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RECENT PUBLICATIONS

**SELECTED PUBLICATIONS OF THE
INSTITUTE FOR EUROPEAN TORT LAW AND
THE EUROPEAN CENTRE OF TORT AND
INSURANCE LAW 2017/18**



EUROPEAN TORT LAW YEARBOOK

EUROPEAN TORT LAW 2016

EDITED BY ERNST KARNER AND BARBARA C STEININGER

DE GRUYTER, BERLIN/BOSTON
HARDCOVER. ISSN 2190-7773
EBOOK. ISSN 2190-7781
2017, 747 PP

The European Tort Law Yearbook provides a comprehensive overview of the latest developments in tort law in Europe. It contains reports on most EU Member States alongside contributions from Norway and Switzerland. An overview of developments in the field of EU law is also provided. In conclusion, a comparative analysis reviews the essential aspects of all the reports, which are written by scholars from their respective jurisdictions. Focusing on the past year, the authors critically report on important court decisions, summarise new legislation and provide a literature overview.

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European Tort Law Yearbook
Photo: De Gruyter, 2017

EUROTORT DATABASE

EUROTORT is the first comprehensive database of European cases on tort law. This web-based research tool allows both researchers as well as practitioners to access the vast wealth of jurisprudence on tort law throughout Europe in a single language (English) and with a standardised index system.

At present, the collection contains more than 3000 decisions from 30 European jurisdictions, all categorised and indexed. You can search by jurisdiction, time period, keywords, full text, or a combination thereof.

The materials stem from cases reported in the "Tort and Insurance Law Yearbook" series, co-published by the European Centre of Tort and Insurance Law (ECTIL) and the Institute for European Tort Law of the Austrian Academy of Sciences and University of Graz, as well as in the "Digest of European Tort Law" series of the latter institution. Further additions are being made continuously.

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TORT AND INSURANCE LAW SERIES

VOLUME 35:

COMPULSORY LIABILITY INSURANCE FROM A EUROPEAN PERSPECTIVE

EDITED BY ATTILA FENYVES, CHRISTA KISSLING, STEFAN PERNER AND DANIEL RUBIN

DE GRUYTER, BERLIN/BOSTON
HARDCOVER. ISBN 978-3-11-048469-4
EBOOK. ISBN 978-3-11-048617-9
2016, 564 PP

Statutory obligations to take out liability insurance are, in practice, the most important means to ensure compensability of damage arising from dangerous activities. However, in contrast to the significant practical impact, academic research on the topic has not been extensive so far. This study, therefore, undertakes a comprehensive survey of compulsory liability insurance from nine national perspectives (Austria, Belgium, the Czech Republic, Finland, Germany, Hungary, Italy, Switzerland, and the United Kingdom) and takes constitutional and European law (four freedoms, European Convention on Human Rights) as well as the Principles of European Insurance Contract Law (PEICL) into account. It also contains an extensive economic analysis of compulsory liability insurance and discusses aspects of insurability. A Comparative Report, Conclusions and an Annex containing a compilation of rules on compulsory liability insurance in the nine national legal systems complete the study.

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VOLUME 36:

DIRECTORS' AND OFFICERS' (D & O) LIABILITY

EDITED BY SIMON DEAKIN, HELMUT KOZIOL AND OLAF RISS

DE GRUYTER, BERLIN/BOSTON
HARDCOVER. ISBN 978-3-11-048971-2
EBOOK. ISBN 978-3-11-048996-5
2018, 1008 PP

In recent years several cases concerning the liability of directors and officers have courted controversy. Arguments raised in such discussions oscillate between two extremes: on the one hand, the need for governing bodies to give a space to entrepreneurial discretion and, on the other hand, to ensure the protection of investors in and creditors of a company from the consequences of disadvantageous decisions by those bodies. In light of the geographical dispersal of the above stakeholders, the study offers a comparative insight into the liability of directors and officers in ten key European jurisdictions (Austria, Czech Republic, Germany, Italy, the Netherlands, Norway, Poland, Spain, Switzerland and the United Kingdom) and four non-European jurisdictions (namely Brazil, Israel, Turkey and the United States). Amongst other things it investigates existing company law principles on the topic and examines their interaction with tort law and other fields with a view to suggesting principles for better stakeholder protection.

National reports are complemented by an economic analysis and insurance, conflict of laws and comparative reports. The study also benefits from case study analyses.

