

**Civil Responsibility**

Code: 102234  
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OT	4	0

**Contact**

Name: Susana Navas Navarro  
Email: Susana.Navas@uab.cat

**Use of languages**

Principal working language: spanish (spa)  
Some groups entirely in English: No  
Some groups entirely in Catalan: No  
Some groups entirely in Spanish: Yes

**Teachers**

Ivan Mateo Borge

**Prerequisites**

For a good understanding of Civil Liability, in-depth knowledge of patrimonial and prescription Law is needed.

**Objectives and Contextualisation**

Main goals of the subject matter are:

- In-depth consideration of fundamental principles of the law of torts
- How to brief a case on the subject matter
- Facing the problems that the student will encounter in the future praxis.
- Highlighting the importance of insurance in a global world

**Skills**

- Apprehending the necessary mechanisms in order to know, assess, and apply the legislative reforms as well as to follow the changes produced in a concrete subject.
- Contextualizing the several forms of creation of law in its historical evolution and its current situation.
- Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
- Drawing up and formalising works, reports, documents, rulings.
- Identifying the underlying conflicts of interest in disputes and real cases.
- Identifying, knowing and applying the basic and general principles of the legal system.
- Orally and clearly defending ideas, works, reports, documents and rulings in a structured way.
- Planning and organising: managing of time, resources, etc.
- Properly analysing the issues related to equality between men and women.
- Searching, interpreting and applying legal standards, arguing every case.

- Students must be capable of communicating their points of view in a compelling way.
- Students must be capable of demonstrating a critical awareness of the analysis of the legal system and development of legal dialectics.
- Students must be capable of learning autonomously and having an entrepreneurial spirit.
- Students must be capable of producing initiative, creative and innovative knowledge, as well as new ideas.
- Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

## **Learning outcomes**

1. Analysing the fundamental concepts of civil law.
2. Analysing the specific institutions of the property law.
3. Applying communicative strategies in order to identify and explain legal conflicts in the different fields of civil law, family law, successions, consumption, minors and civil responsibility.
4. Applying concepts in a cross-cutting way to the several subjects of civil Law from the jurisprudence of the different jurisdictional bodies.
5. Applying strategies in order to produce written and oral texts in the several fields of civil law.
6. Applying the knowledge acquired in the preparation of documents that reflect specific legal interests.
7. Contextualising the creation forms of Law in the property field.
8. Critically interpreting the foundations of the civil law.
9. Demonstrating a sensible and critical reasoning: analysis, synthesis, conclusions.
10. Distinguishing the socio-legal context of several civil institutions.
11. Drawing up and formalising works, reports, documents, rulings.
12. Drawing up written texts (contracts, wills).
13. Identifying the conflicts of interest that are trying to be solved by the legislator when elaborating civil regulations.
14. Orally and clearly defending ideas, works, reports, documents and rulings in a structured way.
15. Planning and organising: managing of time, resources, etc.
16. Presenting orally, with a critical discourse, the reforms of civil institutions.
17. Producing oral and written texts and presenting points of view about civil-legal institutions.
18. Producing oral texts in the several fields of civil law, showing specific communicative abilities.
19. Producing reports about new legal changes.
20. Solving interferences between the several conflict interests of civil regulations.
21. Students must be capable of communicating their points of view in a compelling way.
22. Students must be capable of learning autonomously and having an entrepreneurial spirit.
23. Students must be capable of producing initiative, creative and innovative knowledge, as well as new ideas.
24. Working in teams, being either a member or a coordinator of working groups, as well as making decisions affecting the whole group.

## **Content**

### **THE LAW OF TORTS**

#### **LESSON 1. ELEMENTS OF THE LAW OF TORTS**

1. Introduction. Review of the current regulation
2. Contractual and non-contractual liability. Content and procedural questions
3. Non-contractual liability as a result of a crime. Cases. Influence of the criminal judgment into the civil process. Claim's prescription
4. Non-contractual liability requirements
  - 4.1. Conduct of the person

- 4.1.1. Action and omission
- 4.1.2. Unlawful. Grounds of justification
- 4.2. Legally relevant damage
  - 4.2.1. Meaning of legally relevant damage
  - 4.2.2. Personal injury and consequential loss, pecuniary and non-pecuniary damage
- 4.3. Causation
  - 4.3.1. General rule
  - 4.3.2. Uncertainty and causation. Alternative causes
  - 4.3.3. Multiple Tortfeasors. Solidary liability
- 4.4. Accountability
  - 4.4.1. Intention and Negligence. Standard of conduct
    - 4.4.1.1. Capacity. Minors and persons with disabilities
    - 4.4.1.2. Negligence and mandatory behaviour
    - 4.4.1.3. Evolution of the jurisprudence of the Spanish Supreme Court
  - 4.4.2. Strict liability. General rule and cases
- 4.5. Defences
- 5. Reparation of the legally relevant damage
  - 5.1. Principles and forms of reparation
  - 5.2. Economic valuation of the damage. Scoring system
  - 5.3. Forms of reparation of the damage. Burden of proof and "burden-shifting analysis" (art. 217 LEC)
- 6. Prescription of the claim. Cases. Particularities.

