

Personality Rights In European Tort Law The Common Core Of European Private Law

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Personality Rights in European Tort Law Gert Brüggemeier 2010-04-15 This volume provides a comprehensive analysis of civil liability for invasion of personality interests in Europe. It is the final product of the collaboration of twenty-seven scholars and includes case studies of fourteen European jurisdictions, as well as an introductory chapter written from a US perspective. The case studies focus in particular on the legal protection of honour and reputation, privacy, self-determination and image. This volume aims to detect hidden similarities (the 'common core') in the actual legal treatment accorded by different European countries to personal interests which in some of these countries qualify as 'personality rights', and also to detect hidden disparities in the 'law in action' of countries whose 'law in the books' seem to protect one and the same personality interest in the same way.

Research Handbook on EU Tort Law Paula Giliker 2017-10-27 The Research Handbook on EU Tort Law focuses on the study of the law of tort/delict/non-contractual liability of the European Union and examines the institutional liability of the EU. Francovich liability, and liability arising from a variety of EU secondary legislation (directives/regulations). The impact of EU tort law on national legal systems is wide-ranging, covering areas such as consumer law, competition law, data protection law, employment law, insurance law and financial services law. It also discusses the potential development of a European culture of tort law and harmonisation. This comprehensive Research Handbook contains contributions from leading authors in their field, representing a cross-section of European jurisdictions. It offers an authoritative reference point for academics, students and practitioners studying or working in this field, but one which is also accessible for those approaching the subject for the first time.

Rights of Personality in Scots Law Niall Whitty 2014-02-08 Explores the law on rights of personality in Scotland compared to other jurisdictions. Taking a comparative perspective, this book explores the trends and issues affecting the law on rights of personality in jurisdictions drawn from the families of common law, civilian law, and mixed legal systems. The main focus is on the private law of personality rights, with due regard paid to the impact of constitutional legislation and other instruments protecting human rights.

The Recovery of Non-Pecuniary Loss in European Contract Law Vernon V. Palmer 2015-07-02 This is the first comprehensive work to capture the rise of moral damages (non-pecuniary loss) in European contract law through a historical and comparative analysis. Unique features of this study include the first classification scheme of the systems into liberal, moderate and conservative regimes, a taxonomy of non-pecuniary loss drawn from a European-wide jurisprudence, and a comprehensive bibliography of the subject. Written by a leading academic on comparative law, Palmer's precise and practical insights on Europe's leading cases will be of great interest to academic researchers and practitioners alike.

Fundamental Rights and Private Law in Europe Nuno Ferreira 2011-05-19 The book explores, from a comparative and inter-disciplinary perspective, the relationship between fundamental rights and private law in Europe, a debate usually referred to as *Drittwirkung* or 'horizontal effect of fundamental rights'. It discusses the different models of 'horizontal effect' and the impact that fundamental rights may have in shaping tort law, especially the position of child tortfeasors. The book concentrates on several European jurisdictions, namely France, Italy, Germany, Portugal, Sweden, Finland, and England and Wales. At a crossroad between human rights and European private law, this study draws insights from several legal fields (international, European, tort, constitutional and child law), sociology, psychology, and feminist studies. It also considers policy implications and advances proposals which would ensure the optimisation of the effect, and maximisation of the effectiveness, of fundamental rights in tort law, and more generally in private law. This book departs from traditional legal doctrines and offers a more pragmatic, comprehensive and just legal analysis of the role of fundamental rights in private law. It will be of interest to undergraduate and postgraduate students, academics, practitioners, policy-makers and activists with an interest in human rights, tort law, comparative law, children's rights and European private law.

Invasions of personality rights by the media Axel Beater 2005 "Internationales Symposium in Greifswald, 6.-9. Mai 2004."

Gemeineuropäisches Deliktsrecht Christian von Bar 1996

Tort Law in the European Union Gert Brüggemeier 2018-06-14 Derived from the renowned multi-volume International Encyclopaedia of Law, this book provides ready access to how the legal dimension of prevention against harm and loss allocation is treated in the European Union. This traditional branch of law not only tackles questions which concern every lawyer, whatever his legal expertise, but also concerns each person's most fundamental rights on a worldwide scale. Following a general introduction that probes the distinction between tort and crime and the relationship between tort and contract, the monograph describes how the concepts of fault and unlawfulness, and of duty of care and negligence, are dealt with in both the legislature and the courts. The book then proceeds to cover specific cases of liability, such as professional liability, liability of public bodies, abuse of rights, injury to reputation and privacy, vicarious liability, liability of parents and teachers, liability for handicapped persons, product liability, environmental liability, and liability connected with road and traffic accidents. Principles of causation, grounds of justification, limitations on recovery, assessment of damages and compensation, and the role of private insurance and social security are all closely considered. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable resource for lawyers in the European Union. Academics and researchers will also welcome this very useful guide, and will appreciate its value not only as a contribution to comparative law but also as a stimulus to harmonization of the rules on tort.

