# .- Civil Law II

## Prof. Andrea Renda

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

The course aims to provide an in-depth study of *donation-based crowdfunding*, which is one of the most significant meeting points between an ancient phenomenon of private law - that of oblative fundraising - and the digitalisation of contemporary society. This subject allows to combine the in-depth analysis of multiple classical institutions of civil law (such as direct and indirect donations, legal and contractual restrictions in terms of destination as well as non-profit organisations) with the arising of new issues posed by the digital society, such as the deceptivity of *online* communication, the protection of the *fundraiser's* reputation on the *web* and the role played by digital *crowdfunding* platforms.

At the end of the course, students will have advanced knowledge about: the donation contract and its types, with particular reference to modal donation and oblation; the borderline between donating by binding the donation to a purpose, through a mode or condition, and giving to someone with the purpose of giving to others, by trust or mandate; the acts of destination *ex* art. 2645 *ter* of the civil code; the structure and *modus operandi* of committees, associations, foundations and Third Sector entities; *fundraising* techniques; the contracts used in the relations between *fundraisers* and *backers*; the distinction between *reward* and *crowdfunding donation*; the role of the so-called *personal fundraiser*; the intermediation role of digital *crowdfunding* platforms.

Consequently, students will be able to apply the knowledge acquired not only to resolve contractual disputes in the donation field, but also to organise a fundraising campaign on the *web* and to provide advice. They will also be able to use advanced legal language. Finally, they will be able to gain greater awareness of their digital citizenship.

***COURSE CONTENT***

Onerousness, correspondence, gratuity and generosity - Gift and donation - Spirit of liberality and spirit of solidarity - Oblation as a type of donation - The legal fundraising model: the committee - Various theories on the restriction of destination for the purpose of the funds raised – The act of disbursement of the committee to third parties - The association and related fundraising - The foundation and related fundraising - Third sector entities and related fundraising - Non-oblative donations and purpose constraint - Modal donation - The mandate to donate - Trustee donation - Donation with particular destination pursuant to art. 32 of the Civil Code - The act of destination pursuant to art. 2645 *ter* of the Civil Code - Fundraising via the web: *donation-based* *crowdfunding* and digital philanthropy – Difference from *equity-based crowdfunding* and *reward-based crowdfunding* - The *personal fundraiser* - Digital platforms and their legal role - Fundraising promoted by an individual and the purpose constraint - Disclosure obligations, transparency and *de iure condendo* perspectives.

***READING LIST***

A. Renda, Donation-based crowdfunding*, raccolte fondi oblative e donazioni «di scopo»*, Giuffrè Francis Lefebvre, 2021, chs. II and IV (for attending students) and chs. I-IV (for non-attending students).

***TEACHING METHOD***

Lectures with direct involvement of students in class, case law discussion of and analysis of practical cases.

***ASSESSMENT METHOD AND CRITERIA***

The exam will take place in different ways for attending and non-attending students.

- Attending students can take an interim written test aimed at verifying the level of learning achieved after participating in about half of the lessons of the semester. The test, lasting about three hours, will be based on two open-ended questions and on ten closed-ended questions. Each answer to the open-ended questions will be assigned a maximum score of 10, while each exact answer to the closed-ended questions will be assigned a score of 1. Both scores will form the overall mark on a thirty-point base. Passing the interim test within one year of its performance, exempts students from preparing the corresponding part of the programme for the final exam. The final exam is oral and will be assigned a score out of thirty, which will be averaged with the mark obtained in the interim test.

- Non-attending students will take an oral exam on the entire programme specified and, in particular, on the entire textbook Donation-based crowdfunding, *raccolte fondi oblative e donazioni «di scopo»*.

For the assessment of both the written test and the oral exam the following criteria will be considered: relevance and completeness of the students’ answers, their appropriate use of legal language, argumentation skills, and ability to connect legal institutions.

***NOTES AND PREREQUISITES***

Since this is an advanced course, prerequisites for attending it are: basic knowledge of private law and in particular of the discipline of collective entities (articles 14-42 *bis* of the Civil Code) as well as of the general contract regulations (articles 1321-1469 of the Civil Code).

Information on office hours available on the teacher's personal page at <http://docenti.unicatt.it/>.