

## DEGREE IN LAW

2023-2024

### THEORY OF LEGAL ARGUMENTATION

General information	
Year of the course	<i>Fifth</i>
Academic calendar (starting and ending date)	<i>First semester: from 11 september 2023 to 7 december 2023</i>
Credits (CFU/ETCS):	9
SSD	<i>IUS-20/Philosophy of Law</i>
Language	<i>Italian</i>
Mode of attendance	<i>Strongly recommended</i>

Professor/ Lecturer	
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Virtual room	
Office Hours (and modalities: e.g., by appointment, on line, etc.)	Thursday: 15.00-17.00 p.m. (and at the end of each lesson)

Work schedule			
Hours			
Total	Lectures	Hands-on (laboratory, workshops, working groups, seminars, field trips)	Out-of-class study hours/ Self-study hours
225	72		153
CFU/ETCS			
9			

<b>Learning Objectives</b>	Science, logic and philosophy of legal discourse have the essential purpose of forming a wise jurist, endowed by autonomous faculties of judgment and by true dialectical skills; a jurist up to the hermeneutic question of normative language and legal facts in the complex experience of the contemporary world; a jurist capable of understanding the onto-existential function of law in the social reality.
<b>Course prerequisites</b>	There are no specific prerequisites

<b>Teaching strategie</b>	The teaching methodology is the conventional one with lectures, seminar exercises for the critical reading of classical works, possible use of multimedia tools.
<b>Expected learning outcomes in terms of</b>	
<b>Knowledge and understanding on:</b>	The students must acquire the knowledge of basic and advanced level of general theory of law to prepare them for the understanding of legal language and legal argumentation techniques.
<b>Applying knowledge and understanding on:</b>	The students must demonstrate their ability to reason and decode the legal language and the basic concepts of the legal order.
<b>Soft skills</b>	<ul style="list-style-type: none"> <li><i>Making informed judgments and choices.</i></li> </ul>

	<p>The students must demonstrate that they have acquired critical and logicaldeductive skills suitable for interpreting languages and normative phenomena.</p> <ul style="list-style-type: none"> <li>• <i>Communicating knowledge and understanding.</i> The students must demonstrate that they have acquired communication and exhibition skills in the legal process.</li> <li>• <i>Capacities to continue learning.</i> The students must demonstrate that they have metabolized logicaldeductive reasoning schemes and methodologies applied to the legal process.</li> </ul>
<b>Syllabus</b>	
<b>Content knowledge</b>	<p>The course develops itself starting from the well-known Aristotelian distinction of reason in <i>páthos</i>, <i>éthos</i> and <i>lógos</i>. The <i>nómos</i> is not unrelated to <i>páthos</i>. Quite the contrary. There are some emotions that reveal the juridical sense of facts and the onto-existential function of law, forming the content of the “aesthetic” judgments, before the philosophical reflection and the logic of the normative language. The results of the <i>Rhetoric</i> are different. They are gained through the analysis of the subjective judgement and the partial decisions of the jurists, on the side of the “great division” (within the judicial field) between truths of the premises (the propositions on rules and facts actually happened in a specific case) and validity of the conclusion (the verdict). Finally, by <i>Metaphysics</i>, the logic (or ontology) of legal existence turns into the science of some universal principles of law, and of the legal process in particular, showing its cause in the <i>lógos</i>.</p>
<b>Texts and readings</b>	<p>(i) ANTONIO INCAMPO, <i>Metafisica del processo. Idee per una critica della ragione giuridica</i>, Cacucci, Bari 2016 (it is required the second edition).</p> <p>(ii) One of the following books: ANTONIO INCAMPO/ADOLFO SCALFATI (eds.), <i>Giudizio penale e ragionevole dubbio</i>, Cacucci, Bari 2017 [I. Filosofia: pp. 13–124; II. Diritto e processo: pp. 145– 185, 223–244, 267–305, 325–338].</p> <p>CHAÏM PERELMAN/LUCIE OLBRECHTS-TYTECA, <i>Trattato dell’argomentazione. La nuova retorica</i>, Einaudi, Torino 2001 [I. I quadri dell’argomentazione: pp. 13–66; II. La base dell’argomentazione: pp. 67–194; III. Le tecniche dell’argomentazione: pp. 195–309, 392–432, 482–538].</p>
<b>Notes, additional materials</b>	There are no additional didactic materials.
<b>Repository</b>	
<b>Assessment</b>	
<b>Assessment methods</b>	Oral exam at the end of the course year.
<b>Assessment criteria</b>	<ul style="list-style-type: none"> <li>• <i>Knowledge and understanding.</i> The oral exam will verify that the candidate has acquired the basic notions of the theory of legal argumentation.</li> <li>• <i>Applied knowledge and understanding.</i> The oral exam has also to verify that the candidate is able to discuss with the concepts and theoretical tools studied during the course.</li> </ul>

	<ul style="list-style-type: none"> <li>• <i>Autonomy of judgment.</i> The exam will have to ascertain the candidate's acquisition of full autonomy of critical judgment on the issues and problems faced during the course.</li> <li>• <i>Communication skills.</i> During the exam, the candidate must demonstrate that he has acquired the ability to argue in a logical manner and to communicate orally the main topics of the course in a clear and comprehensive manner.</li> <li>• <i>Ability to learn.</i> To pass the exam, the student must have achieved sufficient knowledge of the two books provided for the study program.</li> </ul>
Final exam and grading criteria	The verification will get the open structure of dialogue starting from questions that intend to ascertain on the one hand the possession of essential contents of the program, and, on the other, the critical or dialectical skills connected to the mainly hermeneutic meaning of legal science. The final evaluation will be expressed in an exam grade.
<b>Further information</b>	