



Teaching Guide

Teaching Guide				
Identifying Data				2019/20
Subject (*)	Obligations and Tort Law		Code	612G01016
Study programme	Grao en Dereito			
Descriptors				
Cycle	Period	Year	Type	Credits
Graduate	2nd four-month period	Second	Obligatory	6
Language	SpanishGalicianEnglish			
Teaching method	Face-to-face			
Prerequisites				
Department	Dereito PrivadoDereito Público			
Coordinador	Peña Lopez, Fernando		E-mail	fernando.pena@udc.es
Lecturers	Alvarez Lata, Natalia Aymerich Cano, Carlos Ignacio Bello Janeiro, Domingo Peña Lopez, Fernando Rodríguez Martín-Retortillo, María del Carmen		E-mail	natalia.alvarez.lata@udc.es carlos.aymerich.cano@udc.es domingo.bello@udc.es fernando.pena@udc.es maria.rodriguez.martin-retortillo@udc.es
Web				
General description	The aim of this course is to make the students familiar with the general principles and rules of the obligations and tort law in Europe, from a comparative point of view. They will be taught the main features of these two branches of private law in continental (French and German) and in common-law legal systems, pointing out their similarities and differences. The model rules of the Principles of European Tort Law (PETL) and the Draft Common Frame of Reference (DCFR) will play an important role in the course activities as well as a prospective meeting point between the different European legal systems. During the course, the attending students will work with texts and documents from several European legal systems, and will have to discuss and debate with fellow students coming from different legal traditions and backgrounds.			

Study programme competences

Code	Study programme competences
A1	Knowledge of the main legal institutions
A2	Knowledge of the role of law as a regulatory system of social relations
A3	Grasping the systematic nature of the legal system
A4	Appreciating the interdisciplinary nature of legal problems
A5	Knowing the constitutional principles and values.
A6	Understanding the different manifestations of law in its historical evolution and in its current reality.
A7	Knowing the national and international legal and political structures.
A8	Basic knowledge of legal argumentation.
A9	Ability to handle legal sources (legal, jurisprudential and doctrinal).
A10	Ability to interpret and critically assess the legal system.
A11	Ability to understand and write legal documents.
A12	Management of legal oratory (ability to express themselves properly in public).
A13	Mastering new technologies applied to law.
A14	Ability to draft legal norms.
B2	Ability to know how to apply their knowledge to their work or vocation in a professional way and possess the skills that are usually demonstrated through the elaboration and defense of arguments and the resolution of problems within their area of study.
B3	Ability to gather and interpret relevant data (usually within their area of study) to make judgments that include a reflection on social, scientific or ethical relevant issues.
B5	Acquisition and assessment of those learning skills necessary to undertake further studies with a high degree of autonomy
B6	Learning to learn.
B7	Effective problem solving.
B8	Critical, logical, and creative thinking.



B9	Working autonomously on own initiative with a lifelong learning approach.
B10	Teamwork and collaboration.
B11	Ethical and social responsibility.
B13	Computing and ICT skills.
C4	Exercising an open, educated, critical, committed, democratic and supportive citizenship for the sake of the common good.
C6	Critically assess the knowledge, technology and information available to solve the problems they face.
C7	Assume as a professional and citizen the importance of lifelong learning.

Learning outcomes			
Learning outcomes		Study programme competences	
To properly handle the legislation, the jurisprudence and the doctrine on obligations and torts.		A1	B6 C4
		A3	B7 C6
		A4	B8 C7
		A7	B9
		A8	B10
		A9	B2
		A14	B3
			B5
To know the constitutional principles applicable to obligations and torts.		A5	
To understand the legal and social evolution of the law of torts and obligations.		A6	
To know the role of the law of obligations and torts as a tool for ruling economic relations within the society		A2	
To interpret and analyse critically the legal rules included in the law of torts and obligations by means of resolving cases		A10	
To manage conflicts arisen in the field of obligations and torts using good professional and ethical standards and practices.			B11
To understand and draft legal documents related to the field of obligations and torts.		A11	
To properly speak in public.		A12	
To properly use the new information and communication technologies (ICT) applicable to the field of obligations and torts.		A13	B13

Contents	
Topic	Sub-topic



PART I: INTRODUCTION

LESSON 1: THE CONCEPT OF «OBLIGATION» AND THE «LAW OF OBLIGATIONS»

1. What is an obligation?
2. Importance of the Law of obligations within the continental legal systems
3. Where are the rules of the law of obligations in the common law systems?

