UCL Université catholique de Louvain

LDROP2011

2015-2016

Accidents and Disasters Law

5.0 credits	30.0 h	2q

Teacher(s) :	Schamps Geneviève ;
Language :	Français
Place of the course	Louvain-la-Neuve
Main themes :	1. Occupational accidents The compensation scheme for occupational accident and accident "to and from work" is undoubtedly the oldest of them. Since early as 1903, the legislator has shown its concern about the compensation for occupational accidents in the private sector by establishing, for the first time, a compensation scheme for damages independent from liability. The various legislative reforms led to a complete overhaul of the statutory compensation scheme for damages in 1971. As a result, the Occupational Accident Act of 10 April 1971 creates a complete and specific compensation scheme. This Act also makes the insurance for work accident compulsory and grants the victim a direct right of action against the insurer, thereby eliminating any risk of employer's insolvency. In return for the partial suppression of the traditional liability rules, compensation was to be a lump sum as opposed to the indemnity nature of the reparation under the general law. The course sets itself to examine the scope of the law. A particular attention will be paid to the conditions for an accident to be recognized within the meaning of article 7 and 9 of the Occupational Accident Act. The notion of "way to and from work " ("chemin du travail") will be examined as well (article 8). Subsequently, the course will focus on the analysis of the statutory and lump sum compensation scheme, in comparison with the general law. The remedies of the insurer and those of the victim as for the part of the damage falling outside the scope of the lump sum compensation will be studied as well, in addition to the rules governing the employer's and workers' immunity. 2. Traffic accidents Introduced by the Act of 30 mars 1994, article 29bis of the Compulsory Insurance for Motor Vehicles Act was modified several times, the modification by the Act of 19 January 2001 being the last one albeit important. The increasing frequency of traffic accidents involving vulnerable road-users, most of them being pedestrians, has led to an increasing number of controversial questions. The course does not intend to study the main themes of a legal system the students already know. The aim is rather to study advanced questions, using cases, which enable a reflection on the nature and the justification of the system in force beyond their practical aspect (implication in the accident, remedies after compensation, etc.). 3. Consumer accidents With the Product Liability Act of 25 February 1991, Belgium realized the implementation of the directive 85/374 of 25 July 1985 on product Liability. The Product Liability Act was modified several times, notably by the Act of 12 December 2000 extending its scope to primary agricultural products (products of soil, stock-farming, game and fishery). The liability of the producer for damages caused by a defective product is dissociated from the fault. To recover for his damages, the victim must only prove that the product is affected by a defect and that the defect has caused a damage that can be repaired under the law. Contrary to the three other laws, the Product Liability Act establishes a system of strict liability and not an accident-based compensation scheme. Although the Act has known a rather limited success in the beginning, with only a few applications during the first years, it has been more and more applied in the recent years. Here again, various tricky issues are worth studying thoroughly (notion of producer, circulation of product, State-of-the-Art Defense) and will constitute a subject matter for the course. 4. Medical accidents Characterized by the absence of a specific legislation, this part of the civil liability law is still governed by the general law of civil liability, unlike the three other systems covered by the course. Scholars, victims and practitioners all agree that general liability law is not appropriate to cope with the compensation needs for medical accident, especially when they are not the result of a fault (therapeutic hazards) The legislator has become concerned about these questions and his work resulted in the adoption of a law of 15 May 2007 (although not in force yet), aiming at ensuring the automatic compensation for harms resulting from medical care, namely without having to prove a physician's fault. Compensation is based on the intervention of a compensation fund.
Aims :	This course is dedicated to the study of the compensation schemes based on the sole occurrence of an accident. These schemes, that clearly distinguish themselves from the fault-based systems within the meaning of the Civil Code, have undergone important developments in the last years so that they occupy now a significant place in the law of compensation for damages. This course is part of a consistent option of three courses. The holders of the optional courses form an educational team: they consult each other on the contents and methods of each course in order to assure compliancy. [The course relies on the participative educational methods (training by projects or problems, jurisprudence or doctrine commentaries, debates with guests, case- studies?) allowing the student to individually develop a critical, prospective and inventive outlook. The student is encouraged to participate in the lesson and to be involved in the training, which has both an individual and collective aspect. In this perspective, the teachers of the different options consult each other within the Faculty about the education system in place]. *The contribution of this Teaching Unit to the development and command of the skills and learning outcomes of the programme(s) can be accessed at the end of this sheet, in the section entitled "Programmes/courses offering this Teaching Unit".*

Faculty or entity in charge:	BUDR

Programmes / formations proposant cette unité d'enseignement (UE)				
Intitulé du programme	Sigle	Credits	Prerequis	Acquis d'apprentissage
Master [120] in Law	DROI2M	5	-	
Master [120] in Law (shift schedule)	DRHD2M	5	-	