# Civil Law 1

## Prof. Mauro Orlandi

***COURSE AIMS AND INTENDED LEARNING OUTCOMES***

The course aims to encourage students’ critical approach and methodological rigour. Its purpose is to develop their capacity for analytical structuring and deconstruction of civil law principles with specific attention to bonds and contracts; to enhance their skills for the critical reconstruction of critical phenomena; to focus on the systematic rationality of the disciplines.

*Knowledge and understanding*

The students will acquire awareness of the essentially linguistic nature of law, distinguishing between hermeneutic relevance of the facts and semantic relevance of the texts. Through analytical method and in-depth analysis of the categories, they will be able to critically reconstruct nature, structure and function of the compulsory relationship and to systematically place the main institutions and statutes of bonds and contracts law.

*Ability to apply knowledge and method*

Critical knowledge reveals the gross error hidden behind the commonly felt idea of a rift between theory and practice. All laws start from conscious theoretical assumptions and then carries out rigorous and coherent demonstration of concrete solutions. The students will be guided along this line to solve cases with theoretical and argumentative rigour.

*Independent judgement*

The course applies the dialectical method and requires active student participation. Each step must be conceptualized in order for students to develop conscious attention to the logic of speech and technical language as well as the rigour of scientific demonstration.

*Analytical and communication skills*

The students will be able to measure and increase their aptitude for reasoning and refine their skills to systematically place correct and disciplined argumentation in active solutions of cases.

To this end, active practice and legal clinic sessions may be planned.

*Learning ability*

A university course must offer learners the study method and conceptual tools to independently search for national and ultra-national sources of the discipline; it also must provide methodological guidelines for consultation and arrangement of literature and jurisprudence. The journey towards developing critical knowledge and independent research skills is challenging and demanding. In this course students will progress in their methodological and cultural development through the study of the institutions and problems of bond law.

***COURSE CONTENT***

Each academic year is dedicated to specific study topics, with textbooks chosen by the lecturer.

Attendance is compulsory.

The course of the Academic Year 2022-2023 will focus on:

*Legal logic and assets.*

– Legal fact

– Concept of norm

– Abstract fact-type; concrete fact-type; case

– Effect as dependent fact-type

– Causal structure of the norm. From duty to necessity

– Position techniques of the case in point. The concept of source

– Significant sources. From hermeneutics to semantics

– The semantic prison. The hermeneutic degrees of freedom

– Prescriptive and descriptive language

– From general clauses to the specific case

– Legal relevance. Internal relevance and external relevance

– Analysis of the judgment. Legal syllogism

– Subsumption and assimilation. Analogy and silence

– The concept of legal status. Dynamic relevance

– Assets and interests

– Patrimonial and non-patrimonial

– Assets and obligations

– Assets and currency

– Assets and personal liability

– Patrimonial responsibility

– Assets and danger

– Assets and damage

– Segregated and dedicated assets

– Responsible assets

– Debt and assets

– Assets matters

– Discharge of debt

– Crisis and reduction

– Reduction

– Limits of Liability

– Capital structure of constraints

– Practical exercises and thematic seminars on cases and issues

***READING LIST***

The use of an updated version of the Civil Code is compulsory. We recommend: G. Perlingieri (edited by) Codice civile, ESI, Napoli, ult. ed.

To attend the lectures and prepare the exam, the following textbooks are recommended:

M. Orlandi, *Introduzione alla logica giuridica,* Bologna, Il Mulino, 2021;

M. Orlandi, *Logica del danno,* Turin, Giappichelli, in press (in part for attending students);

M. Orlandi, *Del patrimonio*, Torino, Giappichelli, in press.

Lecture notes.

All the texts, verdicts and recordings are published on the interactive Blackboard platform.

For and in-depth study of the subject, we recommend:

N. Irti, *Riconoscersi nella parola,* Bologna, Il Mulino, 2020.

***TEACHING METHOD***

During lectures each topic is addressed with analytical method and dialectical process. Attendance is compulsory and requires students’ active participation in the critical analysis of the different topics dealt with.

There may be thematic in-depth studies and exercises on problems and case studies in order to apply analytical logic and also practice the method learned during theory lectures on cases.

During the year, students may be required to take written tests in the form of a brief opinion on remarkable case studies.

***ASSESSMENT METHOD AND CRITERIA***

The exam is based on the course programme planned for the current academic year.

The students can take the exam on the same contents and texts up until the winter session of the following year. For example, for the academic year 2022-2023, students can take the exam on the same contents as those planned for the academic year (2022-2023) until the winter exam session of 2025.

Students will take an interview on the general part of the course and on the thematic seminars.

They will have to demonstrate knowledge of the fundamental concepts and technical profiles discussed in the general part of the course and in the thematic seminars; to be familiar with the principles of civil law; and to develop the legal speech corollaries with rigour and consistency.

The assessment will be based on the relevance of students’ answers, their mastery of language, their argued and consistent structuring of reasoning, and ability to grasp conceptual links and open questions.

Excellence marks will be awarded to students who show conscious use of the categories and the ability to critically present the different lines of thought, expressing themselves with linguistic precision and rigourous method.

Students with adequate knowledge of the programme themes and command of language, although not always technically flawless, will be awarded marks between fair and excellent.

Although incomplete, students’ preparation may be sufficient if they demonstrates to be able to reconstruct the topics of discussion and the main arguments offered by doctrine and jurisprudence, with reference to at least two questions.

Students’ preparation will be considered insufficient, with reference to at least two questions, if they show knowledge gaps that prevent them from identifying the interpretative problem, the possible solutions, and the main applicable arguments. The students’ assessment will also be considered insufficient in case of unsuitable and approximate language.

***NOTES AND PREREQUISITES***

Prerequisite for the students is a basic knowledge of private law institutions and of the general theory of legal concepts.

In case the current Covid-19 health emergency does not allow frontal teaching, remote teaching will be carried out following procedures that will be promptly notified to students.

Further information can be found on the lecturer's webpage at http://docenti.unicatt.it/web/searchByName.do?language=ENG or on the Faculty notice board.