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DIGEST OF EUROPEAN TORT LAW

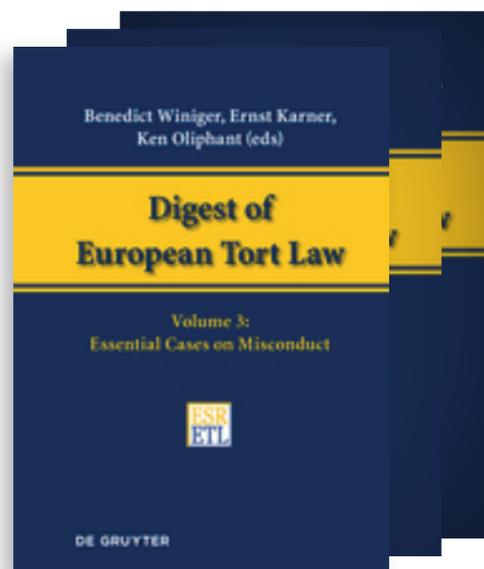
VOLUME 3: ESSENTIAL CASES ON MISCONDUCT

EDITED BY BÉNÉDICT WINIGER, ERNST KARNER
AND KEN OLIPHANT

DE GRUYTER, BERLIN/BOSTON
HARDCOVER. ISBN 978-3-11-053434-4
EBOOK. ISBN 978-3-11-053567-9
2018, 1277 PP

The various national European legal systems offer a broad range of responses to the question of what can be regarded as wrongful behaviour or fault. The present work systematically examines these two important prerequisites for tortious liability under the combined heading of 'misconduct'. Unlike current textbooks, national casebooks and monographs, it builds on the experiences gathered in the national legal systems over the past decades and thereby fills a major gap which still exists today. It thus does what the previous volumes in the 'Digest of European Tort Law' series did for other key elements of tort law, namely natural causation and damage. Once again, the publication contains a selection of the most important cases from 28 states across Europe as well as cases handed down by European Union courts; it also highlights cases from earlier periods of legal history. For each case, the facts and the relevant court decision are presented and these are then accompanied by an analytical commentary. In addition, the editors provide comparative analyses of the cases reported and a special report is dedicated to how key decisions would be resolved under model European rules on tort law.

The editors believe that the material gathered here may provide guidance for an organic convergence of the national legal systems in Europe. It constitutes the basis of an *acquis commun* that is infinitely richer (though also much more complex) than the rather bland and abstract concepts contained in national codifications, European legislation and modern model rules.



Volume 3: Essential Cases on Misconduct
Photo: De Gruyter, 2018

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SINO-EUROPEAN LEGAL STUDIES

THE AIMS OF TORT LAW. CHINESE AND EUROPEAN PERSPECTIVES

EDITED BY HELMUT KOZIOL

JAN SRAMEK VERLAG, VIENNA
HARDCOVER. ISBN 978-3-7097-0127-0
2017, 230 PP

On the occasion of the second meeting of the 'Sino-European Private Law Forum' (a cooperation between ECTIL, ETL and the University of Yantai, Shandong Province, China), a conference on "The Aims of Tort Law" was held in Vienna on 16/17 October 2015. The aim of the research, led by Helmut Koziol (ECTIL), was to examine the divergent functions and aims of tort law in Chinese law, continental European law and common law in order to further hone a comprehensive understanding of the different thought processes of Chinese and European legal scholars. In particular, comparative lawyers can profit from deeper knowledge and understanding of the aims and functions of tort law when interpreting legal provisions, filling gaps by analogy and tracing the boundary with neighbouring areas of tort law.

In 2016, the presentations given by Chinese and European lecturers at the conference were elaborated upon, as far as necessary, and published together with a conclusion. The conference book was published by Jan Sramek Verlag, Vienna, in January 2017: Helmut Koziol (ed), *The Aims of Tort Law – Chinese and European Perspectives*.

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<https://www.jan-sramek-verlag.at/>

THE LEGAL PROTECTION OF PERSONALITY RIGHTS. CHINESE AND EUROPEAN PERSPECTIVES

EDITED BY KEN OLIPHANT, ZHANG PINGHUA,
AND LEI CHEN

BRILL | NIJHOFF, LEIDEN
HARDCOVER. ISBN 978-90-04-27629-1
2018, 227 PP

This book aims to investigate the way in which personality rights are protected in China through a comparative and cross-cultural lens drawing on perspectives from Europe and elsewhere in the world. Currently, the question whether or not to incorporate a special law on personal rights – the right to life, the right to health, and the rights to reputation and privacy – into a future Chinese Civil Code is heatedly debated in the Chinese legal community. The essential topics that are addressed in this book include general issues of personality rights, personality rights in constitutional law, personality rights in private law, the legislative development of personality rights in China, case studies of the right to privacy, personality rights in the mass media and the internet, competition law aspects of the right of publicity, the protection of patients' personal information, and personality rights in the family context.

The book offers a broad investigation of personality rights' protection in both China and Europe and provides the first substantive comparison of the Chinese and European regimes. The project is conceived as a joint effort on the part of a carefully chosen team of Chinese and European academics, working closely together. The team consists of both senior scholars and young researchers led by well-known experts in the field of comparative tort law.

