

Academic Year: (2019 / 2020)

Review date: 21/04/2020 13:08:35

Department assigned to the subject: Private Law Department

Coordinating teacher: RODRIGUEZ RODRIGO, JULIANA

Type: Electives ECTS Credits : 3.0

Year : 1 Semester : 2

REQUIREMENTS (SUBJECTS THAT ARE ASSUMED TO BE KNOWN)

Civil Law (Law on Obligations and Contracts) given that for a deeper understanding, many of the fundamental concepts to be dealt with during the course derive from this part of the Law.

Criminal Law. In order to know the criminal implications that could arise from tort law.

Administrative Law. In particular, the financial liability of the Administration.

EU Law. To be aware of the sources of EU Law.

Consumers and Users. As the parties affected by the damages caused.

Procedural Law. Regarding the ways in which damages can be claimed.

Private International Law. Knowledge of the International Treaties.

OBJECTIVES

Once the course has been completed and passed, the student will acquire the knowledge and capacity necessary to:

- (i) identify the rules regulating the subject of EU tort law in Spain and in the EU.
- (ii) identify the different types of tort law as well as the functions of the same and be able to give a practical approach to the subject matter given.
- (iii) know the causes and effects of tort law.
- (iv) have the capacity to argue from a plaintiff / defendant viewpoint.
- (v) gain knowledge on how to focus the legal strategy in subject related to the main field given.
- (vi) gain knowledge on how to analyze the most relevant case law at national and EU level.
- (vii) gain knowledge on claim procedures.

Once students have learnt the foundations of the tort law during the lectures delivering at the campus, they must learn how to implement it on a case to case basis.

DESCRIPTION OF CONTENTS: PROGRAMME

The course shall progress in accordance with the contents described in the index of the programme from an eminently practical perspective.

By means of the preparation of different hypothetical cases, the following, among others, will be analyzed.

- (i) the rules that regulate tort law and which determine where liability arises.
- (ii) liability for criminal, civil and administrative damages.
- (iii) contractual and extracontractual liability.
- (iv) different types of extracontractual liability for own acts or those of others.
- (v) the obligation to repair the damage as well as the different forms of remedying the same, quantification of the damages and the compensation to be claimed.
- (vi) analyze the requirements necessary to exercise a civil liability action, identifying the competent

jurisdiction as well as the legitimization, the burden of proof, the limitation period of the action and the waiver.

Index of the programme:

1. TORT LAW AND LIABILITY. 1.1 The functions of Tort Law. 1.2 Illegal acts as a source of the obligations, the blame and the risk. 1.3 The evolution towards objective liability. 1.4 Contractual and extracontractual liability.
2. CRIMINAL, CIVIL AND ADMINISTRATIVE LIABILITY. 2.1 The scope of application of civil and criminal law. 2.2 The civil liability arising from a crime and that arising from a civil wrong. 2.3 Specific considerations within the scope of Administrative liability.
3. CIVIL LIABILITY. ELEMENTS COMMON TO ALL CASES. 3.1 The damages. 3.2 The causal link. 3.3 The allocation criteria.
4. EXTRACONTRACTUAL CIVIL LIABILITY FOR OWN ACTS. 4.1 Distinctions between the premises of liability. (i) of an objective nature and (ii) of a subjective nature: culpability and alleged culpability. 4.2 The conduct of the liable party, unlawfulness and the proposals of culpability.
5. EXTRACONTRACTUAL CIVIL LIABILITY FOR ACTS OF OTHERS. 5.1 Substantiated liability for own acts. 5.2 Typologies.
6. REPAIRING THE DAMAGE. 6.1 The obligation to repair the damage. 6.2 The forms of remedying the same. 6.3 Quantification of the damages. 6.4 The compensation claimed.
7. CIVIL LIABILITY ACTION. 7.1 Competent jurisdiction. 7.2 Locus standi. 7.3 The burden of proof. 7.4 The limitation period of the action. 7.5 The waiver.
8. STATE LIABILITY. 8.1 Contractual liability. 8.2 Extracontractual liability. 8.3 The financial liability of the Public Administration. Normal performance, abnormal performance. 8.4 State liability for breach of EU law.

LEARNING ACTIVITIES AND METHODOLOGY

LEARNING ACTIVITIES

The collective tutorials are voluntary and complementary to the realization of the course.

