

ECCLESIASTICAL COMPARATIVE LAW

(Syllabus A.Y. 2017-18)

(prof. A. Licastro)

Aims

The module aims to make students achieve an appropriate level of knowledge about the main issues on the relationship between religion and the law in the current EU context. To do so, the module offers a comparative analysis of the ecclesiastic laws enforced in the EU States and focuses on the impact of ecclesiastic law on the new structure of the EU law. The identification of a possible balance between the needs of a uniform protection of human rights and the respect for the identity and the specificity concerning the national approach to the religion will be facilitated through the investigation on “concordances” and “differences” between the different systems. From the particular perspective of the relationship between the state law, European Union law and religion, it seeks to contribute to the training of those willing to practice a legally-oriented job, who will necessarily compete with the questions posed by an increasing integration of Italy inside the European context.

Requirements

Students enrolled in a 5-year BSc in Law must have passed the examination of Constitutional Law (First Part) in order to take the exam of Ecclesiastical Comparative Law; students enrolled in a 3-year BSc in Sciences of Public Administration and Enterprise must have passed the exam of Constitutional Law as well. No other prerequisites are requested.

Course content

The module consists of three main parts:

I) The Ecclesiastical Law and Comparative Law: Genesis and development of comparative ecclesiastical law. General tendencies about the importance of religion on the current European society.

II) Outlines of national Ecclesiastical Laws in EU countries: The systems of relations between the State and religious denominations (particular attention will be given to: Greece, England, Denmark, France, Ireland, Austria, Germany, Spain, Belgium, Romania, Bulgaria). The current problems of freedom of religion. The funding models of religious denominations. The protection of religion under the criminal law. The models of religious education in public schools. Religion, marriage and family.

III) The protection of religious freedom in the Council of Europe and in the European Union: The European Convention on Human Rights of 1950. The protection of religious freedom in EU. The issue of Community competence in religious matters.

More specifically, theoretical profiles relating to the application of the comparative method to the study of ecclesiastical law (genesis and development of comparative ecclesiastical law; importance of religion in the current European society from a sociological point of view) will be thoroughly analyzed in part 1.

Part 2 includes the analysis of the outlines of national Ecclesiastical Laws in EU countries: Established Church systems, strict separation between State and religious denominations, cooperation between Church and State; The current problems of freedom of religion; Financial support for religion; Blasphemy, Insults to religious beliefs, Crimes against religious worship and freedom of religion, Inciting discrimination or religious hatred; Religion in public education and the models of religious education in public schools; The religious marriage and other implications on family law.

Part 3 addresses the issues involving freedom of thought, conscience and religion throughout the member States of the Council of Europe; particular attention will be given to case law of the European Court of Human Rights. This part also includes the analysis of the new aspects of the European Ecclesiastical Law.

Teaching methods

Traditional lectures during which students have the opportunity to contribute through comments and questions.

Teach check mode

The acquisition of learning outcomes is controlled with a final oral examination. The exam consists of a set of questions relating to fundamental parts of the program. The candidate must demonstrate an appropriate level of knowledge and understanding, critical maturity, the skill to solve specific legal problems and correct communication skills (particular attention will be given to the appropriate use of technical terms). The acquisition of learning outcomes is assessed by numerical rating (18/30 – 30/30).

Book

A. LICASTRO, *Il diritto statale delle religioni nei paesi dell'Unione europea. Lineamenti di comparazione*, Giuffrè, Milan, 2012, pp. 208.