# Civil Law 2

## Prof. Andrea Nicolussi

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

The course of Civil Law aims to provide a single-subject in-depth knowledge of the institutions of general private law through the application of legal techniques, which students are particularly invited to use. The programme is part of the framework of the law of obligations and focuses on non-contractual obligations: unilateral promises, administration of others’ affairs, recovery of undue payment, unjust enrichment, and extra-contractual liability as a distinct figure from liability for non-fulfilment of obligations (so-called contractual liability). The focus on jurisprudence is combined with the dogmatic analysis of the categories, in a continuous verification of the current phase of the discipline. The course aims to propose mature examples of legal reasoning to the students, to allow them to autonomously develop their argumentative paths. At the end of the course, the intended learning outcome is a thorough knowledge of the law of obligations and greater competence in the use of the legal method, which must also take into account the links between the different argumentative registers. Students will therefore be able to better grasp the problems underlying the changes in progress and the implications of a systematic nature, acquiring or strengthening their ability to exercise critical skills in the legal field, i.e. greater independent judgment, in general. Furthermore, this perspective focused on the need for methodological study and development of the search for logical-cultural links will lead to a strengthening of the learning ability. The enrichment of the vocabulary and argumentative tools, accompanied by examples, will enhance the students’ communication skills.

Finally, from the professional point of view, the development of legal argumentation skills should enable students to independently set up and resolve the questions that are posed to jurists in the typical applications of their activity: the forensic one, both in assisting the parties in court, both in judging disputes, that of real legal planning, of which the notary profession is a typical example, and that of assisting the parties in the formation of contracts.

***COURSE CONTENT***

The sources of obligation other than the contract

Progressive typicality and autonomous protection obligations

Unilateral promises and the contract principle

Sense of the principle of typicality of unilateral promises in relation to the principle of causality and the principle of trust

Promise to the public and its explanation in a functional sense

Promise to the public and offer to the public

Examples of unilateral promises with some *prima facie* hypotheses with uncertain collocation

Promise of payment or acknowledgment of debt between substantive function e

evidential-procedural function. *Expressio causae*.

Personal guarantees and patrimonial liability

Credit securities

Lines for a general distinction between restitution, indemnity, and compensation.

Judicial (specific performance and compensation for damage) and contractual (penalty clause and deposit) safeguards for non-fulfilment

Disclaimer of Liability

Administration of other people's affairs

Undue payment

unjust enrichment

Extra-contractual liability. Case-law, compensation for equivalent and specific damage

Medical liability between contractual and non-contractual liability

Obligations under consumer law

***READING LIST***

A. Nicolussi, *Le obbligazioni*, Wolters Kluwer Cedam, Padua, 2021: chapters I, II (§§ 4, 6 and 6.1), V (Section II), VIII, IX and X

A. Nicolussi – G. Portonera, *Buona fede e correttezza nel rapporto obbligatorio*, Giappichelli, Torino, 2023: chapters I, III.

*Materiali sulla* *responsabilità civile* (I-II-III) available on the Blackboard page of the Civil Law II course.

***TEACHING METHOD***

The course focuses on the lecturer's lessons, supplemented by a cycle of seminars.

***ASSESSMENT METHOD AND CRITERIA***

The exam is oral and will be divided into questions on each of the two parts of the course. Its assessment will be based on a 30-point scale, taking into account the contents of the answers, the students’ presentation and argumentative skills, including appropriate use of the terminology, and their critical attitude.

Excellent marks will be awarded to students who demonstrate: a) a precise knowledge of all the topics addressed, the ability to grasp the systematic links with other parts of the programme, and the core issues; b) ability to adequately use the appropriate legal argumentation tools in relation to specific issues; c) mastery of the sector-specific language and presentation skills.

Satisfactory assessment will be assigned to students who demonstrate a gap-free knowledge, however synthetic, of all the parts of the programme and autonomous presentation skills although not particularly articulated and/or using a specific language that is not always appropriate.

Merely pass marks will be awarded to students who demonstrate basic knowledge of the subject with possible gaps in limited and non-fundamental parts of the programme. To obtain sufficient marks, however, a minimum ability to grasp the fundamental relationships between the different parts of the subject is required.

Failing marks will be due to knowledge gaps in fundamental parts of the programme or to the use of completely inappropriate language or inability to make basic connections.

***NOTES AND PREREQUISITES***

Prerequisites of the course is the fundamental knowledge of private law.

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.