The sessions will serve as a refresher and to clarify any doubts, for which reason they will not be used to increase the content of the programmes and are not assessable.

During the sessions, the student can raise questions with regard to the subject matter being given.

These questions can only be raised regarding the explanations given and the student can intervene in class as many times as he/she deems appropriate about any aspect that is not sufficiently clear to them or that requires further explanation due to the special interest caused by the same.

TEACHING METHODOLOGY.

Teacher's lectures with support of computer and audiovisual media, in which the main concepts of the subject are developed. Bibliography is provided to complement the students' learning.

Critical reading of recommended texts:

Press articles, reports, manuals and / or academic articles, either for later discussion in class, or to expand and consolidate the knowledge of the subject.

Resolution of practical cases, problems, etc. raised by the teacher individually or in a group

Exposure and discussion in class, under the moderation of the professor of subjects related to the content of the subject, as well as of practical cases

Elaboration of works and reports individually or in groups.

ASSESSMENT SYSTEM

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|---|----|
| % end-of-term-examination/test: | 60 |
| % of continuous assessment (assignments, laboratory, practicals...): | 40 |

Ordinary session.

The course will be carried out and evaluated following the content described in the index of the programme from an eminently practical perspective, focused on learning about the different aspects of tort law and the liability of the same. The student should know and be able to apply the differences between liability for criminal, civil and administrative damages during practical case studies.

Ongoing assessment (40%).

By means of the preparation of different hypothetical cases, the following will be analyzed:

- (i) the differences between the different types of extracontractual liability for own acts and those of others.
- (ii) the obligation to repair the damage as well as the different forms of remedying the same, quantification of the damages and the compensation claimed.
- (iii) review of the necessary requirements to exercise the civil liability action, identifying the competent jurisdiction, the legitimation, the burden of proof, the limitation period of the action and the waiver.

At each session, each of the sections indicated in the index of the programme will be explained and the student's participation is fundamental. In order to make the sessions as rewarding as possible, prior to each session the subject matter to be given will be provided to the student or an index with the most relevant concepts to be addressed at each session.

For the ongoing evaluation of the course, the participation of the students in class will be taken into account.

Final exam (60%).

The Final Exam will be a practical case related to the subject matter given.

To carry out the case, the student can refer to any type of legislative material, handbooks or papers and case law.

Extra-ordinary session:

End-of-term exam, consisting in a practical case to solve individually: 70% of total mark.

Rest of the mark: permanent evaluation of participation, attitude and intervention of the student during presential classes (30% of the total mark).

The absence of more than 20% of the front classes causes dismissal from the course.

BASIC BIBLIOGRAPHY

- A.L. Calvo Caravaca/J. Carrascosa González El Derecho Internacional Privado de la Unión Europea frente a las acciones por daños anticompetitivos, Revista Cuadernos de Derecho Transnacional, 2018
- Ashton, David Competition Damages Actions in the EU, Elgar, 2018
- Bruggemeier, G. Tort Law in the European Union, Wolters Kluwer, 2016
- Giliker, P. Research Handbook on EU Tort Law, Elgar, 2017

- Parcu, Pier Luigi [et alii] Private Enforcement of EU Competition Law, Elgar, 2018
- Ulrich Magnus Unification of Tort Law : contributory Negligence, Kluwer Law International, 2004

ADDITIONAL BIBLIOGRAPHY

- L.A. VELASCO SAN PEDRO, C. ALONSO LEDESMA/J. A. ECHEBARRÍA SÁENZ/ C. HERRERO SUÁREZ/J. GUTIÉRREZ GILSANZ (eds.), Private enforcement of Competition Law, Lex Nova, 2011

BASIC ELECTRONIC RESOURCES

- . ¿ El Reglamento Roma I sobre la ley aplicable a las obligaciones contractuales: cuestiones escogidas: <http://e-revistas.uc3m.es/index.php/CDT/article/view/78>
- . . Directiva de Daños: <http://www.boe.es/doue/2014/349/L00001-00019.pdf>
- . . The Green Paper on antitrust damages actions: empowering European citizens to enforce their rights: http://ec.europa.eu/competition/speeches/text/06062006_en.pdf
- Javier Carrascosa González . ACCURSIO DIP: <http://www.accursio.com>
- Área de Derecho Internacional Privado . Revista Cuadernos de Derecho Transnacional: <http://www.uc3m.es/cdt>