

# Contents

<b>List of Abbreviations .....</b>	xv
<b>Liability for Damage Caused by Others: Questionnaire and Cases (Suzanne Galand-Carval) .....</b>	3
<b>Liability for Damage Caused by Others under Austrian Law (Helmut Koziol and Klaus Vogel) .....</b>	11
<i>Part I – General Questions .....</i>	11
A. General features of vicarious liability .....	11
B. Minors .....	14
C. Adults of unsound mind .....	15
D. Adults of sound mind (outside the scope of employment or agency relationship).....	15
E. Employer/Employee.....	16
F. Independent contractors .....	28
G. State and public servants .....	29
<i>Part II – Cases .....</i>	31
A. Minors .....	31
B. Adults of unsound mind .....	31
C. Adults of sound mind .....	32
D. Independent contractors .....	32
E. Employer/Employee.....	33
<b>Liability for Damage Caused by Others under Belgian Law (Herman Cousy and Dimitri Droschout).....</b>	37
<i>Part I – General Questions .....</i>	37
A. General features of vicarious liability .....	37
B. Minors .....	43
C. Adults of unsound mind .....	46
D. Adults of sound mind (outside the scope of employment or agency relationship).....	46
E. Employer/Employee.....	46
F. Independent contractors .....	50
G. State and public servants .....	50
<i>Part II – Cases .....</i>	50
A. Minors .....	50
B. Adults of unsound mind .....	51
C. Adults of sound mind .....	52
D. Independent contractors .....	52
E. Employer/Employee.....	53

<b>Liability for Damage Caused by Others under Czech Law</b> (Luboš Tichý).....	55
<i>Part I – General Questions</i> .....	55
A. General features of vicarious liability .....	55
B. Minors .....	57
C. Adults of unsound mind .....	58
D. Adults of sound mind (outside the scope of employment or agency relationship).....	58
E. Employer/Employee.....	58
F. Independent contractors .....	60
G. State and public servants .....	61
<i>Part II – Cases</i> .....	61
A. Minors .....	61
B. Adults of unsound mind .....	61
C. Adults of sound mind .....	61
D. Independent contractors .....	61
E. Employer/Employee.....	62
<b>Liability for Damage Caused by Others under English Law</b> (W.V. Horton Rogers).....	63
<i>Part I – General Questions</i> .....	63
A. General features of vicarious liability .....	63
B. Minors .....	67
C. Adults of unsound mind .....	67
D. Adults of sound mind (outside the scope of employment or agency relationship).....	67
E. Employer/Employee.....	68
F. Independent contractors .....	75
G. State and public servants .....	77
<i>Part II – Cases</i> .....	78
A. Minors .....	78
B. Adults of unsound mind .....	78
C. Adults of sound mind .....	79
D. Independent contractors .....	80
E. Employer/Employee.....	80
<b>Liability for Damage Caused by Others under French Law</b> (Suzanne Galand-Carval).....	85
<i>Part I – General Questions</i> .....	85
A. General features of vicarious liability .....	85
B. Minors .....	88

C. Adults of unsound mind .....	91
D. Adults of sound mind (outside the scope of employment or agency relationship).....	92
E. Employer/Employee.....	93
F. Independent contractors .....	98
G. State and public servants .....	99
 <i>Part II – Cases</i> .....	100
A. Minors .....	100
B. Adults of unsound mind .....	100
C. Adults of sound mind .....	101
D. Independent contractors .....	101
E. Employer/Employee.....	102
 <b>Liability for Damage Caused by Others under German Law</b> (Jörg Fedtke and Ulrich Magnus).....	105
 <i>Part I – General Questions</i> .....	105
A. General features of vicarious liability .....	105
B. Minors .....	114
C. Adults of unsound mind .....	117
D. Adults of sound mind (outside the scope of employment or agency relationship)....	118
E. Employer/Employee.....	119
G. State and public servants .....	124
 <i>Part II – Cases</i> .....	124
A. Minors .....	124
B. Adults of unsound mind .....	127
C. Adults of sound mind .....	128
D. Independent contractors .....	128
E. Employer/Employee.....	129
 <b>Liability for Damage Caused by Others under Greek Law</b> (Konstantinos D. Kerameus) .....	133
 <i>Part I – General Questions</i> .....	133
A. General features of vicarious liability .....	133
B. Minors .....	134
C. Adults of unsound mind .....	134
D. Adults of sound mind (outside the scope of employment or agency relationship)....	134
E. Employer/Employee.....	135
 <i>Part II – Cases</i> .....	136
A. Minors .....	136
B. Adults of unsound mind .....	136

