

Scuola Superiore Meridionale

**PhD course in *Law and Organizational Studies for People with
Disability* a.y. 2023/24**

**Private Law and the protection of Persons with Disabilities:
principles, institutions and operational rules also in the light of technological
development.**

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Course description

The course is designed for doctoral students and first year undergraduate students, coming from any research area of the SSM. The final assessment will take into account the students' different educational level.

The course aims to provide the tools for the study and critical understanding of the current legal framework for the protection and promotion of persons with disabilities, also in relation to technological development.

The digital transformation and the use of ICT, AI and robotics encourage the design of services to meet the specific needs of individuals with disabilities and promote accessibility.

Technological development in relation to persons with disabilities is the focus of national and European policies aimed at promoting their social inclusion and eliminating all forms of discrimination. On this point, the Strategy for the Rights of Persons with Disabilities 2021-2030 adopted by the European Commission explicitly states that digital transformation and the green transition offer opportunities, using information and communication technologies (ICT), artificial intelligence and robotics to design on-site and remote services tailored to the needs of persons with disabilities.

The Strategy for the Rights of Persons with Disabilities 2021-2030, in fact, addresses social exclusion and discrimination by promoting social justice and protection, equality of the rights of disabled individuals in line with article 1 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), which is the first international, legally binding instrument setting minimum standards for the rights of persons with disabilities, and the first human rights convention to which the EU is a party.

The use of technology can therefore be a valid and important tool for people with disabilities to acquire an active role in the construction of their own life paths and in the definition of the most appropriate safeguards for them (e.g. UN Agenda 2030).

For these reasons the course will provide basic institutional knowledge and analysis of legislation, case law and practice in the national and European context in relation to persons with disabilities. More in particular, lessons will provide a wide legal analysis of fundamental rights (life, health, self-determination, but also privacy, personal data protection and accessibility) and possible relational vulnerability profiles.

In order to provide a complete overview of the legal framework in relation to private law and people with disabilities, the course will analyze not only the benefits but also the risks of technological development in relation to people with disabilities and the implications also in terms of sustainability.

Course objectives

At the end of the course, students will be able to:

- know and understand the Rules of Private Law;
- know the fundamental rules, categories and institutions of private law, also through the analysis of elementary cases, making connections between different institutions/rules, in order to obtain a theoretical and practical systematic approach to the subject;
- understand and use the basic legal language, both orally and in writing;
- interpret legal rules, by identifying their rationale and relation with other rules (with regard to the relative sources);
- understand the ethical and legal issues related to the development of technology in relation with persons with disabilities.

Teaching methods

- **Adaptive approach:** it is based on the idea that each lesson can be modified according to the level of expertise of the participants.
- Students will be required to read the mandatory texts related to each class, as listed in the detailed programme below.
- Classes will be based on discussions between the professor and students on the main issues arising from the background readings.
- The course consists of oral lectures, supported by ppt files, analysis of legal texts and analysis of cases in relation to the topics covered. All students are expected to actively participate in the debate, providing comments and raising questions on the issues discussed in class.
- Doctoral students will have to prepare a final presentation which has to examine in depth one of the aspects touched upon in the class. The work will be presented during the final class.

Course material

The course material will consist of legal, jurisprudential and doctrinal texts (book chapters and journal articles). In addition to the required readings listed for each lecture, further readings will be suggested during the classes covering specific topics in greater detail. Some of the texts will be available for consultation at the University Library and at the teacher's studio, Room III/23. Students who may have problems with materials retrieval can contact the teacher at the following email address: annaanita.mollo@unina.it

Exam & Assessment

Doctoral students will be evaluated based on their constructive participation in class and the final presentation. The quality of in-class participation accounts for 60% of the evaluation. Undergraduate students will agree the evaluation method with the professor during the course.

Final presentation

Doctoral students will have to prepare a presentation which examines in depth one of the aspects touched upon in the class, at their choice. The presentation can be delivered in any format (power point, project work, scientific paper, etc.), and will have to be discussed with the class during the final class session.

