**The Judicial System**

Prof. Roberto Bichi

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

The course aims to explore the features and the structure of the Italian judicial system.

In particular, it will analyse the historical evolution of the functions and the role of the judiciary from the Albertine Statute (*Statuto Albertino*) to the Constitution of the Italian Republic, and the constitutional principles of reference of the current legal system.

This analysis is closely associated with the study of the most generic profiles of the State of law, also in the light of the European law, and those phenomena, related to the so-called globalisation, that have transformed the role of judges and the boundary between legislation and jurisdiction.

Furthermore, the course will focus on the organisation of the Courts, the laws that regulate the judicial system, and the role of magistrates (including their recruitment, the following stages of their career, and the regular assessment of their skills).

In addition, the course will analyse the function of the High Council of the Judiciary (in Italian: C.S.M. or *Consiglio Superiore della Magistratura*), also in relation with the organisation of the services pertaining to the Ministry of Justice, and the institutional effects of these issues.

During the course, students will have the opportunity to discover the system adopted for the selection of candidates for managerial and executive positions, as well as the civil, disciplinary, and accounting responsibility of ordinary magistrates. Finally, the course will focus on the changes that IT technologies and artificial intelligence have introduced in the operating procedures of the judicial system. In fact, these two elements are able to create new perspectives for the application of the jurisdiction, and change the role played by judges.

*Expected learning outcomes*

At the end of the course, students will know - also in a comparative perspective - the characteristics and values of the Judicial System; they will have learnt evaluation schemes of the functioning of the Jurisdiction, and they will be able to independently consider the implications of the proposed reform needs in the sector, also from a constitutional point of view including its compliance with European and conventional law.

Students will also acquire an adequate preparation in order to take professional exams, like the one to become an ordinary magistrate.

Students will also acquire evaluation skills regarding the effects of the digitalisation of justice services and the implications deriving from Artificial Intelligence projects applied to the jurisdiction.

***COURSE CONTENT***

- The judicial system from the Albertine Statute to the Constitution of the Italian Republic.

- The constitutional principles. Independence, impartiality, irremovability of magistrates. The legislature’s exclusive power to define crimes. Natural judge pre-established by law.

- Regulatory law and jurisprudence.

- The High Council of the Judiciary (*C.S.M.*): structure and functions.

- The Ministry of Justice: the attribution of areas of competence in terms of service management.

- The Judicial Councils and the Governing Council of the Supreme Court of Cassation (*Consiglio direttivo della Corte di cassazione*).

- The structure of the Courts.

- The inquiring magistracy.

- A comparison of the different systems for the recruitment of ordinary magistrates. Competitive examinations, internships, assessment of competences and incompatibility.

- The selection of Court managers and the monitoring of their performances.

- The disciplinary responsibility.

- The civil and the accounting responsibility.

- The honorary magistracy: from the role of conciliators to the Justice of the Peace.

- Special jurisdictions.

- New technologies and artificial intelligence. The changes that may occur in the role played by judges.

***READING LIST***

6 ECTS credits (*General course*)

Roberto Bichi, *Istituzioni di ordinamento giudiziario*, Pacini giuridica editore 2023.

In addition to the above-mentioned text covering the general part, students will have to complement their studies by reading the Chapters, as detailed below, of the following text:

Roberto Bichi, *L’Ordinamento giudiziario, Lezioni sulla storia del sistema giudiziario dallo Statuto albertino all’applicazione dell’intelligenza artificiale,* Pacini giuridica, 2022. cap.11 *Legislazione e giurisprudenza normativa* (pagg. 107-123) cap. 13 *L’intelligenza artificiale e il lavoro del giudice. Un possibile mutamento di fatto dell’Ordinamento giudiziario* (pagg. 135-158).

***TEACHING METHOD***

Frontal lectures, and the possibility to access the Legal offices (*Uffici giudiziari*) in Milan.

***ASSESSMENT METHOD AND CRITERIA***

Oral exams, taking place during the official exam sessions. In particular, the final assessment consists in an oral exam on the topics presented during the course, covered in the chapters of the two textbooks indicated in the reading list. It aims to assess not only the acquisition of the key concepts at the basis of the functioning of the judiciary system, but also the students’ ability to carry out a critical analysis of the values implied in the choices made in the Judiciary.

***NOTES AND PREREQUISITES***

Students should have a basic knowledge of the Italian constitutional law, and show a certain interest towards both the historical issues related to the evolution of the judicial system and its actual organisation.

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.