. Principle of democracy. Individual and family situations. Name and surname between registry requirements and personality protection. Moral right of authorship. Right to privacy. Protection of personal correspondence. Freedom of publication and the press. Right to rectification. Right to access to the media. Right to correct information. Protection of personal data in public administration. Religious freedom and cultural pluralism. Right to education. Freedom of teaching and freedom of manifestation of thought. School regulations and equality of guarantees. The right to housing. C.d. Personality rights and legal persons.

The subjective patrimonial situations. Common law of patrimonial situations. Crisis of the obligation as an ahistorical category. Dynamic and functional perspective of obligations. Novation and novative function. Remission of debt and distinction between extinction and abdicative function. Compensatory facts and compensatory effects. Supervening impossibility in obligations and "unattributable cause." Circulation of credit and contractual positions. Natural, creditor and debtor situations. Link between real situations. Expansive potentialities of the credit and proprietary models. Recognition and guarantee of private property. Subject matter, subjects and proprietary statuses. Property as a subjective situation and as a relationship. Social function of property and social utility of enterprise. Conformation and ablation. Meritability of private statutes and reservation of law. Emulative acts. Exclusive property, multiple enjoyment property, corporate and incorporation property. Information and dematerialization of human activities.

**Sector C: Negotiating autonomy.** "Private" autonomy as dogma. The act of autonomy as an act of initiative. Theory of limits and sphere of operation of negotiating autonomy. Subsidiarity and negotiating autonomy. Negotiating autonomy with non-patrimonial content. Public interest and private interest: negotiation structure and function. Public interest and object of the negotiation: legal impossibility. The inseparability between the disciplines of contract in general, individual contracts and patrimonial situations. Principle of economy of acts and declarations. Typical and atypical contracts. The so-called algorithmic contracting. Functional complexity of the act of autonomy. Interpretation, qualification and control of merits. Judgement of lawfulness in the Italian-European system of sources. Negotiating autonomy between "freedom" and "contractual justice." Principle of proportionality and reasonableness in the conformation of negotiation regulations. Negotiating pathologies and "just remedy." Contract and crime: rescission and usury. Pretended exceptional nature of prescriptions on legal forms. On the principle of freedom of forms. Variability of negotiation form and its function. Unity of form and

	content: merit judgment on forms. "Singular" autonomy and "collective" autonomy. "Assisted" autonomy of negotiation. Autonomy of intermediate communities and "horizontal" subsidiarity.
<b>Estimate of the commitment required for individual study in terms of hours</b>	600 hours
<b>Teaching methods</b>	Lectures on individual institutes, side by side with the examination of practical cases, which will be illustrated, in constant interaction with students, with the support of seminar activities. This will be followed by a biweekly review of learning, in sessions devoted to the proposition of legal questions open to reasoned solution.
<b>Learning resources (recommended textbooks, further recommended reading, other didactic material)</b>	<p>It's recommended the use of the following textbooks in relation to the indicated parts:</p> <p><b>Section A):</b> P. PERLINGIERI e P. FEMIA, <i>Manuale di Diritto Civile</i>, XI edizione, Napoli, ESI, 2022, pagg. 3-118; or P. PERLINGIERI e P. FEMIA, <i>Nozioni introduttive e principi fondamentali del diritto civile</i>, II edizione, Napoli, ESI, 2004, pagg. 3-182.</p> <p><b>Section B):</b> P. PERLINGIERI, <i>Il diritto civile nella legalità costituzionale, secondo il sistema italo-comunitario delle fonti</i>, fourth edition, Napoli, ESI, 2020, Volume III - Situazioni soggettive, pagg. 1-335.</p> <p><b>Section C):</b> P. PERLINGIERI, <i>Il diritto civile nella legalità costituzionale, secondo il sistema italo-comunitario delle fonti</i>, fourth edition, Napoli, ESI, 2020, Volume IV – Attività e responsabilità, pagg. 1-191.</p> <p>For students who are attending the course: Supplementary and supporting didactic material is published on the Professor's page.</p>
<b>Support Activities</b>	Seminars and meetings with tutors
<b>Modality of Attendance</b>	Optional
<b>Assessment methods and examination</b>	Oral exam, with evaluation expressed in thirtieths with possible honours. For attending students there will be a midterm exam on part of the program and on the topics covered during the seminars.