## LESSON 2. NON-CONTRACTUAL LIABILITY FOR DAMAGE CAUSED BY ANOTHER

- 1. Introduction. Presumption of negligence
- 2. Accountability for damage caused by children or supervised persons. To a vicarious liability?
- 3. Accountability for damage caused by employees and representatives. Negligence or vicarious liability?
- 4. Accountability for damage caused by students of private educational centres. A similar case of accountability for damage caused by employees?

## LESSON 3. NON-CONTRACTUAL LIABILITY AND THE LAW OF FAMILY

- 1. Introduction

- 2. Constellation of cases
  - 2.1. Damages and the relation between spouses
  - 2.2. Damages and parental responsibilities
  - 2.3. Leading cases
- 3. Critical review of the matter

## LESSON 4. LIABILITY FOR INFRINGEMENT OF ONE'S PERSON PRIVACY

- 1. Publicity rights. Concept and core features
- 2. Reputation, personal and family intimacy and one's person image
  - 2.1. Introduction. Some definitions
  - 2.2. Civil protection by Act 1/1982, of 5 May. Defamation
    - 2.2.1. Notion
    - 2.2.2. Civil action of the victim
- 3. Personal Data Protection. The Regulation (EU) 2016/679, relative to the protection of natural person with regard to the processing of personal data and on the free movement of such data
  - 3.1. Personal Data
    - 3.1.1. Definition
    - 3.1.2. The "commodification" of personal information
  - 3.2. Collection and processing of personal data. Filing system
    - 3.2.1. Concept of data processing. Profiling
    - 3.2.2. Principles governing data processing. Purposes
    - 3.2.3. Files. Concept and classes
    - 3.2.4. Controller and Processor. The informed consent of the personal data holder: opt-in/opt-out
  - 3.3. Rights of the holder of the personal data
  - 3.4. Claims and legal protection

## LESSON 5. NON-CONTRACTUAL LIABILITY COMMON PROVISIONS FACED TO CONSUMERS FOR DAMAGES CAUSED BY DEFECTIVE PRODUCTS AND SERVICES

- 1. Scope of application: TRLGDCU and CCoCat
- 2. Duty of general safety concerning products and services. Disclosure
- 3. The right to compensation. The definition of "consumer"
- 4. Legally relevant damages

