# **EU Product Liability**

# To win, claimant must show:

- Personal injury, death, or property damage
- Defect in the product
- Defect caused the damage

To defeat the claim, defendant can claim affirmative defences:

- Did not put the product into circulation
- Defect which caused the damage did not exist at the time when the product was put into circulation by him or that this defect came into being afterwards
- Product was neither manufactured by defendant for sale or any form of distribution for economic purpose nor manufactured or distributed by defendant in the course of his business
- Defect is due to compliance of the product with mandatory regulations issued by the public authorities
- State of scientific and technical knowledge at the time when he put the product into circulation was not such as to enable the existence of the defect to be discovered.
- In the case of a manufacturer of a component, that the defect is attributable to the design of the product in which the component has been fitted or to the instructions given by the manufacturer of the product.

# **European Product Liability**

**Christian Twigg-Flesner** 

#### **European Product Liability:**

European Product Liability Kelly, Rebecca Attree, 1997-12-01 This book provides a useful overview of producer liability for defective goods throughout Europe It is designed for both lawyers and businessmen as a practical guide and is written from the manufacturer's rather than the claimant's standpoint Leading practitioners contribute individual chapters on the national laws in Austria Belgium Denmark Finland France Germany Greece Ireland Italy Luxembourg the Netherlands Norway Portugal Spain Sweden Switzerland and the United Kingdom Each chapter includes an overview of the law relating to defective products liability in contract tort and for breach of statutory duty special liabilities arising in respect of particular producers how the EC Product Liability Directive has been implemented and its impact on existing law and risk management and the implementation or otherwise of the Directive relating to general supply of consumer products 92 59 EEC It also covers the EC Product Safety Directive and other safety related directives European Product Liability Piotr Product Liability Law in Transition Dr Magdalena Tulibacka, 2013-02-28 This volume examines the Machnikowski.2014 evolution of Central European product liability systems with particular reference to the effect of the implementation of the Product Liability Directive in the context of the recent enlargement of the EU This book also provides a comparison of how product liability law has evolved in the socialist states comparing it to developments taking place in the West Using product liability law this study offers a valuable insight into the necessary features and requirements of the harmonization of laws between the EU and post socialist Europe Predominantly legal in scope it also takes account of the importance of extra legal elements in law reform As such this book will be a valuable resource for those interested in European Law as well as those working in the area of Consumer and Product Liability law Taking EU Product Liability Law Seriously Jean-Sébastien Borghetti, 2023 The 1985 Product Liability Directive PLD is currently being revised with a view to adapting European Union product liability rules to the digital economy and new technologies The ongoing discussion focuses on technical issues and apparently takes it for granted that the PLD as it stands adequately achieves the policy goals that were initially assigned to it namely the establishment of a common market and consumer protection However a closer analysis shows that harmonising product liability is not needed to create a truly common market and more importantly that the PLD is not an effective instrument for consumer protection A particular cause for concern is that almost no cross border claims seem to be brought under the Directive meaning that those injured by defective products are in effect left without a remedy when the producer is not located in the same country as they are If the new PLD is to be more than mere poster legislation and to contribute effectively to consumer protection more drastic changes to the current regime are needed than those that are currently being contemplated The range of potential defendants should be broadened to include suppliers and online marketing platforms as a matter of principle and the development risk defence as well as the application of a long stop period in case of bodily injuries should be reconsidered **Product Liability** Duncan Fairgrieve, Richard S Goldberg, 2020-05-20 Product Liability is

