



Denominazione	Law of the business crisis
Moduli componenti	
Settore scientifico-disciplinare	L/14
Anno di corso e semestre di erogazione	3th year / 2nd semester
Lingua di insegnamento	Italian
Carico didattico in crediti formativi universitari	7
Numero di ore di attività didattica assistita	42
Docente	Michele Monteleone (3) Francesco Grieco (4)
Risultati di apprendimento specifici	<p>The course has been designed to show to students with a solid methodological knowledge of the insolvency proceedings law (also in the light of recently developed case-law and doctrinaire practices) the problems involved in the resolution vehicles for resolving the crisis through the use of the tools established by the legislator through the recent reform with the Law 155/2017, resulted in the “Codice della Crisi e dell’Insolvenza” (C.C.I.), which has reformed the discipline of insolvency procedures in an organic manner, introducing substantial changes to traditional institutions, on one side, and introducing new completely instruments in the national legal landscape, on the other side, so as to totally change the approach to crisis management which shall be increasingly oriented to the early emergence of the state of difficulty of companies.</p> <p>The innovations introduced by Law Decree no. 23/2020, converted into Law no. 40/2020, enacted to counter the effects of Covid-19, will be examined from the point of view of the new emergency crisis law, with the relative operational implications.</p> <p>The legislative innovations, introduced by D.L. 118/2021 on the negotiated settlement of company crises, will be taken into account.</p> <p>At the end of the course the student is expected to be able to:</p> <ul style="list-style-type: none">- recognize and distinguish the different procedures that make up the Italian insolvency system;- draw the borders of the respective spheres of applicability;- identify the main situations in which the use of one of those procedures may be necessary;



	<ul style="list-style-type: none">- understand the specificities of the solutions offered by the legislator for the corporate insolvency;- understand the subject and, consequently, to provide the first operative suggestions about it, applying the principles that govern these procedures for the purpose of solving the basic problems that these pose to the interpreter and to the operator.- understand the complex mechanisms of functioning of corporate insolvency law, made up by an apparatus of insolvency instruments among which the arrangement with creditors, judicial insolvency procedure aimed at the conservation of the business complex or the liquidation of assets;- apply to specific cases the necessary and indispensable empirical knowledge for the protection of business continuity (even during the subsequent bankruptcy), or for a correct liquidation management of the debtor's assets;- evaluate the specificities of the individual institutions required by the bankruptcy law, both from a substantive and a formal-procedural point of view, with particular attention to the profiles relating to the continuation of the company, the rescue of the company, the nature and structure of insolvency proceedings, the crisis of groups of companies. <p>The concepts acquired in this area will be of fundamental importance for those who, after graduation, will undertake the profession of legal advisor of a company or the career of judge.</p>
Programma	<p>Through a close examination of the problems related to the notions of entrepreneur and enterprise and the organizational models of partnership and capital company, the first part of the course deals with topics of “market of insolvency enterprises”, of particular relevance nowadays because the theme of the crisis of enterprises has been the object of a radical legislative reform, that has rewritten the rules of most of the bankruptcy pre – proceedings, converged into the C.C.I.. The pact regulation of the insolvency and the undertakings’ crisis management is examined by the resolution instruments provided for by the reformist legislator: the arrangement with creditors, the debt restructuring agreement, the financial recovery plan, the financial transaction tax; the crisis of over-indebtedness of the entrepreneur not fallible and the consumer plan.</p>



	<p>The examination of the institutions is managed by the exegesis of the normative date and the application of the current jurisprudential practice. Furthermore, the new institutes and issues arising from the implementation of the recent COVID-19 emergency legislation will be examined, and the legislative innovations introduced by D.L. 118/2021.</p> <p>In the second part of the course is analyzed, “transversely”, the bankruptcy procedure from the visual angle of all actors playing their part on the stage of insolvency: the receiver, the committee of creditors, the delegate judge, the bankruptcy court and the prosecutor.</p> <p>Starting from the declaratory judgment of bankruptcy and his resulting effects for the bankrupt, the creditors, the third part, also with regard to pending legal juridical cases, there will be furthermore the study of the assessment of liabilities, the liquidation of assets, the distribution and the bankrupt closure, with specifically reference to the “short forms” of the bankruptcy arrangement and the way provided for by the article 118 indent II, bankruptcy law.</p>
Tipologie di attività didattiche previste e relative modalità di svolgimento	<p>42 hours.</p> <p>The teaching will be structured in 4 hours of frontal teaching lessons per week based on the academic calendar.</p> <p>The teaching activity will be characterized by theoretical lessons and exercises, also through court visits (attendance at the hearings), with the study and analysis of specific practical cases and in-depth seminars/conventions.</p> <p>The exam will be held in oral form.</p> <p>Attending students (at least 75% of the lessons) can take the exam on a program agreed upon with the teacher who will take account, in particular, of the issues raised during the lessons.</p>
Metodi e criteri di valutazione dell'apprendimento	<p>Verification of student's preparation will take place with an oral exam that will focus on the entire program indicated above.</p> <p>During the course attending students, in agreement with the teacher and during the periods dedicated to it, can take partial tests on the parts of the program already treated in class, which will help to define the final evaluation in thirtieths</p>
Criteri di misurazione dell'apprendimento e di attribuzione del voto finale	<p>The learning assessment involves the awarding of a final grade expressed in thirtieth.</p> <p>The final grade is derived from the overall assessment of the test and results from the verification of the level of achievement of the established learning outcomes.</p>
Propedeuticità	<p>To be able to take the exam of Law and Management of the Business</p>



	Crisis, it is necessary to have passed the examinations of Institutions of Private Law, Institutions of Roman Law and Commercial Law.
Materiale didattico utilizzato e materiale didattico consigliato	<p>Recommend books: <i>“Evoluzione degli organi della crisi d’impresa: OCRI, Commissario giudiziale, Liquidatore giudiziale, Curatore nella liquidazione giudiziale, OCC”</i> a cura di M. Monteleone- Manuali per la Professione, Gruppo Walters Kluwer, 2021 – parts to be defined</p> <p>Students are advised to use and constantly consult the Bankruptcy Law and Complementary Rules updated to the full text of the C.C.I.I., adopted with D.Lgs 12.01.2019 nr. 14.</p>