

Description of the Course

TORT LAW

1. General information

- Title: Tort Law
- Academic Course: 2011-2012 Year: 3r Trimester: 1st
- Degree: Degree in Law Code: 20998
- Number ECTS: 4
- Student time commitment: 100 hours.
- Language: English
- Teachers:

Lectures: Pau Salvador Coderch (pablo.salvador@upf.edu; office: 40.117; Gr. 2), Joan C. Seuba Torreblanca (joan.seuba@upf.edu; 40.122; Gr. 1), Carlos Gómez Ligüerre (carlos.gomez@upf.edu; Gr. 3), Sonia Ramos González (sonia.ramos@upf.edu; Gr. 4)

Seminars: Mireia Artigot Golobardes (mireia.artigot@upf.edu; Tots els subgrups dels Grups 1 i 2); Carlos Gómez Ligüerre (subgrups del Grup 3); Sonia Ramos González (subgrups del Grup 4).

2. Overview

The Tort Law course focuses on the Spanish regulation on the law of accidents, including the basis of negligence, causation and damage and the main characteristics of the tort law trial.

3. Skills

General skills	Specific skills
- Capacitat d'anàlisi i síntesi - Capacitat de relació - Comunicació oral i escrita en la llengua anglesa - Argumentació jurídica - Raonament crític - Resolució de problemes i casos pràctics - Capacitat de crítica - Aprenentatge autònom - Recerca de fonts jurídiques - Sensibilitat cap a temes de la realitat social i econòmica	- Capacitat per a situar la matèria i les seves fonts legals en l'ordenament jurídic - Capacitat per a relacionar la part general i la part especial del dret de danys - Capacitat per a relacionar el dret de danys amb altres sistemes alternatius de gestió dels accidents - Capacitat per a aplicar les normes del dret de danys als diferents tipus accidents - Capacitat per a analitzar i sintetitzar la jurisprudència del Tribunal Suprem

4. Syllabus

1. Introduction to the Spanish Tort Law
 - a. What is a Tort?
 - b. Functions of Tort Law: deterrence and compensation
 - c. Basic distinctions: Tort-Criminal Law/Regulatory Law; Tort and Contract; Tort and other compensation systems
 - d. Sources and Jurisdictions
 - e. The Prima Facie Case
2. Causation
 - a. Cause in fact
 - b. Proximate causation
3. Intentional wrong
4. Negligence
 - a. Negligence as a breach of duty
 - b. Standard of care
 - c. Negligence as a non reasonable increase of risk
 - d. Ordinary v. Customary care
 - e. Economic concept of negligence
 - f. Presuming negligence: *res ipsa loquitur*, negligence *per se*
 - g. Regulatory compliance
 - h. Contributory negligence and comparative negligence
 - i. Assumption of risk
5. Strict Liability
 - a. Abnormally dangerous activities
 - b. Custody of animals
 - c. Falling objects
 - d. Governmental liability
 - e. Car accidents
 - f. Products Liability
6. Victims and Tortfeasors
7. Damages
 - a. Damages typology
 - b. Pain and Suffering
 - c. Pure Economic Loss
 - d. Collateral Source Rule
8. Vicarious Liability
9. Product liability
10. Professional malpractice

5. Evaluation

75%: open-book examination. It will be held during the final exam period.

Students will be asked to choose as between one of the proposed cases, identify the main legal issue(s), analyze it (or them) according to the Spanish Law of Torts, and provide one or more grounded conclusions. Student will have 2 hours to complete this examination.

25%:

- Students are required to submit 1 essay (1.500 words) about a global case, which will be discussed in seminar 3 (week 10). Deadline for submission of this essay: week 10 in seminar 3. Value: 15%

- Seminars 1 and 2 will consist on the discussion of cases and problems. Participation in each seminar will be evaluated (10%).

- A couple of weeks before each seminar will take place the seminar materials will be published at Aula Global.

6. Literature

- Main literature

- Luis Díez-PICAZO, Fundamentos del derecho civil patrimonial, Tomo V, Cizur Menor, Thomson-Civitas, 2011.
- L. Fernando REGLERO CAMPOS (coord), *Tratado de Responsabilidad Civil*, 4ª ed., Thomson-Aranzadi, Cizur Menor, 2008.
- Encarna Roca i Trías, *Derecho de daños*, Tirant lo Blanch, València, 2011, 6ª ed.
- Robert COOTER, Thomas ULEN, *Law and Economics*, 6th edition, Prentice Hall, 2011.

- Additional literature

- Richard EPSTEIN, *Cases and Materials on Torts*, Aspen Law & Business, 9th edition, 2008.
- James HENDERSON, Jr./Richard N. PEARSON/Douglas A. KYSAR/John A. SICILIANO, *The Tort Process*, 7th edition, Wolters Kluwer, Austin-Boston-Chicago-New York-The Netherlands, 2007.
- José Luis LACRUZ BERDEJO et. al., *Elementos de Derecho Civil II, Derecho de Obligaciones*, Vol. 2º, Contratos y Cuasicontratos. Delito y cuasidelito. 4ª ed., Dykinson, 2009.
- Thomas J. MICELI, *The Economic Approach to Law*, Stanford U. Press, Stanford. CA, 2nd edition, 2008.

- InDret. Revista para el análisis del derecho: www.indret.com

7. Methodology

Tort law is a law made mainly by judges. Lectures will be based on the discussion of the most relevant tort law cases decided by the Spanish Supreme Court and seminars will also be devoted to analyze in a deeper way legal issues dealt with by courts.

8. Calendar of Seminar Activities

<i>SEMINARS</i>	<i>Topic and Activity in seminar</i>	<i>Activity before the seminar</i>
WEEK 6	Negligence and Causation: resolution of cases and problems	Readings (previously published at aula global)
WEEK 8	Vicarious Liability: resolution of cases and problems	Readings (previously published at aula global)
WEEK 10	GLOBAL CASE	Writing an essay proposing a solution to the global case published at aula global in advance