



UNIVERSITÀ DEGLI STUDI DI PALERMO

DEPARTMENT	Giurisprudenza		
ACADEMIC YEAR	2023/2024		
MASTER'S DEGREE (MSC)	LAW		
SUBJECT	HISTORY OF ROMAN CONSTITUTION		
TYPE OF EDUCATIONAL ACTIVITY	D		
AMBIT	20016-A scelta dello studente (dm270)		
CODE	18737		
SCIENTIFIC SECTOR(S)	IUS/18		
HEAD PROFESSOR(S)	SCIORTINO SALVATORE	Professore Ordinario	Univ. di PALERMO
OTHER PROFESSOR(S)			
CREDITS	6		
INDIVIDUAL STUDY (Hrs)	102		
COURSE ACTIVITY (Hrs)	48		
PROPAEDEUTICAL SUBJECTS			
MUTUALIZATION			
YEAR	5		
TERM (SEMESTER)	1° semester		
ATTENDANCE	Not mandatory		
EVALUATION	Out of 30		
TEACHER OFFICE HOURS	SCIORTINO SALVATORE Monday 09:00 14:00 Dipartimento di Giurisprudenza, via Maqueda 172, sezione di storia del diritto, I piano, stanza personale ubicata verso la meta del corridoio della sezione.		

DOCENTE: Prof. SALVATORE SCIORTINO

PREREQUISITES	Knowledge of the history of roman law and the history of fundamental concepts and figures of private law. Ability to argue in accordance with a case-based reasoning and dogmatic-conceptual approach
LEARNING OUTCOMES	Knowledge and understanding: Acquire knowledge and understanding of the origin and development of the constitutional structures, of the normative and procedural models of Roman legal experience, of the main dynamics of the interpretation and application of the legal rules, the techniques and case studies methodologies developed by Roman jurisprudence. Applying knowledge and understanding: Provide students with the critical ability to relativize the legal phenomenon through the analysis of Roman constitutional systems in their historical evolution: students must be able to apply the knowledge acquired in order to compare the different forms of government, of court systems and legal production, including their impact on European legal tradition. Autonomy of judgment: Improving the ability to independently develop a conscious thought in relation to the objects and themes of the course with a critical and independent reasoning of the main positions expressed by scholars. Communication skills: Being able to express themselves correctly, organically, clearly and effectively. Ability to convey the concepts using the technical legal language. Mastery of the techniques of argumentation in communication of the expressed views . Learning ability: Ability to read the sources and critically compare with each other to be able to draw from them the fundamental knowledge about the evolution of the law in its early stages of development. Ability to learn the law in his casuistic way, in the light of the method developed by the Roman jurists. Ability to derive from analysis of individual cases, the rules applicable to analogs cases, identifying the limits in relation to the historical context in which they exist.
ASSESSMENT METHODS	Oral exam with thirty evaluation. The student must answer at least two or three questions posed orally, on all parties covered by the program, regarding the recommended texts. Final valuation aims to estimate whether the student has knowledge and understanding of the topics and has acquired competence to interpret and independent judgment, also on concrete cases. The sufficiency threshold will be reached when the student show to be able to know and understand the topics, at least in general terms; he must also have a good knowledge of expositive and argumentative abilities able to convey his knowledge to the examiner. Below this threshold, the examination will result insufficient. As more, however, the examinee is able to interact with the examiner, much more the evaluation will be positive. The sufficiency threshold will be reached when the student show to be able to know and understand the topics, at least in general terms; he must also have a good knowledge of expositive and argumentative abilities able to convey his knowledge to the examiner. Below this threshold, the examination will result insufficient. As more, however, the examinee is able to interact with the examiner much more the evaluation will be positive. The evaluation is carried out according to the following table: - Excellent (30/30 cum laude): Excellent knowledge of the issues and institutions in their historical evolutionary process, excellent mastery of language and analytical skills. - Very good (27-29): very good knowledge of the issues and institutions in their historical evolutionary process, very good mastery of language and analytical skills - Good (24/25): good knowledge of the issues and institutions in their historical evolutionary process, good mastery of language and analytical skills - more than sufficient (21-23): more than sufficient knowledge of the issues and institutions in their historical evolutionary process, more than sufficient mastery of language and analytical skills. - Sufficient (18-20): sufficient mastery of the main elements of the subject and the analytical language, lack of ability to apply the acquired knowledge. - Insufficient: lack of sufficient knowledge of the contents and adequate mastery of technical-legal language.
EDUCATIONAL OBJECTIVES	Mastery of language and legal categories. Punctual and informed knowledge of formative processes and the development of the concepts relevant to the course. Identification of the principal elements of Roman legal experience. Individualization of principal deviation elements from organizational models related to a statist and normativistic statement of law. Remark on the essential historicity of the legal phenomenon, also regarding the conceptual elaboration, as an indispensable tool for the training of the required sensitivity to the jurist in the setting and evaluation of the most important legal issues.
TEACHING METHODS	Frontal Teaching
SUGGESTED BIBLIOGRAPHY	P. CERAMI-G. PURPURA, <i>Profilo storico-giurisdizionale del diritto pubblico romano</i> , Torino, G. Giappichelli ed., 2007, pp. 1-349 [ISBN 9788834873786]