C. Adults of sound mind .....	136
D. Independent contractors .....	136
E. Employer/Employee.....	137
<b>Liability for Damage Caused by Others under Israeli Law</b>	
(Israel Gilead) .....	139
<i>Part I – General Questions</i> .....	139
A. General features of vicarious liability .....	139
B. Minors .....	143
C. Adults of unsound mind .....	144
D. Adults of sound mind (outside the scope of employment or agency relationship) ....	144
E. Employer/Employee.....	145
F. Independent contractors .....	151
G. State and public servants .....	154
<i>Part II – Cases</i> .....	154
A. Minors .....	154
B. Adults of unsound mind .....	155
C. Adults of sound mind .....	155
D. Independent contractors .....	155
E. Employer/Employee.....	156
<b>Liability for Damage Caused by Others under Italian Law</b>	
(Francesco Donato Busnelli, Elena Bargelli and Giovanni Comandé) .....	159
<i>Part I – General Questions</i> .....	159
A. General features of vicarious liability .....	159
B. Minors .....	162
C. Adults of unsound mind .....	164
D. Adults of sound mind (outside the scope of employment or agency relationship) ....	164
E. Employer/Employee.....	165
F. Independent contractors .....	167
G. State and public servants .....	167
<i>Part II – Cases</i> .....	167
A. Minors .....	167
B. Adults of unsound mind .....	168
C. Adults of sound mind .....	168
D. Independent contractors .....	168
E. Employer/Employee.....	169

<b>Liability for Damage Caused by Others under Dutch Law</b> (Matthias Haentjens and Edgar du Perron) .....	171
--	-----

<i>Part I – General Questions</i> .....	171
A. General features of vicarious liability .....	171
B. Minors .....	173
C. Adults of unsound mind .....	175
D. Adults of sound mind (outside the scope of employment or agency relationship)....	176
E. Employer/Employee.....	176
F. Independent contractors .....	179
G. State and public servants .....	180
H. Final remark .....	181

<i>Part II – Cases</i> .....	181
A. Minors .....	181
B. Adults of unsound mind .....	182
C. Adults of sound mind .....	182
D. Independent contractors .....	182
E. Employer/Employee.....	183

<b>Liability for Damage Caused by Others under Polish Law</b> (Mirosław Nesterowicz and Ewa Bagińska) .....	185
--	-----

<i>Part I – General Questions</i> .....	185
A. General features of vicarious liability .....	185
B. Minors .....	186
C. Adults of unsound mind .....	189
D. Adults of sound mind (outside the scope of employment or agency relationship)....	189
E. Employer/Employee.....	190
F. Independent contractors .....	193
G. State and public servants .....	194

<i>Part II – Cases</i> .....	196
A. Minors .....	196
B. Adults of unsound mind .....	196
C. Adults of sound mind .....	196
D. Independent contractors .....	197
E. Employer/Employee.....	197

<b>Liability for Damage Caused by Others under Portuguese Law</b> (J. Sinde Monteiro and Maria Manuel Veloso) .....	199
--	-----

<i>Part I – General Questions</i> .....	199
A. General features of vicarious liability .....	199

