

TABLE OF CONTENTS

Aims and Scope

(<i>Denis N. Kelliher</i>).....	1
I. Introduction	1
II. European Rights	1
III. Treaty Liabilities	3
IV. Secondary Law Liabilities.....	8
V. Borders between Tort and Contract.....	18
VI. Conclusion	22

Damage

(<i>Antoni Vaquer</i>).....	23
I. Introduction	23
II. Definition of Damage.....	23
III. Essential Criteria for Compensation of Damage	26
IV. Different Types of Damage	31
V. Proof of Damage	43

Causation

(<i>Isabelle C. Durant</i>).....	47
I. Introduction	47
II. European Legislation.....	47
III. European Case Law.....	51

Fault Liability

(<i>Meinhard Lukas</i>).....	81
I. Preliminary Remarks	81
II. Reference to Fault in Regulations and Directives	83
III. Reference to Fault in Primary Legislation	99
IV. Conclusion	101

Environmental Liability

(<i>Monika Hinteregger</i>)	103
I. Introduction	103
II. International Conventions	103
III. EC-Directive 2004/35/CE on Environmental Liability with Regard to the Prevention and Remedy of Environmental Damage.....	105
IV. Conclusions	117

Is European Product Liability Harmonised?	
(<i>Geraint Howells</i>)	121
I. Introduction	121
II. Maximal Harmonisation.....	122
III. The Degree of Harmonisation	125
IV. Defect and Development Risks	129
V. Conclusions	133
Other Strict Liabilities	
(<i>Bernhard A. Koch</i>)	135
I. Introduction	135
II. Nuclear Energy.....	135
III. Air Carriage.....	140
IV. Outer Space	148
V. Maritime Transport.....	150
VI. Other Transport	155
VII. Services and Other Areas	159
VIII. Conclusions	162
Liability for Others	
(<i>Miquel Martín-Casals/Josep Solé Feliu</i>).....	165
I. What does “Liability for Others” mean?.....	165
II. Liability of the European Community	169
III. Liability for Others in Contract.....	175
Non-contractual Liability in Damages of Member States for Breach of Community Law	
(<i>Robert Rebhahn</i>).....	179
I. Introduction	179
II. The Main Substantive Conditions	188
III. Other Substantive Conditions and Defences	204
IV. Final Remarks	210
Community Liability	
(<i>Luisa Antoniolli</i>).....	213
I. Introduction	213
II. The Rules of the Treaties.....	214
III. Exclusive and Unlimited Jurisdiction of the Court of Justice and the Court of First Instance	215
IV. Autonomy of the Action for Damages	217
V. Article 288(2) EC and General Principles Common to the Laws of the Member States	218
VI. Admissibility of an Action for Damages.....	220
VII. Conditions for Liability	225
VIII. Damages	236
IX. A Critical Evaluation of the Action for Damages in EC Law	238

The Nature and Assessment of Damages

(<i>Ken Oliphant</i>)	241
I. Damages in EC Tort Law in General	241
II. Material Damage	256
III. Non-Material Damage	264
IV. Reduction of Damages	270
V. Conclusion.....	271

Limitations of Liability under EC Tort Law

(<i>Ulrich Magnus</i>).....	273
I. Introduction	273
II. Justification of Limitations of Liability	274
III. State of EC law Concerning Limitations of Liability.....	274
IV. Prescription.....	275
V. Maximum Amounts and Thresholds	279
VI. Channeling of Liability	282
VII. Limitation of Liability by Agreement	285
VIII. Defences	286
IX. Conclusions	292

Limitation Periods in EC Law

(<i>André Pereira</i>)	293
I. Introduction	293
II. Non-Contractual Liability	293
III. Case Law	298
IV. Contractual Liability	304
V. General Comparison.....	306
VI. Conclusions	307

Terminology

(<i>Martin Weitenberg</i>).....	309
I. Need for a Uniform Terminology in EC Tort Law	309
II. Research Methodology	311
III. Assessment of Damages.....	312
IV. “Damage”, “Harm”, “Loss” and “Injury”	325
V. Conduct of the Tortfeasor	331
VI. Causation	335

Overview

(<i>Mark Wissink</i>)	341
I. Introduction	341
II. General Remarks	342
III. Types of Liability	348
IV. Causation	354
V. Damage.....	355
VI. Damages and Other Remedies	358
VII. Limitation of Liability and Defences	361

«EC Tort Law» and the English Law	
(<i>W.V.H. Rogers</i>)	365
I. Introduction	365
II. General Remarks	366
III. Types of Liability	367
IV. Causation	378
V. Damage	386
VI. Damages and Other Remedies	387
VII. Periods of Limitation	391
«EC Tort Law» and the Romanic Legal Family	
(<i>Stefano Troiano</i>)	395
I. Introduction	395
II. General Remarks	395
III. Types of Liability	397
IV. Causation	413
V. Damage	424
VI. Damages	433
VII. Periods of Limitation and Other Defences	437
«EC Tort Law» and the German Legal Family	
(<i>Thomas Kadner Graziano/Christoph Oertel</i>)	439
I. Aims of Tort Law	440
II. Protected Interests	442
III. Types of Liability	447
IV. Causation	465
V. Damage	476
VI. Damages and Other Remedies	481
VII. Limitation Periods and Other Defences	483
«EC Tort Law» and the Scandinavian Legal Family	
(<i>Bjarte Askeland/Vibe Ulfbeck</i>)	489
I. General Remarks	489
II. Types of Liability	491
III. Causation	498
IV. Damage	500
V. Damages	504
VI. Periods of Limitation and Other Defences	508
«EC Tort Law» and the Eastern-European legal family	
(<i>Luboš Tichý</i>)	513
I. Introduction	513
II. Product Liability	513
III. Comparison with EC Tort Law	522

«EC Tort Law» and the Principles of European Tort Law	
(<i>Pierre Widmer</i>)	539
I. Introductory Remarks.....	539
II. Main Features	540
III. Conclusions	558
Comparative Report	
(<i>Markus Kellner</i>).....	559
I. Introduction	559
II. Types of Liability	560
III. Causation.....	569
IV. Damage.....	575
V. Remedies	579
VI. Limitations of Liability	584
VII. Concluding Remark.....	588
Conclusion	
(<i>Helmut Koziol/Reiner Schulze</i>).....	589
I. Introduction	589
II. EC Tort Law – a Harmonious System or an Inconsistent Accumulation?	590
III. Achievements of European Tort Law.....	602
IV. Differences between European Tort Law and National Legal Systems	603
V. Incomplete Harmonisation	605
VI. Disintegration of National Tort Law	607
VII. The Need for an Overarching European Framework	608
Table of Legislation and Principles	611
Table of Case Law	647
Index.....	667
Publications	689