

TORTS

Bachelor of Laws LLB [2504110] SEP-2023 TO-NLL.2.S.A

Area Private and Business Law

Number of sessions: 15

Academic year: 23-24

Degree course: SECOND

Number of credits: 3.0

Semester: 2º

Category: COMPULSORY

Language: English

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María Guadalupe Martínez Alles is a Professor at IE University, Law School. She focuses on private law, particularly tort law. Her scholarship draws on insights from modern cognitive and social psychology and employs an economic and comparative perspective to explore problems in tort law, consumer law, and punitive damages. She holds a J.D. and an LL.M. degree from Universidad Nacional de Córdoba (Argentina) as well as an LL.M. and J.S.D. degree from Yale Law School (United States). Professor Martínez Alles is a Visiting Professor at Universidad Nacional de Córdoba (Argentina). She was previously a Professor of Law at Universidad de San Andrés (Buenos Aires, Argentina) and an Assistant Professor of Law at Universidad Nacional de Córdoba. She has held visiting academic positions at Yale Law School, the Max Planck Institute for Comparative and International Private Law, the Westfälische Wilhelms-Universität Münster and the University of Oxford.

Prior to joining academia, she worked as a law clerk for a District Court Judge in Córdoba, as a legal advisor at the Córdoba Agency for Investment and Development Projects and as a legal advisor at the Washington D.C. office of the Inter-American Development Bank. María Guadalupe is a regular speaker at main international conferences on Private Law and she has published in world leading journals in her field.

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SUBJECT DESCRIPTION

Tort law plays an important role in our society since it concerns the principles governing redress of injuries resulting from intentional and unintentional wrongs against persons or their property. Tort law encompasses a vast amount of different types of legal issues providing a system which allows individuals who have been wronged, as a result of accidents or intentional acts, to hold the wrongdoer accountable and claim compensation for the harm suffered (e.g., personal injury, injury to reputation, psychological damage, economic loss).

Tort law does not only allow for compensation of victims to be made whole, it also means disclosure of the wrongdoing and deterrence of malicious or negligent acts. In this sense, apart from examining the effectiveness of the tort system in compensating individuals, it is also important to explore the social, economic and political contexts in which the rules and principles of tort law are applied in different jurisdictions. Thus, specific attention is paid to the increasing intertwinement between national tort laws, on one hand, and European Union law and the European Convention on Human Rights, on the other. To that end, the objective of the course is to provide students with cases, materials and comparative literature allowing them to learn, discuss and think critically about the similarities and different solutions adopted by different European tort systems.

LEARNING OBJECTIVES

This course aims at:

- Acquiring thorough knowledge and understanding of the major concepts of tort law and the main differences and similarities between the main European systems.
- Facilitating a general, comparative understanding of the mechanisms and requirements of tortious liability in the main European common and civil law jurisdictions.
- Deepening in the meaning and function of tort law in democratic societies.
- Understanding the reasoning behind standing differences between European systems.
- Studying the context and status of the European Principles of Tort Law.
- Equipping students with the ability to propose how new technologies that impact torts, in particular, autonomous vehicles, should be regulated at an EU level.

By the end of the course, students will be expected to be able to:

- Comprehend the main elements of fault and strict liability in the main European civilian and common-law jurisdictions.
- Identify the relevant facts of a tort case and apply tort law rules and standards.
- Understand the key requirements of tortious liability and apply the major concepts of tort law when solving complex issues from the main European systems.
- Look into the legal framework of tort law in different countries.
- Solve cases related to tort law in different European countries.
- Critically analyze different tort systems, and international conventions.
- Suggest a legal framework for new technologies, with a special focus on autonomous vehicles.

TEACHING METHODOLOGY

IE University teaching method is defined by its collaborative, active, and applied nature. Students actively participate in the whole process to build their knowledge and sharpen their skills. Professor's main role is to lead and guide students to achieve the learning objectives of the course. This is done by engaging in a diverse range of teaching techniques and different types of learning activities such as the following:

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	26.67 %	20.0 hours
Discussions	0.0 %	0.0 hours
Exercises in class, Asynchronous sessions, Field Work	0.0 %	0.0 hours
Group work	13.33 %	10.0 hours
Individual studying	60.0 %	45.0 hours
TOTAL	100.0 %	75.0 hours

PROGRAM

A. INTRODUCTION

SESSIONS 1 - 2 (LIVE IN-PERSON)

Introduction to the subject. Methodology. Theories of tort law: Corrective Justice, Law and Economics and Civil Recourse. The aims of the law of torts. Compensation. Deterrence. Punishment.