Detailed program

Class 1 08/11/2023 15:00-17:00	The Law of Persons: natural persons
Mandatory readings	<ul style="list-style-type: none">• C.M. BIANCA, <i>Diritto Civile, I, La norma giuridica. I soggetti</i>, 2002, Giuffrè, 135-138 e 213-270;• F. BOCCHINI – E. QUADRI, <i>Diritto privato</i>, 2022, Giappichelli, 267-308.
Class 2 15/11/2023 15:00-17:00	Disability between fundamental principles and freedoms (principle of non-discrimination, autonomy, personal identity, health protection, protection of personal data)
Mandatory readings	<ul style="list-style-type: none">• C.M. BIANCA, <i>Diritto Civile, I, La norma giuridica. I soggetti</i>, 2002, Giuffrè, 139-210;• F. BOCCHINI – E. QUADRI, <i>Diritto privato</i>, 2022, Giappichelli, 310- 357.
Optional readings	<ul style="list-style-type: none">• A. GORGONI, <i>L'autodeterminazione nelle scelte di fine vita tra capacità e incapacità, disposizioni anticipate di trattamento e aiuto al suicidio</i>, in <i>Persona e Mercato</i>, 2020, 3, 221-244.

Class 3 22/11/2023 15:00-17:00	Legal framework of disability: analysis of relevant legislation
Mandatory readings	<ul style="list-style-type: none"> • C. CEMBRIANI, M. CINGOLANI, P. FEDELI, <i>L'inclusione della persona disabile con strumenti tecnologici: occasione di un primo commento alla legge-delega al governo in materia di disabilità</i>, in <i>Rivista italiana di medicina legale e del diritto in campo sanitario</i>, 2/2022, 267-283; • C. SCORRETTI, <i>La definizione medico legale di "disabilità" ai sensi della legge 22 dicembre 2021, n. 227</i>, in <i>Rivista italiana di medicina legale e del diritto in campo sanitario</i>, 2/2022, 323-344.
Relevant legislation	<p><u>International Sources:</u></p> <ul style="list-style-type: none"> • <i>United Nations Convention on the Rights of Persons with Disabilities</i> • <i>European Convention on Human Rights</i> • <i>UN Agenda 2030</i> <p><u>EU Sources:</u></p> <ul style="list-style-type: none"> • <i>Charter of Fundamental Rights of the European Union</i> • <i>Strategy for the rights of person with disabilities 2021-2030</i> <p><u>National Sources:</u></p> <ul style="list-style-type: none"> • L. 112/2016 <p>L. 227/2021</p>

Class 4 29/11/2023 15:00-17:00	Vulnerability as a new legal paradigm in relation to persons with disabilities from the perspective of the present and future generations
Mandatory readings	<ul style="list-style-type: none"> • A.A. MOLLO, <i>La dimensione relazionale della vulnerabilità al centro della riflessione giuridica sulla disabilità</i>, in DELL'AVERSANA, L. FATTORI, A.A. MOLLO, D. NAPOLITANO, <i>Note sulla disabilità</i>, Editoriale Scientifica, Napoli, 2022, 41-45; • P. CORRIAS, <i>Il mercato come risorsa della persona vulnerabile</i>, in <i>Riv. Dir. civ.</i>, 2022, 968; • D. POLETTI, <i>Vulnerabilità e atti personalissimi</i>, in <i>Diritto e domande pubbliche</i>, 2020, 13-28.
Optional readings	<ul style="list-style-type: none"> • B. PASTORE, <i>Semantica della vulnerabilità, soggetto, cultura giuridica</i>, Torino, 2021, 65-95; • E. DICIOTTI, <i>La vulnerabilità nelle sentenze della Corte Europea dei diritti dell'uomo</i>, in <i>Ars Interpretandi</i>, 2018, 13-34

Class 5 06/12/2023 15:00-17:00	Personal law: incapacity protection institutions and the impact of technology (introduction and analysis of some relevant cases)
Mandatory readings	<ul style="list-style-type: none"> • G. RECINTO, <i>Per una tutela complessiva e multidimensionale delle persone con disabilità</i>, in M. INTERLANDI, <i>Funzione Amministrativa e diritti delle persone con disabilità</i>, 2022, 21- 32. • L. TAFARO, <i>Il diritto alla «comunicazione non verbale» mediante "Brain-Computer Interface-Spelling": gli atti neuronali</i>, in <i>dirittifondamenti.it</i>, 2021, 1, 307- 324.
Optional readings	<ul style="list-style-type: none"> • A.A. MOLLO, <i>La vulnerabilità in ambiente digitale. L'amministratore di sostegno quale strumento di tutela?</i>, nota a Trib . Ravenna, 30 gennaio 2021, n. 102, in <i>Diritto di Internet</i>, 2021, IV, 703-713.