a recognised authority in the field and covers the product liability laws through which manufacturers retailers and others may be held liable to compensate persons who are injured or who incur financial loss when the products which they manufacture or sell are defective or not fit for their purpose Product defects may originate in the production process be one of design or be grounded in a failure to issue an adequate warning or directions for safe use and practitioners advising business clients or claimants will find this book provides all the necessary information for practitioners to manage a product liability claim This new edition has been fully updated to take account of 10 years of development in case law and regulation and the increasing impact of cross border and transnational sale of goods The Court of Justice of the European Union handed down major rulings concerning the Product Liability Directive which affect the application of the Directive and national arrangements and Fairgrieve and Goldberg examines this in detail For any legal practitioner operating in areas which require knowledge of European product liability law an understanding of the impact of recent developments is essential and this work is an essential resource for practitioners working on product liability sale of goods personal injury and negligence The work provides comprehensive coverage of the law of negligence as it applies to product liability of the strict liability provisions of the Consumer Protection Act 1987 and of the EU s Product Liability Directive on which the Act is based Although the majority of cases involve pharmaceuticals and medical devices in recent English cases the allegedly defective products have been as diverse as a child's buggy an All Terrain Vehicle and even a coffee cup Many cases are brought as group actions and the book examines the rights of those who are injured by defective products As well as considering the perspective of the law as it has developed in the UK this edition contains detailed discussion of case law from other jurisdictions including the USA Australia New Zealand Canada France and Germany The coverage in the work is complemented by a full analysis of issues which arise in transnational litigation involving problems of jurisdiction and the Beyond European Product Liability Mireia Artigot-Golobardes, 2014 This thesis takes a global approach to choice of laws analyzing discussing and critiquing the effectiveness of product liability law in Europe The thesis approaches the study of European product liability law beyond the main product liability instruments themselves It first offers a purely legal analysis based on the content effects and judicial interpretation of the European product liability directive and on the procedural context in which it is framed Second it analyzes the directive s effects on accident deterrence examining the interaction between Europe's ex post liability laws and ex ante safety regulations from theoretical as well as practical perspectives Third the thesis analyzes the effectiveness of expost liability as a mechanism for compensating the victims of product related accidents in Europe This last issue of victim compensation reaches beyond tort law to include alternative sources of compensation such as public and private insurance Social insurance systems in particular arise as the major mechanism of compensation in Europe and for this reason the compensation of product related accident victims proves to be one of the issues that differentiates the role development and effectiveness of product liability law in Europe from the U S experience

Using the European product liability directive as the starting point and focus of analysis this thesis contributes to the literature by shifting the analysis from the product liability directive itself to the more general question of product regulation Product Liability: Prevention, Practice and Process in Europe and the United States Rudolph Hulsenbek, Dennis in Europe The Cambridge Companion to European Union Private Law Christian Twigg-Flesner, 2010-05-20 A Campbell, 1989 critical 2010 introduction to European Private Law written by the leading scholars in the field Comparative Perspective Duncan Fairgrieve, 2005-10-27 This book examines the law of product liability from a comparative perspective With the European Directive on Product Liability enacted over 20 years ago this publication analyses the state of product liability in a number of key jurisdictions including both Western European countries and New Member States Account is also taken of developments further afield including the United States and Japan Distinguished contributors including a high court judge European Commission official leading litigators and academics provide individual country reports and a number of integrated comparative studies The book is designed for practical use by legal practitioners academics students and others interested in the area of contract tort civil procedure and multi party litigation In particular practitioners will find the country reports an essential reference point **European Product Liability Rules: A** revolution in the making? George D. CAmeron III,1984 The Restatement of Torts (Third) and the European Product Liability Directive Thomas Lundmark, 2020 What is product or products liability Simply it means liability for harm caused by a product But this is where the American consensus ends and the legal fun begins Whose liability The manufacturer's The carrier's The seller's Can one successfully sue the mom and pop bicycle shop that unknowingly sold a defective bicycle helmet Yes in the United States Generally not in Europe Harm to whom and to what Just to the ultimate consumer and his or her property or also to the person whom the ultimate consumer injures with the product **Product Liability** Christopher J. S. Hodges, 1993 The enforcement of the Product Liability Directive 85 374 has applied a uniform system of strict liability to producers within the EC in addition to the pre existing fault liability systems Other countries in Europe are also changing their national laws to bring them into line with the Directive thereby promoting trade in Europe Rethinking Product Liability Duncan Fairgrieve, Geraint G. Howells, 2008 The paper uses the opportunity afforded by the European Commission s Third Report of the Product Liability Directive to assess the present state of product liability in Europe It notes that despite the maximal harmonisation character of the Directive there is a risk of divergence between Member States on key issues including the core concept of defectiveness The Commission seems at times confused for example as regards the relationship between defect and fault liability and more often complacent about the risks of divergence but this sits uneasily with the espousal of maximal harmonisation Ultimately there may be a need for a rethinking of product liability to ensure greater clarity as regards the underlying rationale supporting strict liability. This seems unlikely to materialise in the near future and so at the very least the Commission should act to clarify some core concepts that are proving difficult to interpret for the