SYLLABUS

Hrs	Frontal teaching
8	Ius publicum and ius privatum. 1. Ius publicum and ius privatum in D. 1.1.12 (Ulp. 1 inst.) and public and private law in modern jurisprudence and Roman thought. 2. The two positiones of the Studium iuris in D. 1.1.12 (Ulp. 1 inst.), And especially sacra, sacerdotes, magistratus. 3. The meaning of these concepts in post-classical and Justinian age. Reflections on modern law. 4. Power and Office: Roman and modern perspectives

SYLLABUS

Hrs	Frontal teaching
12	Res publica, status rei publicae and universitas. Constitutio rei publicae. 1. The modern notions of institution-State and in person-State: coincidences and differences with the locutions res publica, populus and civitas. 2. Status or formae rei publicae. Exegesis of D. 1.8.2 (Marc. 3 inst.). 3. Constitutio rei publicae and constitution. 4. The disceptatio de iure publico in the political discourse of constitutional bodies and political parties. 5. The peritia iuris publici
18	Gubernatio and Administratio rei publicae. 1. Gubernatio as sphere of decision and Administratio as sphere of direction and execution within the gestio rei publicae. 2. original and derived constitution of legal systems. 3. Originality of roman order: the genesis of free res publica and the patrician-plebeian conflict. 4. The republican constitutional system as ordo ordinans and concordia civium et potestatum as ordering element of the system. 5. Constitutional conventiones, consuetudo and exempla. 6. The principle of popular sovereignty: the Senate. Especially the thought of Cicero in the pro Sestio, in de re publica and de legibus. 7. The relationships between senate and magistratus. 8. The crisis of free res publica between commutatio and eversio rei publicae. 8. The constitutional system of the principality and the ordering function of the auctoritas principis. 9. The principle submittere legibus maiestatem regnantis
10	Production and interpretation of the law. The phenomenon of codification. 1. The concept of fons iuris and the viae iuris constituendae. 2. The mos as ritual action. 3. Leges sacratae and leges comitiales. 3. The principle from XII Tables quodcumque populus iussisset ratumque id ius esto. 4. The self-limitation clauses of laws and the control of constitutionality of laws by the Senate. 5. The lex rogata in the thought of Elius Gallus and Ateio Capito. 6. Cura legum et morum of the princeps. 6. The establishment of a statalist system of law: the ius and leges in the legislative policy of the late Roman Empire and Justinian. 7. The hierarchy of sources of law in the legal system of the Dominate. 8. Ancient and modern codifications: the meaning of the word codex. 9. From the Twelve Tables to post-classical and Justinian codifications