LESSON 2: LAW OF CONTRACT AND LAW OF OBLIGATIONS

1. The place of contract in private law systems
 - a. Obligations and contract
 - b. Contract and tort
 - c. Contract and property
 - d. General contract rules and specific contracts
2. The principles of contract law: differences between the common law and the continental law
 - a. Contract as an agreement between parties
 - b. The doctrine of consideration and the «cause» of the contract
 - c. The role of the good faith principle
 - d. The meaning of contract freedom
 - e. Drafting contracts in continental and common law.
3. «Life of the contract»
 - a. Contract formation: negotiations and lack of negotiations
 - b. Contract conclusion: contract validity and content
 - c. Contract performance.

PART II: THE LAW OF OBLIGATIONS

LESSON 3: PRELIMINARY CONCEPTS AND BASIC PRINCIPLES

1. Lack of a common legal vocabulary in the field of the law of obligations
2. DCFR solution for a European model law of obligations
 - a. Scope of the model rules on obligations (Book III)
 - b. Definitions: obligation, terms of an obligation, performance, non-performance, reciprocal obligation.
3. DCFR basic principles of the law of obligations
 - a. The duty of good faith and fair dealing
 - b. The duty of cooperation between the parties
4. Rules regarding conditions and time limits in obligations
 - a. Conditional obligations
 - b. Time limited obligations

LESSON 4: PERFORMANCE AND NON-PERFORMANCE OF OBLIGATIONS



1. Performance, obligation to perform and payment:
continental and common law approaches
2. Time, place, currency and method of payment.
3. Who has to perform the obligation? Payment by a third person

LESSON 5: REMEDIES FOR NON-PERFORMANCE OF OBLIGATIONS

1. General remedies in continental systems
 - a. The right to enforce performance
 - b. Specific performance and damages
2. General remedies in common law systems
 - a. Damages
 - b. The problem of specific performance
3. Termination
 - a. Scope of the right to terminate
 - b. Restitution

LESSON 6: PLURALITY OF DEBTORS AND CREDITORS

1. Obligations with several parties: continental systems and common law systems
2. Solidarity, divided and joint obligations
3. The model rules of DCFR regarding plurality of debtors and creditors

LESSON 7: CHANGE OF PARTIES

1. Change of creditor: requirements and effects regarding creditor and debtor
2. Change of debtor: types, requirements and effects
3. Change of a contractual party

PART III: THE LAW OF TORTS

LESSON 8: THE DIFFERENT TORT LAW SYSTEMS IN EUROPE

1. The French family system
2. The German system
3. The common law system
4. Towards a harmonization in Europe?
 - a. Different policy approaches and legal cultures
 - b. The EU influence
 - c. The achievements of the last decade: PETL and DCFR

LESSON 9: GENERAL REQUIREMENTS OF LIABILITY

1. Scope of protected interest
 - a. Protection of the person
 - b. Protection of economic interests: protection against «pure economic loss»
2. Causation



- a. The «Certainty of damages» principle
- b. Traditional causation theories in the European legal systems
- c. Burden of proof
- d. The problem of uncertainty over causation
- e. Limiting the scope of results: remoteness of damage and «objective zurechnung»
- 3. Damages
 - a. Compensation and punishment: the problem of punitive damages
 - b. Types of damages: Economic damages and Personal injuries
 - c. Compensating personal injuries: different approaches

LESSON 10: BASES OF LIABILITY

- 1. The reasons behind the right to damage compensation: Strict liability and negligence liability. The «law and economics» approach
- 2. Negligence
 - a. Role of negligence in continental tort law
 - b. Role of the tort of negligence in common law
 - d. Intention and negligence
 - e. Negligent conduct: relevant objective and subjective circumstances
 - f. Interpretation of negligence in strict liability terms: The examples of French and Spanish case law.
- 4. Strict liability
 - a. Background of strict liability
 - b. Types of strict liability regimes: liability based on risk and enterprise liability
 - c. Negligence influence on certain strict liability concepts and requirements

LESSON 11: SPECIFIC LIABILITY REGIMES AND TORTS

- 1. Liability for other persons and vicarious liability
- 2. Liability for risky activities and dangerous goods
- 3. Defective products
- 4. Environmental liability
- 5. Public bodies liability

- 1. Concepto de obriga. 2. Débeda e responsabilidade. 3. A patrimonialidade da obriga.
- 4. A complexidade da relación obrigatoria. 5. Fontes de obrigas. 6. A declaración unilateral de vontade.



