

## TORT

### The Law of Obligations CVL 3014

The issues discussed during the first tutorial on Tort Law will be the following: -

The notion of responsibility for tort, the requirements for establishing liability in tort, distinguishing between contractual responsibility and responsibility in tort and the question of concurrent liability

Students are expected to read:

1. The relevant provisions of the Civil Code (Chapter 16 of the Laws of Malta)
2. The LLD Thesis entitled 'The notion of responsibility in tort' by Dr. J. Caruana Scicluna (1977) - Chapters 1,2 & 4.
3. Dr. Louis Cassar Pullicino nomine vs Angelo Xuereb noe. et (Court of Appeal - 20 February 2009 - available on [www.justice.gov.mt](http://www.justice.gov.mt))
4. The article by Dr. D. Zammit, Does the non cumul exist in our civil law? and the judgments of the Maltese Courts referred to therein.
5. Part 5 of book by Prof. C. Von Bar entitled The Common European Law of Torts (Clarendon Press - Oxford) entitled "The law of Delict in the Context of Private Law" in so far as the position in France, Italy and Germany is concerned.
6. The other literature mentioned in the reading list provided by Dr. David Zammit relating to the issues discussed in this tutorial.

Students should be able to discuss the following questions which have been taken from previous LLB final examinations and should prepare written points on at least one of the following four questions as preparation for the tutorial.

1. When deciding whether to classify a legal action for damages as contractual or tortious, our courts have on various occasions referred to the nature of the harm suffered by the plaintiff as the determining factor behind their decisions. In your opinion, have the courts been consistent in the way in which they have formulated and applied this criterion? (LLB III Year, Law of Obligations, June 2007)
2. Examine the requirements of imputability as a prerequisite for liability in tort. As part of your answer also explore the obstacles to holding a company liable in tort. (LLB III Year, Law of Obligations, September 2007)
3. Write short notes on the meaning of negligence (culpa) as defined in the Civil Code and in court decisions. (LLB III Year, Law of Obligations, September 2007)
4. Examine the requirement that there be a causal linkage between the damage sustained and the

actions or omissions of the defendant in order to establish liability in tort. (LLB III Year, Law of Obligations, September 2008)