

Ettore Majorana Foundation and Centre for Scientific Culture

President and Director: Prof. Antonino Zichichi

INTERNATIONAL SCHOOL OF IUS COMMUNE

Directors of the School: M. Bellomo - K. Pennington - O. Condorelli

38th Course:

*Ius, lex, and law: The Foundations and Definitions of a Distinction
in the Medieval and Modern World*

ERICE-SICILY: 12-16 OCTOBER 2018

Directors of the Course

Alain Wijffels (Leiden/Leuven/Louvain-la-Neuve/CNRS) - Orazio Condorelli (Università di Catania)

Sponsored by the: The Italian Ministry of Education, University and Research – Sicilian Regional Government – University of Catania – Fondazione Cassa di Risparmio di Imola – Fondazione CEUR, Bologna

Lecturers and topics

Riflessioni sulla “scientia iuris” nell’esperienza legislativa e giudiziaria dell’Europa medievale e moderna

M. BELLOMO, Università di Catania, IT

Lex mercatoria, ius mercatorum

L. BRUNORI, CNRS/Université de Lille, F

Il matrimonio tra “ius naturale”, “lex humana” e “scientia iuris”: il caso del dolo

O. CONDORELLI, Università di Catania, IT

“Ius” e “lex”: le radici antiche della questione

A. CORBINO, Università di Catania, IT

“Scientia iuris” e teologia all’inizio dell’età moderna: i giuristi e la stregoneria

F. MARTINO, Università di Messina, IT

“Lex” y “ius”. “Interpretatio ad aliquas Leges Recopilationis Regni Castellae” (1620) de Francisco Carrasco del Saz (1570-1625). En torno a los días feriados

E. MONTANOS FERRÍN, Universidad de La Coruña, ES

“Ius” e “lex” dai glossatori a Tommaso d’Aquino

A. PADOVANI, Università di Bologna, IT

“Ius” e “lex” tra “scientia iuris” e “iurisprudencia” nella realtà contemporanea

M. PARADISO, Università di Catania, IT

Tra “ius commune” e “iura propria”. La giurisprudenza consulente e l’interpretazione degli statuti

C. VALSECCHI, Università di Padova, IT

Common law and other authorities

A. WIJFFELS, Leiden, NL/Leuven/Louvain-la-Neuve, B/CNRS, F

Purpose

The course will stimulate reflections on the fundamental ideas and significance of the terminology that was adopted in the Middle Ages and the modern era. The distinction between “ius” and “lex” was a splendid invention of ancient Roman jurisprudence, received and systematized by the great jurists of the *Ius commune*. In the eighteenth century the terms were solidified into the jurisprudence with perhaps excessive rigidity, however with the merit of creating the fundamental structure of the modern civil law codes. The word “law” had and has a distinct meaning in the common law tradition. Within the common law tradition, the meaning of law should be understood in connection to other concepts as “statute”, “right”, “custom”, “equity”, “jurisprudence”, etc. When the word “law” is, however, used in the framework that arises from the tradition of the *Ius commune* the distinction between

“lex” and “ius” can be obscured. Even more importantly, in the jurisprudential and daily language of the modern world there is the clear tendency to obliterate the crucial difference between “ius” (diritto, droit, Recht) and “lex” (legge, loi, Gesetz). This tendency destroys a fundamental function of the knowledge of law (*scientia iuris*) to provide a check on modern legislative bodies and their courts (i.e. the absolute authority of legal positivism). The diverse topics that will be treated in the course will offer a contribution to recovering the knowledge of the difference between “ius” and “lex” that had a role in the formation of the juridical culture of Europe.

Persons wishing to attend the School are requested to write to:

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