# .- Civil Law I

## ProFS. Veronica Montani AND Carlo Rusconi

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

* ***Course aims***

The teaching of civil law aims to assist students in studying more in-depth the principles of general private law through the application of legal techniques, that students are particularly encouraged to use. The programme will focus on the Law of Obligations. In addition to the dogmatic analysis of the different categories, attention will be paid to jurisprudence, through a continuous assessment of the current phase of the discipline.

* ***Intended learning outcomes***

At the end of the course, students will have acquired an in-depth knowledge of the Law of Obligations and more advanced skills in the use of legal methodology that will also be sensitive towards the links between the different argumentative styles.

Students will be able to have a deeper understanding of the issues underlying ongoing changes and their systemic implications acquiring or strengthening their ability to apply critical thinking skills in the legal context, that is a general greater autonomy of judgement. Moreover, such a perspective, that focuses on the need for a more in-depth methodological approach and for the development of the search for the logical and cultural links, will result in a strengthening of students’ learning skills.

Consequently, from an applied perspective, students should have acquired the tools that enable them to be aware of the main legal issues arising from practical cases concerning the Law of Obligations and to find appropriate solutions. The discussion of judgements will enable students to gain experience in applying a critical approach to jurisprudence and will reinforce their presentation and argumentation skills.

***COURSE CONTENT***

The course consist in two parts, the first is held by Prof. Rusconi and the second by Prof.ssa Montani.

**Part one**

Obligations in the civil law system. Obligations in relationships. Obligations and financial liability. Sources of obligation. Specifically, non-contractual obligations. The subject matter of obligation. The performance. Creditor interest. Good faith and fairness, Obligation to protect. Diligence and expertise. Fulfilment.

**Part two**

Non-fulfilment and liability. Debtor’s default. Mora accipiendi. Compensation for damages. Ways of paying off a debt other than the fulfilment of the repayment obligation. Credit assignment. Delegation, expromission and assumption. Alternative obligations. Pecuniary obligations. Joint and several liability obligations and subjectively complex obligations in general, divisible and indivisibile obligations.

***READING LIST***

A. Nicolussi, *Le obbligazioni*, Cedam Wolters Kluwer, PadUA, 2021, Except for Chapters IX and X.

Students are advised to constantly refer to an updated version of the civil code.

***TEACHING METHOD***

Frontal lectures with discussions on the body of laws.

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***ASSESSMENT METHOD AND CRITERIA***

* ***Assessment method***

Attending and non-attending students will be examined differently.

Attending students may take a mid-term exam aimed at assessing their level of learning after attending the lectures of the first part of the course. The exam, that lasts about three hours, will consist in three open questions and in solving a practical case. Each answer will be marked out of 8, while the practical case will be marked out of 6, and these results will contribute towards the overall exam mark, that will be out of thirty. Students who pass the mid-term exam may be exempt from preparing the corresponding part of the programme for the final exam for one year. In this case, students will take an oral exam that will be marked out of thirty, and the final mark for the overall exam will be the average between this mark and the mark of the mid-term exam.

Non-attending students will take the whole exam orally.

* ***Assessment criteria***

The assessment criteria will include pertinent and complete answers, proficiency in the use of the legal lexicon, argumentation skills and the ability to link legal arrangements.

Students will be awarded distinction if they show: an accurate knowledge of all the topics covered by the questions, grasping the systemic links with the other parts of the programme and the problems, the ability to adequately use the tools of legal argumentation that are appropriate for the specific issues, proficiency in the use of the disciplinary lexicon and presentation skills.

Students will get a good mark if they show that there are no gaps in their knowledge, even if assessed summarily, of all the parts of the programme and autonomy in presentation, even if they are not very articulate and/or do not always use the disciplinary lexicon correctly.

Students will only get a pass if they simply show that they have acquired the essential knowledge of the subject matter of the exam and if there are gaps in their knowledge on parts of the programme that are limited and not fundamental. Nevertheless, in order to pass the exam, students must at least show that they have a basic understanding the fundamental relationships between the different parts of the subject.

Students will fail the exam if there are gaps in their knowledge of fundamental parts of the programme or if their use of the lexicon is totally inappropriate, or if they are totally unable to grasp the links.

***NOTES AND PREREQUISITES***

Students are expected to have a knowledge of the fundamentals of private law.

Information on office hours available on the teacher's personal page at [http://docenti.unicatt.it/](about:blank).