<b>Grade</b>	<b>Knowledge and understanding of the topic</b>	<b>Ability to analyze and synthesize</b>	<b>References</b>
Fail	Severe knowledge lacks. Significant inaccuracies.	Irrelevant. Frequent generalizations. Inability to synthesize.	Completely inappropriate
18 - 20	Sufficient. Important shortcomings.	Sufficient capabilities	Barely sufficient
21 - 23	Basic	The student is able to do correct analysis and synthesis, argues logically and consistently	Standard references
24 - 26	Good	The student has good analysis and synthesis skills. The topics are expressed consistently	Basic references
27 - 29	Very good	The student has remarkable abilities of analysis and synthesis	The student has studied the topics in depth
30 - 30L	Excellent	The student has excellent skills of analysis and synthesis	Important insights

## **Information for students enrolled in previous years, for the 7 and 9 CFU exam (old system)**

All out-of-course students are allowed the alternative, set out below.

They are allowed to adopt the syllabus related to the year in which they should have taken the course; or they can opt to adopt the syllabus related to the a.y. 2023-2024, indicated above.

In the latter case, students who have to take the 9 CFU exam add Chapter III ("Civil Liability"), from Volume IV, Fourth Edition, of "Civil Law in Constitutional Legality."

Below are the summary schedules bearing the syllabi of previous years for the 9 and 7 CFU exams.

### **ECTS: 9**

#### **Program**

**A)** - Civil law by problems. Legislative techniques, principle of legality and legal norms. The Italian-Community system of sources. Private autonomy in the plurality and hierarchy of sources and values. Constitutional civil law. Interpretation of the law and its rules. Legally binding fact and its qualification. Subjective legal situations and their entitlement. Legal relations and their vicissitudes. Existential subjective situations: so-called personality rights. Patrimonial subjective situations.

**B)** - Typical contracts. Purchase and sale. Exchange. Carry-over. Estimation contract. Administration. Contracts of cultivation and sale. Lease and rental. Commodity lease. Mortgage. Contracting. Contract of work. Transportation. Mandate. Commission. Shipping. Agency. Mediation. Deposit. Hotel storage. Sale of package tours. Subcontracting. Current account. Banking, stock exchange and investment contracts. Surety bond. Transaction.

#### **Learning resources.**

Recommended texts:

P. PERLINGIERI, *Il diritto civile nella legalità costituzionale, secondo il sistema italo-comunitario delle fonti*, Naples, 2006, tomes I-II: chapters V, VI, VII, VIII, IX, XI, XII, XIII, XIV, XV, XVI (pp. 715-731), XVII.

F. GAZZONI, *Handbook of Private Law*, Naples, latest edition, chapters LX, LXI, LXII, LXIII, LXIV, LXV, LXVI, LXVIII (§ 1), LXIX (§ 1).

### **ECTS: 7**

#### **Program**

**A)** - The study of law and the education of the jurist: the need for a return to the problematic, the quaestio, the ratio decidendi. Methods and schools: the law-praxis relationship. Traditional dogmas and historicity of concepts: problem-based study of civil law. Complexity and unity of the legal system. Legislative techniques, principle of legality and legal norms. Private autonomy in the plurality and hierarchy of sources and values. Person and social formations: the principles of solidarity and equality. Constitutional civil law. Interpretation of the law and its rules. Legally binding fact and its qualification. Subjective legal situations and their entitlement. Legal relations

and their vicissitudes. Existential subjective situations: so-called personality rights. Patrimonial subjective situations.

**B)** - Typical contracts: buying and selling.

### **Learning Resources.**

Recommended texts:

P. PERLINGIERI, *Il diritto civile nella legalità costituzionale, secondo il sistema italo-comunitario delle fonti*, Naples, 2006, tomes I-II: chapters II (§§ 21-22), III, IV, V, VI, VIII, IX, XI, XII, XIII, XIV, XV, XVI (§§ 253-259 and 269-271);

XVII. F. GAZZONI, *Handbook of Private Law*, Naples, latest edition, chapter LX.