The Politics of Systematization in EU Product Safety Regulation: Market, State, Collectivity, and courts **Integration** Kai Purnhagen, 2013-06-26 This book examines the increasing role of the legal method of systematisation in European Union EU law It argues that the legal method of systematisation that has been developed in a welfare state context is increasingly used as a regulative tool to functionally integrate the market The book uses the example of EU product regulation as a reference to illustrate the impact of systematisation on EU law It draws conclusions from this phenomenon and redefines the current place and origin of systematisation in the EU legal system It puts forward and demonstrates two main arguments First in certain sectors such as in EU product safety law the quality of EU law changes from a sector specific and reactive field of law to an increasingly coherent legal system at European level Therefore instead of punctual market intervention it increasingly governs whole market areas By doing so it challenges and often fully replaces the respective welfare based legal systems in the Member States for the benefit of the ideal of a market driven EU legal system Second at European level the ideal is in development This illustrates the change of the function of Statecraft from nation states to Product Liability Lauren Sterrett, 2017 In recent years the product safety regime in the European Union EU market states has been amended to provide increased stability for producers and more protection for consumers The framework seeks to balance the interest of consumers in having access to safe products with the interest of producers in avoiding costly litigation due to differing national standards There are currently three prominent EU directives designed to protect the health and safety of consumers These three directives are the Product Liability Directive the Directive the European General Product Safety Directive the GPSD and the Product Warranty Directive 1 This paper will focus on the impact of the Directive and the GPSD in the EU and will compare these two directives with product liability law in the United States U S This paper will also explore the newly proposed Product Safety and Market Surveillance Package the Package expected to replace the GPSD as soon as 2015 and the impact that the Package will have on product liability law in the EU The combination of the Directive and the GPSD provide a comprehensive scheme for product liability law in the EU When compared with U S product liability law these two directives achieve greater harmonization across member states than the current U S product liability regime Although both the EU and the U S have similar product liability laws the current EU regime often affords consumers greater access to redress and maintains strict requirements in regards to product labeling The proposed Package will introduce even more harmonization into the EU making it harder on economic operators who sell or produce defective products to escape liability However the EU product liability regime is not without problems and there are multiple areas in which the U S product liability framework offers better alternatives and provides less confusion for manufacturers and consumers

European Tort Law Cees van Dam, 2013-03-22 The new edition of European Tort Law provides an extensive revision and update of the only English language handbook in this constantly evolving area The coverage in the new edition has been expanded with material on the latest developments in legislation legal literature and the case law of the European Court of

