# History of Modern and Contemporary Law

## Prof. Stefano Solimano

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

The course aims to illustrate the formation process of European law in the legislative, doctrinal and case-law development from the end of the 18th century to the contemporary age, with special reference to private law. The course is designed for students who intend to continue the historical-legal path undertaken with the basic course of History of Medieval and Modern Law. Students will be able to understand the power/law dynamic at the time of civil codification, to better interpret the judge/law relationship by analysing the rulings of Italian courts, to appreciate the role of doctrine in the construction of fundamental scientific civil law categories. Finally, students will acquire greater critical skills concerning the characteristics and trends of contemporary civil law.

***COURSE CONTENT***

General part.

– Enlightenment and codification.

– The codification of civil law: a) origin and contents of the 1804 *code civil*; b) the Austrian Civil Code (1811).

* The presence of the *code civil* and of the Austrian code in Italy.
* The controversy on the Civil Code in Germany.
* Legal science in 19th century Europe.
* The time of Exegesis in France.
* From the Historical School to the Pandectist School.
* Legislation and legal culture in Italy during the Restoration period (1815-1859).
* The issue of the legislative unification in Italy: the 1865 Civil Code.
* The science of private law in Italy in the post-unification age.
* The German civil code (BGB) between politics and law.
* The Germanist school.
* Trends of European private law at the end of the century. Italy, France, Austria, Germany, and Switzerland.
* Fascism and codification of law.

Special part:

* History of the French code application in Italy through jurisprudence.
* Relation between judge and law.
* Secularisation of family law.
* Proprietary individualism.

***READING LIST***

A. Cavanna, *Storia del diritto moderno in Europa, Le fonti e il Pensiero giuridico II*, Giuffrè, Milano, 2005, only pp. 32-68; pp. 253-291; 395-414; pp. 431-473; pp. 515-589.

From the text *I tempi del diritto*, Giappichelli Torino, 2016; essays by S. Solimano, *Un secolo giuridico*, pp. 319-387; G. Speciale, *Verso un nuovo ordine*, pp. 389-455.

S. Solimano, *Amori in causa. Strategie matrimoniali nel Regno d’Italia napoleonico (1806-1814)*, Giappichelli, Torino, 2017.

Attending students will use lecture notes, schemes provided by the lecturer and the volume S. Solimano, *Amori in causa. Strategie matrimoniali nel Regno d’Italia napoleonico (1806-1814),* Giappichelli, Torino (new edition in press).

***ASSESSMENT METHOD AND CRITERIA***

The final exam is oral and will focus on the topics specified in the Syllabus. The assessment of the test will be based on: 1. the critical assimilation of the contents; 2. the ability to create connections among the different parts of the course contents; 3. presentation skills and command of the language.

***NOTES AND PREREQUISITES***

The course of History of Medieval and Modern Law is preparatory.

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.