

Introduction to Italian Law

11 & 12 June and 19 to 21 June 2019 at Humboldt
University Berlin

In cooperation with La Sapienza – Università di Roma and
Humboldt European Law School



Introduction and Schedule

Introduction

The course aims to give a **first introduction to Italian law**. The course addresses **students interested in the Italian language** or **Italian law** in general and is a great **preparation for a potential study stay in Italy**.

Schedule

Week 1

Tuesday, 11 June 2019		
Hour	Professor	Room
8:30h - 10:30h	Prof. MOSCATI	WHI
10:30h - 13:30h	Prof. ALPA	WHI
14:30h - 16:30h	Prof. MOSCATI	WHI
16:30h - 17:30h	Prof. ALPA	WHI
17:30h - 19:30h	Prof. DEL PRATO	17:30-18 Uhr: BE 2, 139a; 18-19:30 Uhr: BE2, E42

Wednesday, 12 June 2019		
Hour	Professor	Room
8:30h - 10:30h	Prof. DEL PRATO	WHI
10:30h - 12:30h	Prof. ALPA	WHI
12:30h - 13:30h	Prof. ALPA	WHI
14:30h - 16:30h	Prof. MOSCATI	WHI
16:30h - 17:30h	Prof. DEL PRATO	WHI
17:30h - 19:30h	Prof. MOSCATI	WHI

Attendance

Even though it is not required to attend the entire course, **we kindly ask you to attend as many classes as possible**, especially if you chose one of the professors as the classes are connected and build up on the previous class.

Please register via <https://forms.gle/hFWL2r5LT7yar2829> if you are interested in attending the course.

Week 2

Wednesday, 19 June 2019		
Hour	Professor	Room
17h - 19h	Prof. RIDOLA	BE 2, 326

Thursday, 20 June 2019		
Hour	Professor	Room
9h - 13h	Prof. RIDOLA	BE 2, 140/142

Friday, 21 June 2019		
Hour	Professor	Room
10h - 12h	Prof. RIDOLA	Room to be announced shortly



WHI: Unter den Linden 6, Walter Hallstein-Institut Bibliothek
BE2: Bebelplatz 2, Kommode



Teaching professors from La Sapienza



Prof. Laura Moscati

Prof. Moscati is professor of History of Italian Law since November 2004 at La Sapienza. She is responsible for the international relations of the Faculty of Law.

Prof. Moscati also coordinates the "Realtà e radici del diritto privato europeo" section of the PhD program of the Faculty of Law. As author of more than 100 publications, she focused her research on various sectors of legal history. She is a steering committee member of the "Rivista di Storia del diritto italiano" and "Rivista italiana per le Scienze giuridiche e di Droits".



Prof. Guido Alpa

Prof. Alpa is professor of private law institutions at the Faculty of Law for more than 25 years. He was the President of the National Bar Association from 2004 until 2015.

For more than 10 years, he was also the Director for the Master in European Private Law at La Sapienza. Prof. Alpa's research focusses on Private and Civil Law as well as Comparative Legal Systems. Amongst his publications are monographs as "Manuale di diritto privato" or "Introduzione al diritto contrattuale europeo".



Prof. Enrico del Prato

Prof. del Prato is professor of Civil Law at the Faculty of Law, where he teaches courses in Private Law and Civil Law. He is Director of the Department of Juridical Sciences.

Prof. del Prato is a member of the Academic Senate and President of the Commission for Emeritus and Honorary Professors and he is also Director of the Doctoral School in Juridical Sciences. Prof. del Prato is also coordinating the Erasmus program at the Faculty of Law.



Prof. Paolo Ridola

Prof. Ridola is professor of Comparative Public Law at the Department of Juridical Sciences and coordinator of the Research Doctorate in Public Law.

Prof. Ridola is a member of the Italian Association of Constitutionalists since 1990 and member of the Human Rights Committee of the Italian Society for International Organization (SIOI) since 2011. He also joined the board of the Italian Association of Comparative Law (AIDC) in 2012.



