# Civil Family and Juvenile Law

## Prof. Andrea Nicolussi

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

The course aims to provide – also through the study of case law - an in-depth knowledge of Civil Family and Juvenile Law, with special reference to the new and emerging issues especially arising from biotechnologies. To this end, the course aims to provide students with the methodological awareness necessary to adequately address major anthropological and therefore constitutional issues, including references to the European scenario. Special attention will also be given to the relationship between the civil family law with other scientific perspectives (for ex. psychology, medicine and sociology).

The intended outcome at the end of the course is a good knowledge of the civil family law and increased competence in the use of an appropriate legal method also in relation to the links between the different argumentative registers and the needs emerging from the issues related to the personal and family dimensions, and those imposed by the growing internationalisation. Students will therefore be able to better understand the problems underlying the current changes and systematic implications, by acquiring or strengthening their critical thinking skills in legal contexts, which means improved independent judgement in general. Furthermore, this perspective focussed on the need for methodological investigation and developments in the search of cultural-logical links will lead to an improvement of the students’ learning skills. Finally, the development of the vocabulary and argumentative instruments, combined with examples, will improve the students’ communication skills.

***COURSE CONTENT***

Family and law. The tension between the institutional and contractual conceptions. Family and constitution.

1. *Marriage and other forms of juridical cohabitation.*

– Requisites for and form of marriage. Marriage promise.

– Marital consent.

– Nullity.

– Putative marriage.

– Marriage in accordance with the Concordat and other forms of marriage.

– The marriage relationship and article 160 of the Civil Code.

– Personal and economic relations between spouses.

– Separation, divorce and rights of the children. Joint custody, bi-parenting and family mediation.

– Liability and family.

– Marriage and legalisation of cohabitation. Private autonomy and persons.

– Civil unions.

2. *Filiation*

 – Concept of filiation.

– Filiation within marriage and filiation outside marriage.

– Criteria for establishing filiation and State action. Status and demand for autonomy. The right to know one's biological origins.

– The filiation relationship. Decisions, best interest of the child and respect for his or her capacity and natural inclination. Medical decision and other existential issues.

– Filiation and biotechnology. Medically assisted procreation.

– The problem of so-called procreative tourism

– Filiation and liability.

– Adoption and foster care.

***READING LIST***

1. Nicolussi (a cura di), *Diritto civile della famiglia,* EDUCatt: pp. 7- 291 (with the exceptio of pages from 35 to 70); 303-324; 425-442. The textbook is available at the Blackboard course page.
2. M. Sesta, *Manuale di diritto di famiglia*, Wolters Kluwer Cedam (last edition): chapters III,IV, VI, VII, VIII, X, XII.

***TEACHING METHOD***

Lectures. Possible conferences and meetings with scholars.

***ASSESSMENT METHOD AND CRITERIA***

The exam is oral and will be structured into questions on each of the two parts of the course. The assessment, on a 30-point scale, will be based on the contents of the students’ answers, their presentation and argumentation skills, including terminology accuracy and their critical approach.

Excellent marks will be assigned to students with: a) accurate knowledge of all the topics asked and the ability to understand their systematic links with other parts of the course content and core problems. b) ability to appropriately use the legal argumentation instruments in relation to specific issues; c) command of the subject-specific language and presentation skills.

Satisfactory marks will be assigned to students with a gapless, although synthetic, knowledge of all the course parts and effective presentation, although not particularly structured and/or with a not always accurate subject-specific language.

Pass marks will be assigned to students with essential knowledge of the subject and some gaps on limited non-fundamental parts of the course content. To obtain a pass mark, students will have to demonstrate their ability to understand, at least in part, the fundamental relations existing between the different parts of the subject.

A fail mark will be assigned to students with knowledge gaps concerning fundamental parts of the course content (both as regards marriage and other forms of legalized cohabitation, and filiation) or who demonstrate a completely inappropriate use of the language or the inability to create any connections among course topics.

***NOTES AND PREREQUISITES***

Attendance is strongly recommended. It is also advisable that students have passed the Institutions of Private Law exam.

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.