TEMA 2: Os suxeitos da relación obrigatoria.	1. Introdución. 2. As relacións obrigatorias con pluralidade de suxeitos. 3. Réximen das obrigacións mancomundas divisibles. 4. Réximen das obrigacións mancomunadas indivisibles. 5. Réximen das obrigacións solidarias.
TEMA 3: O obxecto da relación obrigatoria.	1. A prestación e o seu contido. Obrigas de dar, facer e non facer. 2. As obrigas xenéricas. 3. As obrigas alternativas. 4. As obrigas sinalagmáticas. 5. As obrigas pecuniarias. A débeda de intereses.
TEMA 4: As circunstancias da relación obrigatoria.	1. o tempo da relación obrigatoria. 2. As obrigas a prazo. 3. O lugar da relación obrigatoria. 4. A relación obrigatoria condicional.
TEMA 5: O pago ou cumprimento da obriga.	1. Os medios solutorios. 2. O pago e os seus requisitos. 3. A imputación de pagos.
TEMA 6: Os subrogados do cumprimento.	1. Introdución. 2. A consignación. 3. A compensación. 4. A dación en pago e o pago por cesión de bens. 5. A remisión ou condonación da débeda.
TEMA 7: O incumprimento da obriga e as súas consecuencias.	1. O incumprimento da obriga e o cumprimento defectuoso. 2. As medidas de protección do dereito de crédito lesionado. 3. A responsabilidade polo incumprimento. Criterios de imputación. 4. A mora do debedor. 5. A imposibilidade sobrevenida.
TEMA 8: Protección e garantías do dereito de crédito.	1. Introdución. 2. Medios de tutela preventiva. 3. Acción pauliana. 4. Acción subrogatoria. 5. Pena convencional. 6. Arras. 7. Dereito de retención.
TEMA 9: Concurrencia de acreedores e insuficiencia do patrimonio do debedor.	1. Nocións xerais. 2. Os créditos privilexiados. 3. Concurrencia singular de acreedores. 4. Concurrencia universal de acreedores. 5. O concurso de acreedores e Lei Concursal.
TEMA 10: A modificación e a extinción da relación obrigatoria.	1. A novación e as súas clases. 2. Novación por cambio do acreedor. 3. Novación por cambio do debedor. 4. Novación por cesión de contrato. 5. Extinción da relación obrigatoria.
TEMA 11: Os cuasicontratos	1. Os cuasicontratos. 2. O enriquecemento sin causa. 3. A xestión de negocios alleos sin mandato. 4. O cobro do indebido.
TEMA 12: A responsabilidade civil.	1. Concepto e funcións da responsabilidade civil. 2. Responsabilidade civil contractual e extracontractual. 3. Responsabilidade civil e responsabilidade penal. 4. Os elementos constitutivos da responsabilidade civil. 5. Os suxeitos da responsabilidade civil. A responsabilidade por feito alleo. 6. A prescripción da acción de reclamación de danos. 7. O seguro de repsonsabilidade civil.
TEMA 13: As responsabilidades civiles especiais.	1. A responsabilidade civil na circulación de vehículos a motor. 2. A responsabilidade civil por danos causados por produtos defectuosos. 3. A responsabilidade civil médica. 4. A responsabilidade por danos causados por animais e no ámbito da caza. 5. Os accidentes de traballo e a responsabilidade do empresario.
TEMA 14: A responsabilidade pola actuación administrativa	1. Introdución. 2. O réximen xurídico da responsabilidade da a Administración pública. 3. O resarcimento da lesión. A indemnización. 4. Os procedimentos de responsabilidade patrimonial.