B. Minors .....	203
C. Adults of unsound mind .....	206
D. Adults of sound mind (outside the scope of employment or agency relationship) ....	207
E. Employer/Employee.....	207
F. Independent contractors .....	211
G. State and public servants .....	212
 <i>Part II – Cases</i> .....	212
A. Minors .....	212
B. Adults of unsound mind .....	213
C. Adults of sound mind.....	214
D. Independent contractors .....	214
E. Employer/Employee.....	214
 <b>Liability for Damage Caused by Others under South African Law</b>	
(Johann Neethling) .....	217
 <i>Part I – General Questions</i> .....	217
A. General features of vicarious liability .....	217
B. Minors .....	220
C. Adults of unsound mind .....	221
D. Adults of sound mind (outside the scope of employment or agency relationship) ....	221
E. Employer/Employee.....	221
F. Independent contractors .....	225
G. State and public servants .....	225
 <i>Part II – Cases</i> .....	226
A. Minors .....	226
B. Adults of unsound mind .....	226
C. Adults of sound mind.....	227
D. Independent contractors .....	227
E. Employer/Employee.....	228
 <b>Liability for Damage Caused by Others under Spanish Law</b>	
(Miquel Martín Casals and Josep Solé Feliu).....	231
 <i>Part I – General Questions</i> .....	231
A. General features of vicarious liability .....	231
B. Minors .....	236
C. Adults of unsound mind .....	240
D. Adults of sound mind (outside the scope of employment or agency relationship) ....	241
E. Employer/Employee.....	241
F. Independent contractors .....	249
G. State and public servants .....	251

<i>Part II – Cases</i> .....	252
A. Minors .....	252
B. Adults of unsound mind .....	253
C. Adults of sound mind .....	254
D. Independent contractors .....	254
E. Employer/Employee.....	256
 <b>Liability for Damage Caused by Others under Swiss Law</b>	
(Pierre Widmer) .....	259
 <i>Part I – General Questions</i> .....	259
A. General features of vicarious liability .....	259
B. Minors .....	267
C. Adults of unsound mind .....	269
D. Adults of sound mind (outside the scope of employment or agency relationship)....	269
E. Employer/Employee.....	270
F. Independent contractors .....	273
G. State and public servants .....	273
 <i>Part II – Cases</i> .....	273
A. Minors .....	273
B. Adults of unsound mind .....	275
C. Adults of sound mind .....	276
D. Independent contractors .....	276
E. Employer/Employee.....	277
 <b>Liability for Damage Caused by Others under U.S. Law</b>	
(Gary T. Schwartz†).....	279
 <i>Part I – General Questions</i> .....	279
A. General features of vicarious liability .....	279
B. Minors .....	280
C. Adults of unsound mind .....	281
D. Adults of sound mind (outside the scope of employment or agency relationship)....	281
E. Employer/Employee.....	281
F. Independent contractors .....	284
G. State and public servants .....	284
 <i>Part II – Cases</i> .....	285
A. Minors .....	285
B. Adults of unsound mind .....	285
C. Adults of sound mind .....	285
D. Independent contractors .....	285
E. Employer/Employee.....	286

Comparative Report on Liability for Damage Caused by Others .....	289
<b>Part I – General Questions</b>	
(Suzanne Galand-Carval) .....	289
A. General features of vicarious liability .....	289
B. Minors .....	294
C. Adults of unsound mind .....	299
D. Adults of sound mind (e.g. vicarious liability of amateur sport clubs e tutti quanti)..	299
E. Employer/Employee.....	300
F. Independent contractors .....	306
G. State and public servants .....	307
<b>Part II – Cases</b>	
(Jaap Spier and Olav Haazen) .....	309
A. Table .....	309
B. General remarks .....	322
<b>Appendix: Principles of European Tort Law (Provisional Draft as of November 2002)</b>	
- Excerpt .....	327
<b>Index.....</b>	329