Class 6 13/12/2023 15:00-17:00	Entity and liability law: Private-law entities and management structures for the inclusion of people with disabilities, with particular regard to the impact of digitization of processes
Mandatory readings	<ul style="list-style-type: none"> • . FUSARO, <i>Gli Enti del Terzo Settore</i>, in <i>Trattato di diritto civile e commerciale Cicu-Messineo</i>, 2022, Giuffrè, Milano, 35-93; • E. QUADRI, <i>Il terzo settore tra diritto speciale e diritto generale</i>, in <i>La Nuova Giurisprudenza Civile Commentata</i>, 2018, 708-715;

Class 7 20/12/2023 15:00-17:00	Succession law: the will of the deceased with a disability in the technological scenario; protection of the estate and other digital assets (part 1)
Mandatory readings	<ul style="list-style-type: none"> • AA. MOLLO, D. NAPOLITANO, L.M. SICCA, <i>Il formalismo testamentario e le tecnologie assistive per le persone con disabilità: profili giuridici e organizzativi</i>, in <i>European Journal of Privacy Law & Technologies</i>, 2022, 100-118; • V. BARBA, <i>Persone con disabilità e capacità. Arte. 12 della Convenzione sui diritti delle Persone con Disabilità e diritto civile italiano</i>, in <i>Rassegna di diritto civile</i>, 2021, 2, 419-449
Optional readings	<ul style="list-style-type: none"> • A. FUSARO, <i>L'atto patrimoniale della persona vulnerabile</i>, Jovene, Napoli, 2019, 1-179; • A.A. MOLLO, <i>Eredità digitale e piattaforme online. Tutela e profili di pianificazione</i>, Editoriale Scientifica, Napoli, 2021, 1-105

Class 8 10/01/2024 15:00-17:00	Succession law: the will of the deceased with a disability in the technological scenario; protection of his or her estate and other digital assets (part 2)
Mandatory readings	<ul style="list-style-type: none"> • S. PATTI, <i>Il testamento olografo nell'era digitale</i>, in <i>Rivista di diritto civile</i>, 2014, 992-1012 • M. RIZZUTI, <i>Capacità testamentaria e amministrazione di sostegno</i>, in <i>Diritto delle successioni e della famiglia</i>, 2018, 4, 1, 254-270.
Optional readings	<ul style="list-style-type: none"> • S. LANDINI, <i>Autonomia testamentaria dei soggetti beneficiari di amministrazione di sostegno e formalismo degli atti di ultima volontà</i>, in <i>Nuova Giurisprudenza Civile Commentata</i>, 2013, 782-787.

Class 9 17/01/2024 15:00-17:00	Disability and technological devices: analysis of relevant technologies; Ethical-legal implications; Data Protection; Certifications and liability rules
Mandatory readings	<ul style="list-style-type: none"> • L. D'ACUNTO, A.A. MOLLO, <i>Profili di un'analisi etica e giuridica delle neurotecnologie in funzione di tutela delle persone con disabilità</i>, in F. DELL'AVERSANA, L. FATTORI, A.A. MOLLO, D. NAPOLITANO, <i>Note sulla disabilità</i>, Napoli, 2022, 219-239,; A. MANTELERO, <i>Beyond Dara. Human Rights, Ethical and Impact Assessment in AI</i>, Springer, 2022, 139-176 in open access qui https://link.springer.com/book/10.1007/978-94-6265-531-7
Optional readings	<ul style="list-style-type: none"> • AA.VV., <i>Neuroscience and Law. Complicated crossing and New Perspectives</i>, in D'ALOIA A. – ERRIGO M.C. (a cura di), 2021, 1-563; • AA.VV., <i>Privacy e neurodiritti. La persona al tempo delle neuroscienze</i>, in <i>Atti del convegno – 28 gennaio 2021</i>, 2021, 7-95

Class 10 7/02/2024 15:00-17:00	Final presentation
	Each student will have to prepare a presentation which examines in depth one of the aspects touched upon in the class, at their choice. The presentation can be delivered in any format (power point, project work, multimedia work, scientific paper, etc.), and will have to be discussed with the class.