5. Other remedies available to the victim under other fields of law

## LESSON 6. DAMAGES CAUSED BY DEFECTIVE PRODUCTS

1. General considerations

2. Notion of product

3. The defect

3.1. Concept

3.2. Types: manufacturing defect, design defect and defect concerning instructions and warnings of dangers

4. The person liable for damage

4.1. The producer: Manufacturer and importer in the European Union

4.2. The supplier of the product

4.3. Solidary liability

5. The burden of proof. Evidentiary Standards of Proof. The test "but for"

6. Defences and Exclusions

6.1. Introduction. Development risks

6.2. Non-liability of the manufacturer of any component part

6.3. Conduct of the injured person

6.4. Accountability of a third party

7. Legally relevant damages

8. Limitation periods

9. Special case: 3D-Printers for domestic use and product liability

## LESSON 7. DAMAGES CAUSED BY DEFECTIVE SERVICES

1. Introduction

2. The non-contractual liability rules in the TRLGDCU

2.1. Notion of service

2.2. Liable persons. Solidary liability

2.3. The aggrieved person

2.4. Negligence and strict liability

2.4.1. General observations

2.4.2. The "right use" of the service

2.4.3. Defective product in the supply of services

3. Damages caused by medical malpractice

3.1. Cases. Multiple Tortfeasors

3.2. Burden of proof of the physician's negligence

3.3. Medical product liability

3.4. Lawsuits for Wrongful Life and Wrongful Birth. Notion. Spanish Supreme Court leading cases

4. Damages caused by defective construction

4.1. General overview

4.2. Applicability of the Construction Act 1999

4.2.1. Types of defects

4.2.2. Legally relevant damages

4.2.3. Pursuing claims. The injured person and third parties

4.2.4. Liable persons

4.2.5. Causation. Solidary liability

5. Damages caused by legal services

5.1. Attorneys, Barristers and Paralegals

5.2. Notaries and Property Register public officers

5.3. Mediators

## LESSON 8. ACCOUNTABILITY FOR DAMAGE CAUSED BY MOTOR VEHICLES

1. Applicable legal regimes to the liability for the use of motor vehicle

2. Liable persons. The owner and the driver of the motor vehicle

3. Defences

3.1. Conduct of the injured person

3.2. Force majeure

4. Legally relevant damages. Economic valuation by means of scales

4.1. General provisions. Scoring

4.2. Compensation in case of death

4.3. Compensation in case of sequels

4.4. Compensation in case of temporary bodily injuries

5. Victims and aggrieved persons

6. Compulsory insurance

6.1. Damages covered. Limits. Former extrajudicial claim

6.2. The consortium of insurance compensation in the field of the damages caused by motor vehicles

7. Autonomous motor vehicles

## LESSON 9. PARTICULAR CASES OF STRICT LIABILITY. ROBOTICS

1. Damages caused by animals and unsafe state of immovables

2. Damages caused by robots

3. Damages caused by aircrafts. Drones of civil use

4. Damages caused by nuclear energy and radioactive materials

5. Damages caused by hunters

6. Damages caused to the environment

## LESSON 10. DAMAGES CAUSED TO THE AUTHOR OF A COPYRIGHTED WORK

1. General overview

2. Author. Presumption of authorship. Joint works

3. The original work. Requirements

4. Content of authorship

4.1. Moral and patrimonial rights

4.2. On-line dissemination of works. Creative common licenses

5. Duration of rights and public domain

6. Protection of the copyright

6.1. Cessation of the unlawful activity

6.2. Compensation for damages

6.3. Precautionary measures

## LESSON 11. LIABILITY FOR INTERMEDIARY SERVICE PROVIDERS

1. General legal framework

2. Providers of intermediary services of the information society. Some definitions

3. Liability exclusions. The requirement of "non-effective knowledge"

3.1. Providers of "mere conduit" services

3.2. Providers of "caching" services

- 3.3. Providers of "hosting" services
- 3.4. Links and search engines
- 4. Leading cases. Spanish Supreme Court

## Methodology

The learning process is based on the work of the student, who learns by doing, being the teacher's task to help by supplying information and showing where the juridical sources can be obtained.

The teaching of the matter and the student's training and learning process is based on the following activities:

### 1. Activities directed by the teacher:

1.1 Lectures: the student can reach the fundamentals, the legal framework and the leading cases of the subject matter. These lectures are the kind of activities in which less interactivity is required from the student and are conceived as a fundamentally one-direction method of transmitting knowledge on the side of the teacher.

### 2. Activities supervised by the teacher:

These are a kind of activities that students will develop in the classroom, with the supervision and support of the teacher. The study of some cases in the classroom, former analysis and public discussion of legal texts, or the performance of schemes of some sections of the matter proposed by the teacher, the development of a glossary of concepts are some of such activities. The specific content of the activities will be determined by the teacher during the academic year.

### 3. Students autonomous activities:

3.1. Preparation of legal documents: Analyzing of leading cases proposed in advance by the teacher extracted from court judgments. A exam is also proposed as an autonomous activity, the type of which will be determined by the teacher at the start of the academic year.

3.2. Search of bibliography and leading cases as a good preparation for the exam.

3.3. Comprehensive reading of legal texts: Legal texts may be judgments, rules, journal articles or monographs, in addition to the recommended Handbooks. The specific material will be determined by the teacher during the academic year.

Part of the legal material available to the student will be delivered through the moodle.

## Activities

Title	Hours	ECTS	Learning outcomes
<b>Type: Directed</b>			
lectures	22.5	0.9	6, 3, 5, 9, 19, 16, 15, 24
<b>Type: Supervised</b>			
practical meaning of theoretical Knowledge	22.5	0.9	9, 10, 16, 18, 17, 11, 23, 24
<b>Type: Autonomous</b>			



exam	1.5	0.06	14, 9, 10, 19, 8, 15, 18, 11, 23
learning	43.5	1.74	5, 7, 19, 15, 18, 17, 24
readings	30	1.2	2, 4, 6, 11, 23, 24
search of literature and leading cases	10	0.4	4, 6, 7, 14, 9, 12, 24
writings	20	0.8	4, 6, 5, 21, 14, 19, 8, 15, 18

## Evaluation

### MARKS AND ASSESSMENT SYSTEM

#### ORDINARY MARKS AND ASSESSMENT SYSTEM:

##### 1.1. Ongoing assessment of the student:

The lecturer will suggest at the beginning of the academic year the activities that he or she considers are pertinent to the effects of the ongoing student assessment by means of the publication in the classroom moodle the calendar with the chronogram activities. The exam of the part of the subject matter (30 %) and briefing of two leading cases (20%) are taking into special consideration by the teacher for the student assessment. The minimal mark exam should be 6 out of 10.

