

| General information                                     |  | 2023-2024 |
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| Academic subject  | <b>Comparative Contract Law</b>          |           |
| Degree course   | LMG-LMGI-SSG-CONSLAV                     |           |
| Academic Year   | ---                                      |           |
| European Credit Transfer and Accumulation System (ECTS) |  | 9         |
| Language  | English                                  |           |
| Academic calendar (starting and ending date)            | 2° semestre dal 19/02/2024 al 24/05/2024 |           |
| Attendance  | Facoltativa                              |           |

| Professor/ Lecturer     |   |
|-------------------------|---|
| Name and Surname        | <b>Claudia Morgana CASCIONE</b>                                       |
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| Telephone               |   |
| Department and address  | Department of law-Palazzo F. Cassano-Corso Italia, 23, Room 2 Floor 1 |
| Virtual headquarters    |   |
| Tutoring (time and day) | Tuesday 10:00- 12:00  |

| Syllabus                    |   |
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| <b>Learning Objectives</b>  | <p>The course aims to provide students with a comparative knowledge of contract law.</p> <p>In particular, the goal of the course is to illustrate:</p> <ul style="list-style-type: none"> <li>- what a contract is and how the discipline differs in different legal systems;</li> <li>- how a contract comes into existence;</li> <li>- whether and how a contract can be invalidated and for what reasons;</li> <li>- what are the remedies in case of non-performance.</li> </ul> <p>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.</p> <p>Furthermore, at the end of the course, students should be able to:</p> <ul style="list-style-type: none"> <li>- outline a basic diachronic and synchronic comparison of contract law in different legal systems</li> <li>- critically and independently evaluate sources and documents</li> </ul> |
| <b>Course prerequisites</b> |   |
| <b>Contents</b>             | <p><b>The course will consist of two modules:</b></p> <p><b>First module (6 CFU)- Comparative contract law - General principle of contract law in a comparative perspective:</b></p> <ul style="list-style-type: none"> <li>- Main principles of contract law - Sources of contract law</li> <li>- The formation of a contract</li> <li>- The content of a contract</li> <li>- Vitiating factors</li> <li>- Prohibited contracts</li> <li>- Contractual remedies</li> <li>- Contract and third parties</li> </ul> <p>Each topic will be addressed, taking into account and comparing the different solutions adopted in the different legal systems.</p> <p><b>Second module (3 CFU)- Comparative contract law – From traditional to electronic contracts</b></p> <p>In the second module, the problems posed by electronic contracts will be</p>   |

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|                               | <p><i>analyzed, 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.</i></p> <p><i>Finally, the problems associated with the recent phenomenon of smart contracts will be examined.</i></p>  |
| <b>Books and bibliography</b> | <p><b>For the first module (6 CFU)- General principle of contract law in a comparative perspective:</b><br/>J. M. Smits, <i>Contract Law. A Comparative Introduction</i>, III ed., Edward Elgar, 2021</p> <p><b>For the second module (3 CFU)- Comparative contract law – From traditional to electronic contracts:</b><br/>D. L. Kidd Jr. – W.H. Daughtrey Jr., <i>Adapting Contract Law to Accommodate Electronic Contracts: Overview and Suggestions</i>, 26 <i>Rutgers COMPUTER &amp; TECH. L.J.</i> (2000), pp. 215-276<br/>and<br/>M. Raskin, <i>The law and legality of smart contract</i>, 1 <i>Geo Tech. L. Rev.</i> (2017), pp. 305 -341</p> |
| <b>Additional materials</b>   |  |

| Work schedule                            |          |  |  |
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| Total                                    | Lectures | Hands on (Laboratory, working groups, seminars, field trips)   | Out-of-class study hours/ Self-study hours |
| Hours                                    |          |  |  |
| 225                                      | 72       |  | 153  |
| ECTS                                     |          |  |  |
| 9  |          |  |  |
| Teaching strategy                        |          | <i>Conventional teaching methods.<br/>Lectures will be alternated with seminars and exercises on the analysis and discussion of foreign judgments and cases.<br/>Attendance at the course, although not compulsory, is strongly recommended.</i>   |  |
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| Expected learning outcomes               |          |  |  |
| Knowledge and understanding on:          |          | <i>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).</i>  |  |
| Applying knowledge and understanding on: |          | <i>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</i>  |  |
| Soft skills                              |          | <ul style="list-style-type: none"><li>• <b>Making informed judgments and choices</b><br/><i>The knowledge acquired will enable the student to solve cases and legal questions relating to foreign contract law and to draft international contracts.</i></li><li>• <b>Communicating knowledge and understanding</b><br/><i>During the course, students will be given the opportunity to analyse and present foreign cases and judgments. This will enhance their communicative skills.</i></li></ul> |  |

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|  | <ul style="list-style-type: none"> <li>• <b>Capacities to continue learning</b><br/>The methodologies of the course, with continuous discussion between lecturer and students, will encourage learning.</li> </ul> |
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| <b>Assessment and feedback</b>                            |  |
| Methods of assessment                                     | <p>Final oral examination.</p> <p>To test the skills of the second module (3 ECTS), attending students may opt to write a written essay on topics indicated by the Professor</p>   |
| Evaluation criteria                                       | <ul style="list-style-type: none"> <li>• <b>Knowledge and understanding</b><br/>During the examination, the students' understanding of contractual issues will be assessed, with particular regard to the solutions offered by the various legal systems.</li> <li>• <b>Applying knowledge and understanding</b><br/>The examination will also tend to test the student's ability to analyse concrete cases, drawn from the case law of Anglo-American courts.</li> <li>• <b>Autonomy of judgment</b><br/>The student will be asked to compare, also in terms of efficiency, the solutions offered by the different legal systems to the legal issues analysed.</li> <li>• <b>Communication skills</b><br/>During the test, due consideration will be given to the student's expositive and communicative ability, both in the analysis of theoretical issues and in the exposition of cases and judgements</li> <li>• <b>Capacities to continue learning</b><br/>The level of learning will be assessed by taking into account the completeness of the answers and the level of depth of the legal issues analysed</li> </ul> |
| Criteria for assessment and attribution of the final mark | <p>Oral examination.</p> <p>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.</p> <p>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.</p> <p>3) Learning will be tested by means of questions on the different parts of the program. In addition, students may present a written essay on the topics of the second module</p>  |
| <b>Additional information</b>                             |  |
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