Planning				
Methodologies / tests	Competencies	Ordinary class hours	Student?s personal work hours	Total hours
Directed discussion	A2 A6 A9 A10 A11	17	0	17
Oral presentation	A2 A5 A6 A9 A10 A11	10	20	30
Short answer questions	A2 A5 A6 A9 A10 A11	8	6	14
Guest lecture / keynote speech	A2 A6 A9 A10 A11	45	20	65
Introductory activities	A2 A6 A9 A10 A11	4	4	8



Events academic / information	A1 A3 A4 A7 A8 A12 A13 A14 B13 B11 B10 B9 B8 B7 B6 B5 B3 B2 C4 C6 C7	8	0	8
Personalized attention		8	0	8
(*)The information in the planning table is for guidance only and does not take into account the heterogeneity of the students.				

Methodologies	
Methodologies	Description
Directed discussion	Esta actividad será realizada de modo presencial y consistirá en la puesta en común de opiniones sobre una materia, o bien en la resolución común de problemas actuales que estén directamente relacionados con el objeto de estudio.
Oral presentation	Los estudiantes deberán defender en el aula los temas y materias que les sean encargadas por el Profesor. Se trata de una actividad presencial de exposición oral pública que no requiere presentación por escrito, pero que precisa trabajo no presencial.
Short answer questions	Cada tres semanas (aproximadamente) se realizarán pruebas de respuesta breve las cuales versarán sobre los contenidos expuestos y estudiados hasta ese instante. Dichas pruebas exigen trabajo no presencial.
Guest lecture / keynote speech	Las sesiones magistrales constituirán la base teórica que facilite los conocimientos esenciales al estudiante sobre la materia.
Introductory activities	Esta actividad consistirá en la resolución de los problemas y casos propuestos por el Profesor en donde los estudiantes asumirán los distintos roles propios de un proceso judicial sobre Derecho de Obligaciones y Daños: demandante, demandado, Juez, etc.
Events academic / information	Esta actividad consiste en la realización de eventos científicos o divulgativos sobre la materia

Personalized attention	
Methodologies	Description
Directed discussion	The teacher will assist the student correcting him while he is making his presentation. The idea is to have a continuous support from the teacher in order to improve the student skills in legal argumentation.

Assessment			
Methodologies	Competencies	Description	Qualification
Short answer questions	A2 A5 A6 A9 A10 A11	As probas escritas a realizar estarán compostas por varias respostas breves.	70
Directed discussion	A2 A6 A9 A10 A11	Valorarase a iniciativa na intervención, o número de intervencións e a utilización de argumentos e razonamentos xurídicos adecuados. Non se precisa que se aporte a solución ocorrecta. Interesa o debate.	15
Oral presentation	A2 A5 A6 A9 A10 A11	Valorarase a expresión oral, o manexo dos termos, a orientación pedagóxica, e a utilización de TICS e contenidos da exposición.	5
Introductory activities	A2 A6 A9 A10 A11	Valorarase a iniciativa na intervención, o debate e a discusión, a defensa da propia posición xurídica, a expresión oral, e a capacidade de convicción e o contenido xurídico en xeral.	10

Assessment comments
A final exam will represent a 70% of the final grade assigned to each student. The other 30% will be obtained for the different academic activities that will be developed along the course: interventions during the interactive activities: discussions, papers, case resolution, etc.



Sources of information

Basic	
Complementary	BELADÍEZ ROJO, M. Responsabilidad e imputación de daños por el funcionamiento de servicios públicos. Tecnos. Madrid 1997. GONZÁLEZ PÉREZ, J. Responsabilidad patrimonial de las Administraciones Públicas. Civitas. Madrid 2000. MIR PUIG PELAT, O. La responsabilidad patrimonial de la Administración. Hacia un nuevo sistema. Civitas. Madrid 2002. GAMERO CASADO, EDUARDO; FERNÁNDEZ RAMOS, SEVERIANO. Manual Básico de Derecho Administrativo. Tecnos. Decimocuarta Edición, 2017 (Tema 21).

Recommendations

Subjects that it is recommended to have taken before

Natural and Civil Legal Person Law/612G01007

Subjects that are recommended to be taken simultaneously

Subjects that continue the syllabus

Contract Law/612G01024

Other comments

Attending the lectures is strongly recommended, although a record of attendance will not be kept. There is no special dressing code. Students may bring water and non-alcoholic drinks to the lectures, but it is forbidden to eat all kinds of food during the classes.

(*)The teaching guide is the document in which the URV publishes the information about all its courses. It is a public document and cannot be modified. Only in exceptional cases can it be revised by the competent agent or duly revised so that it is in line with current legislation.