Detailed course information

Prof. Moscati: Italian civil codification of 1865, droit d'auteur and the contractual balance

THE CRISIS OF IUS COMMUNE

- Justinian's legislation
- *Ius commune* and *iura propria*
- The Senates and their judicial function between XV-XVIII centuries
- The *Ordonnances* of Louis XIV
- The *Ordonnances* of Louis XV and the contribution of H.F. D'Aguesseau
- The Royal Constitutions of the Kingdom of Sardinia
- The Constitutions of the Duchy of Modena
- The criticism against the faults of Jurisprudence of L.A. Muratori
- Pompeo Neri and the legal particularism in the Grand Duchy of Tuscany

CODIFICATION

- The codification and the unification of the legal sources
- General profiles of the *Code Napoléon*
- The persons and the family
- The right of property
- The contract from the *Code Napoléon* to the Italian Civil Code of 1865
- The impact of the French Civil Code in Europe
- Austrian General Civil Code (ABGB-1811) and German Civil Code (BGB-1900)
- Italian Civil Code of 1865
- The preliminary titles of the civil codes: comparison with art. 4 of the *Code Napoléon*
- The development of the property right and the intellectual property

LEGAL SCIENCE

- The French legal science after the codification
- The School of exegesis in France and in Italy
- The Historical School of Law
- The Italian legal science between 1800 and 1900
- Puchta and the German Pandectistic School
- The progress of case law in the second half of the XIX Century

CONSTITUTIONAL MODELS AND THE STATUTO ALBERTINO

- The *Charte* of 1814 and the *Charte* of 1830
- Aims and constitutional solutions in Italy
- The promulgation of the Constitution of the Kingdom of Sardinia (Statuto Albertino)
- The features of the Statuto Albertino
- The powers of the King
- The rights to freedom
- The constitutional institutions and the Ministers
- The Judiciary and the general provisions

Course details from
last year's course –
subject to change



Detailed course information

Prof. Alpa: Italian Private Law

FUNDAMENTAL RIGHTS AND CONTRACT LAW

- Fundamental rights and the connection between public and private law
- Indirect and direct application of fundamental rights in private law (Italian history of Drittwirkung)
- Contract law: notion, concept and definition of “contract” (Civil Code art. 1321)

FUNDAMENTAL RIGHTS, CONTRACT AND TORT LAW

- Fundamental rights and freedoms and contract law (Const. artt.2,3, 41 / Civil Code art. 1322)
- Notion of tort in Italian Law (Civil Code art. 2043)
- Principles of tort law (Civil Code, artt. 2053-2059)

FUNDAMENTAL RIGHTS AND TORT LAW

- Principles of tort law (Civil Code, artt. 2053-2059)
- Personal injury and Constitution (artt.2,32)
- Products liability (Consumer Code, artt.114-127)
- Quantum of damages

Course details from
last year's course –
subject to change



Detailed course information

Prof. del Prato: Civil Law - Pathology of "atti dispositivi" (assets) in general

1. Das Privatrecht

- Privatrecht und Kategorien
- Privatrecht und andere Rechte
- Die rechtliche Bedeutung
- Rechtsquellen
- Ungeschriebene Quellen
- Privatautonomie im Aufbau der Rechtsquellen
- Verhaltenskodizes
- Subsidiaritätsprinzip

2. Die Privatautonomie

- Tat, Akt und Rechtsgeschäft
- Vertrag: Anforderungen des Vertrags, Vereinbarung, vorvertragliche Haftung, Vertragsgrundlage, Gegenstand, Form, Bedingung, Frist, Modus
- Klassifizierungen und die Vertragstypen
- Auslegung des Vertrags
- Vertretung
- Anfechtbarkeit
- Nichtigkeit
- Unwirksamkeit
- Auflösung
- Vertragliche Gerechtigkeit
- Verträge des Verbrauchers
- Privatregelungen
- Hochzeit
- Testament
- Erbverträge

Course details from
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Detailed course information