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WORLD TORT LAW SOCIETY

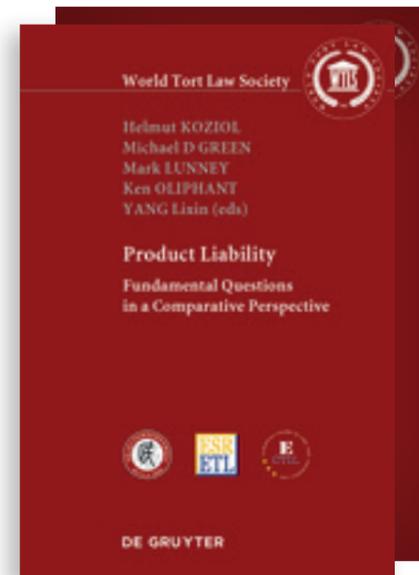
PRODUCT LIABILITY. FUNDAMENTAL QUESTIONS IN A COMPARATIVE PERSPECTIVE

EDITED BY HELMUT KOZIOL, MICHAEL D GREEN,
MARK LUNNEY, KEN OLIPHANT AND YANG LIXIN

DE GRUYTER, BERLIN/BOSTON
HARDCOVER. ISBN 978-3-11-054600-2
EBOOK. ISBN 978-3-11-054581-4
2017, 610 PP

Where products develop ever more rapidly, the law may face difficulties in responding accordingly to new security threats which may arise. In the field of product liability, an extraordinary need for legal development has thus been perceived, with legislators and judges feeling compelled to find new solutions and to look across borders for these. In the detailed reports in this book, the World Tort Law Society proves that it is in an ideal position to examine the most significant concepts. The report on North America studies the special regime for product liability from its origin in the case law of the US; the European report is centred around the EU Product Liability Directive with its merits and faults; and the influence of these two systems as well as new answers are shown in the reports on Asia, Russia and four key jurisdictions in the rest of the world. Similar questions are discussed worldwide: How can a strict liability regime for products be justified, and can it be justified in all cases? How does the special regime relate to general rules of tort law? Should services be subject to a similar regime?

The Members of the Society seek to provoke thought for solutions to these pervasive problems. In this spirit, the volume's comparative conclusions invite discussion, and the book includes four responses to that call from eminent tort lawyers from different legal backgrounds.



Product Liability. Fundamental Questions in a Comparative Perspective
Photo: De Gruyter, 2017

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OTHERS

GRUNDZÜGE DES JAPANISCHEN SCHADENERSATZRECHTS

BY KEIZO YAMAMOTO

JAN SRAMEK VERLAG, VIENNA
SOFTCOVER. ISBN 978-3-7097-0102-7
2018, 220 PP

Based on the basic questions of tort law which arise in all developed legal systems, this introduction offers for the first time a profound, structured introduction to Japanese tort law in the German language. At the same time, the publication provides readers with a valuable key to understanding Japanese law from a comparative perspective.

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HARMONISATION AND FUNDAMENTAL QUESTIONS OF EUROPEAN TORT LAW

BY HELMUT KOZIOL

JAN SRAMEK VERLAG, VIENNA
HARDCOVER. ISBN 978-3-7097-0128-7
2017, 168 PP

„Harmonisation and Fundamental Questions of European Tort Law“ is a study which follows a lecture given by Helmut Koziol on the topic at Lomonosov University Moscow in April 2016. The publication seeks to make comparative law accessible to students by elaborating fundamental differences between legal systems and identifying the valuable results which comparison can achieve. Moreover,

the work considers the difficulties of harmonising European tort law and demonstrates fundamental problems through the discussion of examples.

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AUSTRIAN PRIVATE LAW. AN OVERVIEW IN COMPARISON WITH GERMAN LAW AND WITH REFERENCES TO ENGLISH AND FRENCH LAW

BY GABRIELE KOZIOL AND HELMUT KOZIOL,
IN COOPERATION WITH ANDREW BELL AND
SAMUEL FULLI-LEMAIRE

JAN SRAMEK VERLAG, VIENNA
SOFTCOVER. ISBN 978-3-7097-0156-0
2017, 120 PP

This book gives an introduction to Austrian private law from a comparative law perspective. Based on the ideas of the Age of Enlightenment, the Austrian General Civil Code differs to quite some extent from the German Civil Code, which is one hundred years younger and the child of Pandectism. To make differences and similarities clearer, the book therefore introduces Austrian private law in comparison to the much better known German law. Furthermore, comparative remarks on English and French law, as two of the other most important European legal systems, as well as on Chinese and Japanese law are included to make the characteristic features of Austrian law clearer and to put it in a broader context.

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