# Principles of Private Law

## Prof. Giovanni Schiavone

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

After outlining the most relevant general theory required to understand the principles of private law, the course aims to explore the rules, mainly stemming from the Civil Code, governing natural persons, non-profit bodies, property rights and possession, obligations, contracts and tort, civil responsibilities, underlining their rationale and operating potentialities, and the evolution of the principles in the interpretations of scholars and their legal applications.

At the end of the course, students will:

* be aware of the complexity of the legal phenomenon and of the methodological peculiarity of legal science, from a first approach to the general theory of law;
* acquire a basic knowledge of principles of general theory and private property law, as well as a knowledge of contract law;
* acquire the ability to understand non-complex practical cases regarding contracts and obligations and to formulate hypotheses for solutions;
* acquire a basic level of legal language skills or at least correct in its main formulations;
* have mastered the basic conceptual tools necessary to deal with corporate law in future studies, the legal implications of industrial relations and the relationships of private subjects with the public administration.

***COURSE CONTENT***

– The law and its ‘formants’; Civil law and common law; The Italian-EU system of sources; Civil law and the Constitution; norms and principles; interpretation and application. Subjective legal situations and their protection. The civil trial. The prescription. Capacity and person; non-profit organisations. Real rights and possession; Purchases of the original property. General outlines of *mortis causa* successions.

– Finalisation of the contract and preparatory agreements; pre-contractual liability and asymmetric contract. Structural requirements. Form and proof. Nullity, voidability, termination. The effects of the contract. Representation. Conditions and terms. Simulations and interpositions. Withdrawal. Deposit. Criminal clause. Translative consent and transcription. The contract and third parties. Solver remedies.

– The bonds in general. The rules of fulfilment. Pecuniary obligations. Multi-subjective obligations and subjects modifying the subjects. Credit assignment; delegation, expropriation and take-over; transfer of the contract. Default and default of the debtor. The generic patrimonial guarantee and the means of conservation of the same. Real guarantees (pledge and mortgage).

– Non-contractual obligations: unilateral promises, undue, unjustified enrichment, liability for illicit facts. Contractual damage and non-contractual damage.

– Consumer contracts. Sale and the main typical contracts.

***READING LIST***

Suggested textbook, limited to the parts thereof indicated:

A. Torrente-P. Schlesinger, *Manuale di diritto privato,* ed.by F. Anelli and C. Granelli, Giuffré, Milan, 2021 (§§ 1-59; 61-94; 96-124; 127; 131-132; 138-140; 142-148; 153-156; 162-236; 237-241; 245; 258-263; 264-332; 337-379; 382-401; 411-416; 418-420; 422; 426-428; 450-474; 681-683; 686; 691-691 bis).

Alternatively, students may use the following textbooks, limited to the parts indicated:

E. Gabrielli, *Diritto privato*, Giappichelli (latest edition available)

V. Roppo, *Diritto privato,* Giappicchelli Turin, (latest edition available);

P. Perlingieri, *Manuale di diritto civile,* Esi, Naples (latest edition available);

***TEACHING METHOD***

Lectures with class assessments and discussion of practical cases. The lecturer will periodically publish detailed lecture content and questions for self-assessment that can help students to verify how much their personal study is congruous with the course learning objectives.

***ASSESSMENT METHOD AND CRITERIA***

Oral exam. Class participation on specific topics or case studies on course content, if agreed with the lecturer, may result in a partial exemption.

The exam aims to test the basic code, and largely legislative, knowledge gained during the course of study, but above all to assess students' mastery of the categories of private law and their reasoning ability in applying general categories to practical cases. In general, the exam starts with the general concepts that are indispensable to pass it and then proceeds towards an increasingly detailed level, which affects the final assessment.

Assessment tends to focus more on verifying students’ understanding of the rational foundations of the principles analysed and their ability to make connections between them, rather than on simply mnemonic knowledge.

***NOTES AND PREREQUISITES***

A good knowledge of principles, the Constitution, the Civil Code and EU laws and sources in relation to the course topics is essential.

No prerequisites are required.

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.