Prof. Ridola: Public Law

1. Verfassungsgeschichte und verfassungsrechtliche Grundlagen

- a. Vom Statuto Albertino zur Verfassung vom 27. Dezember 1947
- b. Entstehung der Verfassung der Republik Italiens
- c. Wandlung, Konkretisierung und Änderung der Verfassung
- d. Verfassungsänderungen, Verfassungsrevisionsverfahren
- e. Diskussion über die Verfassungsreformen

2. Die Grundprinzipien

- a. Republik, Volkssouveränität, Arbeit
- b. Menschenrechte, soziale Gemeinschaften, Solidarität
- c. Gleichheitssatz
- d. Einheit der Republik, Territoriale Autonomien, Selbstverwaltung
- e. Staat, katholische Kirche und religiöse Bekenntnisse

3. Italien und die Völkerrechtliche Gemeinschaft

- a. Italienische Rechtsordnung und Völkerrecht
- b. Rechtsstellung der Ausländer, Asylrecht
- c. Verwerfung des Kriegs
- d. Italienische Republik und die Europäische Union
- e. Rang der Europäische Menschenrechtskonvention

4. Grundrechte und Grundpflichten

- a. Die unverletzlichen Rechte i.S. vom Art. 2 Verf.
- b. Bürgerliche Freiheiten
- c. Ethisch-soziale Beziehungen
- d. Politische Beziehungen

5. Mittelbare und unmittelbare Demokratie

- a. Das repräsentative Prinzip
- b. Die verfassungsrechtliche Stellung der politischen Parteien
- c. Elemente der unmittelbaren Demokratie, Das Referendum

6. Parlament, Zweikammersystem, gesetzgebende Gewalt

- a. Wahlsystem und Wahlrecht
- b. Zweikammersystem
- c. Gesetzgebungsverfahren
- d. Kontrollbefugnisse des Parlaments

7. Präsident der Republik, Regierung, Regierungssystem

- a. Der Präsident der Republik
- b. Regierungsbildung
- c. Stellung u. Funktionen der Regierung
- d. Parlamentarische Regierungsform: Vertrauen, Misstrauen
- e. Verhältnisse zwischen Regierung und Verwaltung

8. Die Rechtsquellen

- a. Kriterien der Antinomie-Lösung
- b. Verfassungsmäßigkeitsprinzip, Legalitätsprinzip
- c. Verfassung, Verfassungsgesetze
- d. Ordentliches Gesetz
- e. Dekrete mit Gesetzeskraft
- f. Sekund. Rechtsquellen, Verordnungen
- g. Rechtsquellen der Regionen
- h. Rechtsquellen der Selbstverwaltungsorgane

9. Die rechtsprechende Gewalt

- a. Rechtsprechende Gewalt und „ordine giudiziario“
- b. Oberster Richterrat und Gewährleistungen der richterlichen Unabhängigkeit
- c. Organisation der ordentlichen Gerichtsbarkeit
- d. Verwaltungsgerichtsbarkeit
- e. Sondergerichtsbarkeiten
- f. Verfassungsprinzipien für die Rechtsprechung

10. Verfassungsgerichtsbarkeit

- a. Stellung des Verfassungsgerichtshofs
- b. Konkrete Normenkontrolle (sog. „giudizio incidentale“)
- c. Prinzipale Normenkontrolle
- d. Kontrolle über Referendumsbegehren
- e. Zuständigkeitskonflikte zwischen Staat und Regionen
- f. Zuständigkeitskonflikte zwischen Staatsorganen
- g. Anklageverfahren

Course details from
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subject to change



Useful information

- The program will be held in Italian
- We kindly ask you to register via <https://forms.gle/hFWL2r5LT7yar2829> if you are interested in attending the course. This way, we can also inform you about any changes. However, no formal registration is required and you can also just come by and attend the classes
- Overview of the buildings at Humboldt university: <https://www.hu-berlin.de/de/service/kontakt/lage-anfahrt/campus-mitte>

Please do not hesitate to contact us in case you have any questions

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