B. SYSTEMS OF LIABILITY

SESSIONS 3 - 4 (LIVE IN-PERSON)

Introduction to the tort systems of France, Germany, and England. Overview of the Principles of European Tort Law.

C. REQUIREMENTS FOR LIABILITY

SESSIONS 5 - 6 (LIVE IN-PERSON)

Protected rights and interests.

SESSIONS 7 - 8 (LIVE IN-PERSON)

Fault and Strict Liability.

SESSIONS 9 - 10 (LIVE IN-PERSON)

Causation.

SESSIONS 11 - 12 (LIVE IN-PERSON)

Damages.

SESSIONS 13 - 14 (LIVE IN-PERSON)

Case Study/AI and Liability: Autonomous Vehicles.

SESSION 15 (LIVE IN-PERSON)

Final exam

EVALUATION CRITERIA

Students are expected to prepare the materials in advance and to participate in the class. Attendance does not amount to participation, which requires an active role from the students. Not only the frequency of interventions, but most importantly the quality of the arguments will be considered. Therefore, an adequate preparation of the materials before every session will be required. Reading quizzes will be frequent. A voluntary participation in online fora, if it adds value, will enhance the students' participation grade. Class preparation and class participation are essential in order to pass the course. During the exams the use of Internet, mobile phones, smart watches, books, notes, and other materials is not allowed unless otherwise instructed by the professor. Each student has four attempts over two consecutive academic years to pass this course. Dates and location of the final exam will be posted in advance and will not be changed. Students must attend at least 80% of the sessions. Students who do not comply with the 80% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year). Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

criteria	percentage	Learning Objectives	Comments
Final Exam	70 %		
Workgroups	20 %		
Class Participation	10 %		

RE-SIT / RE-TAKE POLICY

Any student whose **final grade is below 5** or whose **final exam grade is below 5** will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility). Grading for retakes will be subject to the following rules:

- The retakes will consist on a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be considered.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained on the second and fourth attempts is 8 out of 10. -

The third attempt will require the student to complete:

- a final exam

This is also applicable to students who do not have required attendance, e.g. sickness. Dates and location of the retakes will be posted in advance and will not be changed.

In case of grade below 5.0, the student is required to take the retake exam to pass the course.

The maximum grade in the retake period is 8.0 and all exams will be graded taking this into consideration.

Students who do not comply with the 80% attendance rule will lose their 1st and 2nd chance, and go directly to the 3rd one (they will need to enroll again in this course the following academic year). Students who are in third or fourth call should contact the professor during the first two weeks of the course.

The exam will cover everything that students have learnt in class, including lectures, case discussions and group exercises.

BIBLIOGRAPHY

Compulsory

- Cees Van Dam. (2013). *European Tort Law*. 2nd. Oxford University Press. ISBN 9780199672271 (Printed)

- Eric Tjong Tjin Tai. (2022). *Tort Law. A Comparative Introduction*. Elgar. ISBN ISBN97818039 (Digital)

Recommended

- Paula Giliker. (2017). *Tort*. 6th. Sweet & Maxwell's. ISBN 9780414060 (Printed)

- Mark Lunney, Donal Nolan, and Ken Oliphant. (2017). *Tort Law: Text and Materials*. 6th. Oxford University Press. ISBN 9780198745 (Printed)

- European Group on Tort Law. (2005). *The Principles of European Tort Law*. Springer. ISBN 1397832112308 (Printed)

- Paula Giliker (ed). (2017). *Research Handbook on EU Tort Law*. Edward Elgar. ISBN 9781785365 (Printed)

- Thomas Kadner Graziano. (2018). *Comparative Tort Law*. Routledge. ISBN 9781138567 (Printed)

BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

ATTENDANCE POLICY

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

ETHICAL POLICY

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.