



Academic Year 2016-2017
Syllabus
Fundamental Rights
CFU 6
Prof. Andrea Buratti (coord.)

Course Description

The course deals with the fundamental rights in a comparative law approach: after a general overview on the historical development of the fundamental rights in western constitutionalism, and a general classification of the main legal categories in use in this field, the course focuses on four main areas of interest.

A first group of lectures will regard the Courts (constitutional, supreme, supranational), and their role in the protection of fundamental rights, both in national as well as in supranational scenario. Then, substantive issues related to the protection to fundamental rights in contemporary years will be analysed: media laws, tools of protection of minorities and the principle of non-discrimination; the European criminal law.

In dealing with all these topics, professors will take into consideration national and supranational law, case-law and theoretical analysis.

Teaching Method

For each topic, a guest professor chosen on the base of the high quality of his/her research, will be invited to deliver the lectures.

The course is reserved to a very limited number of students (5-10): it will allow professors to teach seminars. This method will require students to prepare the classes well in advance, through the compulsory reading of the materials pointed out by the professors. The preparation will be evaluated in class by each professor, through questions/answers during the lectures.

Attendance is mandatory and is considered in the final grade (see "Assessment" section for the non-attending students).

Schedule of Topics

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| Topic 1 | Fundamental Rights: an Overview (4 hours). Prof. Andrea Buratti, University of Rome Tor Vergata. <ul style="list-style-type: none">- The generations of rights.- Constitutional guarantees of rights. |
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| Topic 2 | Courts and rights: national and international scenario (12 hours). Prof. Giorgio Repetto, University of Perugia. <ul style="list-style-type: none">- Rights and Courts from national Constitutions to international constitutional law: setting the scene.- Constitutional integration at national and supranational level: rights and courts in the European laboratory.- Normative hierarchies, institutional relationships and forms of judicial dialogue- The European Convention on Human Rights and the Strasbourg Court: origins, development, transformations.- Access to the Court and formal subsidiarity.- Methods of interpretation of the Convention and substantial subsidiarity. |
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- Case-law analyses.
- How to cope with constitutional complexity? Judicial dialogues and unstable balances.

References:

1. P. Alston, *The European Convention System*, in Id. and R. Goodman, *International Human Rights*, Oxford University Press, 2013, pp. 891-977.
2. R. Schütze, *European Constitutional Law*, 2nd ed., Cambridge University Press, 2016, pp. 343-393 (Judicial Powers I: (Centralised European Procedures)).

Topic 3

European Fundamental Rights and the Charter of Nice (8 hours).

Prof. Krystyna Kowalik – Institute for Legal Studies (Warsaw), Judge of the General Court of the EU.

- Development of protection of fundamental rights in the European Union.
- Creation of the Charter of Fundamental Rights.
- Rights and principles in the Charter of Fundamental Rights.
- Application of the Charter of Fundamental Rights at the European and national level.
- Remedies under the Charter of Fundamental Rights.
- Horizontal application of the Charter of Fundamental Rights.
- Polish-British Protocol on the Charter.
- Relation of the Charter of Fundamental Rights with the European Convention on Human Rights.

References:

3. Steve Peers, *The EU Charter of Fundamental Rights - a commentary*, 2014.
4. Marek Safjan, *Fields of application of the Charter of Fundamental Rights and constitutional dialogues in the European Union*, 2014.

Topic 4

European criminal law (8 hours).

Prof. Cristiano Cupelli – University of Rome Tor Vergata.

- Sources of European criminal law.
- Influence of European law on national criminal law.
- Judiciary cooperation on criminal matters.
- ECHR's relevance in criminal law.
- Crimes regulated at the European level.
- Influence of European law on domestic substantive criminal law.
- Criminal law under the influence of European Union law.
- Particularities of criminal law.

References:

5. Satzger H., *International and European Criminal Law*, Hart Publishing (UK), 2012, pp. 43-179.

Topic 5

Media Laws (10 hours).

Prof. O. Pollicino – Bocconi University of Milan.

Following the advent and spread of communication and information technology, this course has a double aim: on the one hand, to examine constitutional provisions and case law and legal theory related to the fundamental rights and civil liberties at the heart of information society (freedom of expression and privacy most of all). On the other hand, to provide students with an overview of all the issues related to new technologies and in particular the implications related to Internet and to the protection of fundamental rights on the web.

- Freedom of expression in Europe and in the US.
- The content and limits of freedom of expression: hate speech.
- Journalism: freedom of the press and freedom of information.
- The access to the Internet: new constitutional freedoms.

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- The television market: the Italian legal regime.
 - Internet and jurisdiction. Between globalization and localization.
 - Data protection and data retention: the European scenario.
 - Who controls the Internet? The ISPs legal regime.
 - Cybercrime. The Google Vivi Down saga.
 - Copyright protection in the age of the Internet.
 - The television market: The audiovisual media Service Directive.

References:

6. *Introduction to the EU Internet Law*, ed. Jan Trzaskowski; Andrej Savin; Björn Lundqvist; Patrik Lindskoug. Copenhagen: Ex Tuto Publishing 2015.

Readings and Materials

All the References listed above are compulsory readings. Please take note that the reading materials must be studied before the beginning of the related lectures: professors will evaluate the preparation of the students during the lectures.

Assessment

- For Attending students: Attending students must be present to at least 80% of classes. An oral final exam will be held, covering the whole program. The final grade will take into consideration: a) the oral final exam (50%); attendance, active participation and in-class answers/questions, as evaluated by all the Professors in an “evaluation grid” that will be delivered at the end of their lectures (50%).
- For Non-Attending students: An oral final exam will be held, covering the whole program. The final grade will take into consideration the whole program and all the 6 reading materials pointed out in the “Schedule of Topics” section.

Office hours

Prof. Buratti receives students on appointment: burattiandrea@hotmail.com. The guest professors will make their email address available during the lectures.

NOTE: Since the course is provided for a limited number of students, **Erasmus and non-Global Governance students** who would like to attend this course and take this exam need to contact the Secretariat of Global Governance by e-mail global.governance@uniroma2.it for registration and sign the Code of Conduct.