

Academic subject: Comparative Contract Law			
Degree Class: LMG/01 – L-14		Degree Course: LMG-LMGI- SSG_CONSLAV	Academic Year: 2021/2022
		Kind of class: Optional	Year: Period: II
			ECTS: 9 divided into ECTS lessons: 9 ECTS exe/lab/tutor:
Time management, hours, in–class study hours, out–of–class study hours lesson: 72 exe/lab/tutor: in–class study: 72 out–of–class study: 153			
Language: English	Compulsory Attendance: No		
Subject Teacher: CASCIONE Claudia Morgana	Tel: e–mail: claudiamorgana.cascione@uniba.it	Office: Department of law- Corso Italia 23 Room 2 Floor 1	Office days and hours: Tuesday 10:00-12:00
Prerequisites:			
Educational objectives: The course aims to provide students with a comparative knowledge of contract law. In particular, the goal of the course is to illustrate: - what a contract is and how the discipline differs in different legal systems; - how a contract comes into existence; - whether and how a contract can be invalidated and for what reasons; - what are the remedies in case of non-performance. In the second part, the course aims to provide an overview of the evolution of contract law, with particular regard to the problems, in terms of framework and discipline, of electronic contracts and smart contracts. Furthermore, at the end of the course, students should be able to: - outline a basic diachronic and synchronic comparison of contract law in different legal systems - critically and independently evaluate sources and documents			
Expected learning outcomes (according to Dublin Descriptors)	<p>Knowledge and understanding: The course aims, first of all, to provide students with a knowledge of contract law in contemporary legal systems, with particular regard to the main civil law systems (France and Germany) and common law systems (England and the United States).</p> <p>Applying knowledge and understanding: The analysis of foreign judgments and cases will enable students to understand contract law 'in action' and to contextualise theoretical issues in the specific context in which they were posed and addressed.</p> <p>Making judgements: The knowledge acquired will enable the student to solve cases and legal questions relating to foreign contract law and to draft international contracts.</p> <p>Communication: During the course, students will be given the opportunity to analyse and present foreign cases and judgments. This will enhance their communicative skills.</p> <p>Lifelong learning skills: The methodologies of the course, with continuous discussion between lecturer and students, will encourage learning.</p>		
Course program: The course will consist of two modules: First module (6 CFU)- Comparative contract law - General principle of contract law in a comparative perspective: - Main principles of contract law - Sources of contract law - The formation of a contract - The content of a contract			

- Vitiating factors
- Contractual remedies
- Contract and third parties

Each topic will be addressed, taking into account and comparing the different solutions adopted in the different legal systems.

Second module (3 CFU)- Comparative contract law – From traditional to electronic contracts

In the second module, the problems posed by electronic contracts will be analysed, examining whether e-commerce contracts satisfy the traditionally required elements for valid contracts, where e-commerce contracts are formed or executed, and the application of various contractual rules to e-contract.

Finally, the problems associated with the recent phenomenon of smart contracts will be examined.

Teaching methods: Conventional teaching methods.

Lectures will be alternated with seminars and exercises on the analysis and discussion of foreign judgments and cases.

Attendance at the course, although not compulsory, is strongly recommended.

Auxiliary teaching: Use of multimedia tools

Assessment methods: Oral examination.

- 1) The examination will aim at assessing the students' learning of the problems of contract law, with particular reference to the legal traditions and systems explored during the course.
- 2) The final evaluation will be formulated taking into account the learning of the comparative method, the knowledge of the different legal systems and the ability to critically assess the differences of discipline that characterize contract law in the different legal systems.
- 3) Learning will be tested by means of questions on the different parts of the program. In addition, students will present one or more of the judgments studied during the course.

Bibliography:

For the first module (6 CFU)- General principle of contract law in a comparative perspective:

J. M. Smits, *Contract Law. A comparative introduction*, II ed., Edward Elgar, 2017 (pp. 1-259)

For the second module (3 CFU)- Comparative contract law – From traditional to electronic contracts:

D. L. Kidd Jr. – W.H. Daughtrey Jr., *Adapting Contract Law to Accommodate Electronic Contracts: Overview and Suggestions*, 26 *Rutgers COMPUTER & TECH. L.J.* (2000), pp. 215-276

and

M. Raskin, *The law and legality of smart contract*, 1 *Geo Tech. L. Rev.* (2017), pp. 305 -341