##### 1.2. Final exam:

All students, whether or not they have passed the ongoing assessment, CAN ACCESS the final exam.

The specific type of exam (oral, written, development of relevant questions, multiple choice, etc.) will be determined by the teaching team. Students will examine the whole subject matter.

##### 1.3. Marks system

Ongoing student assessment is 50 % of the final mark (30% exam of the part of the subject matter, 20 % briefing of two leading cases). Final exam is 50 % of the final mark as well. Students should have reached a score of 5 out of 10 in order to pass the academic year in this field of law.

RE-EXAM: To access the re-exam a minimum score of 3 out of 10 must be obtained between the ongoing assessment mark and the final exam. The students will be examined of the whole subject matter. Students should have reached a score of 5 out of 10 in order to pass the academic year. The final grade will be such obtained in the re-exam.

### 3. CALLS

Those settle by the academic bodies.

## Evaluation activities

Title	Weighting	Hours	ECTS	Learning outcomes
exam of the part of the subject matter and leading cases briefing	30% and 20 % respectively	0	0	1, 2, 4, 6, 7, 9, 19, 16, 13, 15, 12, 20, 22, 23, 24
final exam	50 %	0	0	2, 4, 6, 5, 21, 7, 9, 10, 8, 15, 18, 17, 23, 24
re-exam	100%	0	0	1, 3, 14, 9, 10, 13, 8, 15, 18, 11, 12, 23, 24

## Bibliography

### HANDBOOKS, TEXTS AND MATERIALS:

1. Mariano Yzquiero Tolsada, Responsabilidad civil extracontractual. Parte general, Dykinson, Madrid, 2016.
2. Dolores Palacios González, Responsabilidad civil y Derecho de daños, 2on. ed. Revisada actualizada, Juruá editorial, 2016.
3. Fernando Reglero Campos/ J. M. Busto Lago (coord.), Lecciones de responsabilidad civil, 2on. ed., Dykinson, Madrid, 2013.
4. <http://www.Indret.com>
5. Encarna Roca Trias / Mónica Navarro Michel, Derecho de Daños, Textos y Materiales, 6th ed, Tirant Lo Blanch, Valencia, 2011.
6. Rodrigo Bercovitz y otros, Manual de propiedad intelectual, 6th ed., Tirant Lo Blanch, Valencia, 2015.
7. Angel López López y otros, Tratado jurisprudencial de responsabilidad civil, Tirant Lo Blanch, Valencia, 2013.
8. Ricardo De Ángel Yagüez, Causalidad en la responsabilidad extracontractual: sobre el arbitrio judicial, la imputación objetiva, Civitas, 2014.
9. Fernando Pantaleón Prieto, "Causalidad e imputación objetiva: criterios de imputación", AA. VV. Centenario del Código civil (1889-1989), vol. 2, Centro de estudios Ramón Areces, Madrid, 1990, pp. 1561-1592.
10. Pablo Salvador Coderch/Fernando Gómez Pomar (dirs.), Tratado de la responsabilidad civil del fabricante, 1st ed., Aranzadi, Pamplona, 2008.
11. Luis Díez-Picazo, Derecho de daños, Civitas, Cizur Menor, 1999.

### ADDITIONALLY SUGGESTED MATERIALS:

1. Susana Navas Navarro (dir.), Inteligencia artificial, Tecnología, Derecho, Tirant Lo Blanch, Valencia, 2017.
2. Susana Navas Navarro / Sandra Camacho Clavijo, Mercado digital (Principios y reglas jurídicas), Tirant Lo Blanch, Valencia, 2016.
3. Susana Navas Navarro, La personalidad virtual del usuario de internet. Tratamiento de la información personal recogida mediante cookies y tecnología análoga, Tirant Lo Blanch, Valencia, 2015.
4. Antonio Orti Vallejo (dir.), La responsabilidad civil por daños causados por servicios defectuosos, Aranzadi, 2on. ed., 2015.
5. Asociación de Profesores de Derecho civil, Cuestiones actuales en materia de responsabilidad civil, Ediciones de la Universidad de Murcia, Editum, 2011.
6. Luis Díez-Picazo, El escándalo del daño moral, 1st ed., Madrid, 2008.
7. M<sup>a</sup>. Angeles Parra Lucán, La protección del consumidor frente a los daños. Responsabilidad civil del fabricante y del prestador de Servicios, Reus, Madrid, 2011.
8. Juana Marco Molina, La responsabilidad civil del fabricante por productos defectuosos. Fundamentos y aplicación. Atelier, Barcelona, 2007.

### LEGAL INSTRUMENTS: ACTS AND REGULATIONS

- Civil Code of Catalonia
- Spanish Civil Code
- Copyright Act
- Other legal instruments