Human Rights the Court of Justice of the European Union and the highest courts in France Germany and England The first part of the book Systems of Liability provides chapters on the state of tort law in France Germany and England and the European Union A concluding chapter gives an overall view of the European field linking the variety of rules with cultural diversity examining the consequences for European harmonization and emphasizing the importance of a European policy discourse The second part Requirements for Liability analyses and compares the classic requirements for liability in a comparative and supranational perspective rights and protected interests intention and negligence breach of statutory duty stricter rules of liability causation damage damages and contributory negligence It also discusses the role of tort law in protecting human rights against violations by the state and by multinational corporations. The final part Categories of Liability assesses how national and supranational rules are applied in a number of categories such as in liability for motor vehicles defective products and defective premises in liability for children employees and subsidiaries as well as in cases of nuisance environmental liability and liability of public bodies European Community Law for the New Economy Lucas Bergkamp, 2003 The European Community EC has embarked on an ambitious legislative program for the new economy In European Community Law for the New Economy professor Lucas Bergkamp analyzes the EC s current and proposed new economy legislation The new economy according to Bergkamp is not only the internet the information society and biotechnology but also a different kind of old economy a different kind of corporate governance and a different kind of government Accordingly in addition to the EC e commerce data protection and biotechnology legislation this book discusses also the grand principles of EC policy making such as sustainable development and the precautionary principle the theory of corporate social responsibility and EC government reform With its wide ranging insightful and engaging analyses and devoid of obliquity EC Law for the New Economy is a unique publication This book must be read by everybody who wants to gain a deeper understanding of the effects of EC legislation the root causes of regulatory failures and possible solutions to these problems It is of interest to lawyers politicians policy makers government officials political scientists advanced students and autodidacts Lucas Bergkamp is a lawyer at the Brussels Bar and Professor of International Liability Law Erasmus University European Product Liability Rules-- a Revolution in the Making? George Dana Cameron, 1984 Rotterdam The Netherlands

Handbook of Research on International Consumer Law Geraint G. Howells, I. Ramsay, Thomas Wilhelmsson, 2010 This is a truly international effort and one with a strong commitment to human rights by the highly reputable authors coming from different jurisdictions. The many facets of today s consumer law are presented to the reader including developing countries a fascinating effort in a dynamically emerging field of law. We are comprehensively informed about such bread and butter areas as advertising unfair terms consumer guarantees product safety and liability consumer credit and redress. But traditional consumer law concepts and remedies are facing challenges in more complex areas like services of general internet where consumers and private users should enjoy equal access to universal services with the internet where speed

must not be a pretext to eliminate standards of fair dealing with risky investment services under the problematic paradigm shift from investor protection to investor confidence A book to read to think about to work with for everybody interested in the future of consumer markets and law in a time of economic crisis Norbert Reich University of Bremen Germany This is a richly interesting collection of essays written by leading names in the field It offers a thoroughly reliable survey of key tensions and challenges in modern consumer law and brilliantly combines thematic overview with detailed analysis It will stimulate comparative thinking it will provide a source of information and it will be welcomed by consumer law scholars all over the world Stephen Weatherill University of Oxford UK Consumer law and policy has emerged in the last half century as a major policy concern for all nations This Handbook of original contributions provides an international and comparative analysis of central issues in consumer law and policy in developed and developing economies The Handbook encompasses questions of both social policy and effective business regulation Many of the issues are common to all countries and are becoming increasingly globalised due to the growth in international trade and technological developments such as the Internet The authors provide a broad coverage of both substantive topics and institutional questions concerning optimal approaches to enforcement and the role of class actions in consumer policy It also includes comparative insights into the influential EU and US models of consumer law and relates consumer law to contemporary trends in human rights law Written by a carefully selected group of international experts this text represents an authoritative resource for understanding contemporary and future developments in consumer law This Handbook will provide students researchers and policymakers with an insight to the main policy debates in each context and provide models of legal regulation to assist in the evaluation of laws and the development of consumer law and policy Rethinking EU Consumer Law Geraint Howells, Christian Twigg-Flesner, Thomas Wilhelmsson, 2017-07-28 In Rethinking EU Consumer Law the authors analyse the development of EU consumer law on the basis of a number of clear themes which are then traced through specific areas Recurring themes include the artificiality of the EU s consumer image the problems created by the drive towards maximum harmonisation and the unexpected effects EU Consumer Law has had on national law The book argues that EU Consumer Law has the potential of enhancing the protecting of consumers throughout the EU and could offer a model for consumer law elsewhere in the world but in order to unlock this potential there needs to be a rethink with regard to the EU s approach to consumer law and policy

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