European Private Law Reiner Schulze 2011 This collection makes a highly valuable contribution to the field of European private law, which is, last but not least, very much influenced by the presentation of the Draft Common Frame of Reference, published in October 2009. The book focuses on the current status and perspective of European private law in the areas of contract law, tort law and personal rights, unfair commercial practices, unfair competition law, property law, international private law, company law, and optional instruments.

The Legal Protection of Personality Rights Ken Oliphant 2018-03-06 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.

Modernising Civil Liability Law in Europe, China, Brazil and Russia Gert Brüggemeier 2011-05-19 Non-contractual liability, stemming from damage accountably caused to another, has been the subject of the PETL and DCFR VI European reform initiatives. Gert Brüggemeier, however, proposes alternative reforms which, instead of trying to overcome the differences between civil law (delict) and common law (torts), are restricted to civil liability. The focus is on the grounds of accountability, and stricter forms of liability are at the fore. Quasi-strict enterprise liability is introduced to fill the lacuna between personal fault and forms of strict liability. A commentary is included on recent legislation on civil liability in China, Brazil and Russia to demonstrate how these large countries try to come to grips with the challenges of 'risk society'.

Causation in European Tort Law Marta Infantino 2017-12-28 Through a comprehensive analysis of sixteen European legal systems, based on an assessment of national answers to a factual questionnaire, Causation in European Tort Law sheds light on the operative rules applied in each jurisdiction to factual and legal causation problems. It highlights how legal systems' features impact on the practical role that causation is called upon to play, as well as the arguments of professional lawyers. Issues covered include the conditions under which a causal link can be established, rules on contribution and apportionment, the treatment of supervening, alternative and uncertain causes, the understanding of loss-of-a-chance cases, and the standard and the burden of proving causation. This is a book for scholars, students and legal professionals alike.

European Tort Law Cees van Dam 2013-03-21 This textbook provides insight into the differences, commonalities and mutual influence of the tort law systems of various European jurisdictions, bringing together national tort law, comparative law, EU law, and human rights law.

Constitutionalisation of Private Law Tom Barkhuysen 2006-08-11 This publication aims at establishing a clear analysis of the nature and growth of the C-factor (C for constitutionalisation) in Germany, France, the UK and The Netherlands.

Tort Law in France Jonas Knetsch 2021-08-20 Derived from the renowned multi-volume International Encyclopaedia of Law, this book provides ready access to how the legal dimension of prevention against harm and loss allocation is treated in France. This traditional branch of law not only tackles questions which concern every lawyer, whatever his legal expertise, but also concerns each person's most fundamental rights on a worldwide scale. Following a general introduction that probes the distinction between tort and crime and the relationship between tort and contract, the monograph describes how the concepts of fault and unlawfulness, and of duty of care and negligence, are dealt with in both the legislature and the courts. The book then proceeds to cover specific cases of liability, such as professional liability, liability of public bodies, abuse of rights, injury to reputation and privacy, vicarious liability, liability of parents and teachers, liability for handicapped persons, product liability, environmental liability, and liability connected with road and traffic accidents. Principles of causation, grounds of justification, limitations on recovery, assessment of damages and compensation, and the role of private insurance and social security are all closely considered. The work gives an extensive picture of the current state of law and a first indication on the future French tort law, based on the last Government proposal for a comprehensive reform of the civil liability rules. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable resource for lawyers in France. Academics and researchers will also welcome this very useful guide, and will appreciate its value not only as a contribution to comparative law but also as a stimulus to harmonization of the rules on tort.

Comparative Law as Critique Günter Frankenberg 2016-04-29 Presenting a critique of conventional methods in comparative law, this book argues that, for comparative law to qualify as a discipline, comparatists must reflect on how and why they make comparisons. Günter Frankenberg discusses not only methods and theories, but also the ethical implications and the politics of comparative law in bringing out the different dimensions of the discipline. Comparative Law as Critique offers various approaches that turn against the academic discourse of comparative law, including analysis of a widespread spirit of innocence in terms of method, and critique of human rights narratives. It also examines how courts negotiate differences between cases regarding Muslim veiling. The incisive critiques and comparisons in this book will be of essential reading for comparatists working in legal education and research, as well as students of comparative law and scholars in comparative anthropology and social sciences.

Unification of Tort Law: Wrongfulness Francesco Donato Busnelli 1998-11-18 Covers various European countries and South Africa.

Common Law and Civil Law Perspectives on Tort Law Mauro Bussani 2022 The book provides scholars, lawyers and law students with a comparative overview of the law of civil liability for injuries arising outside of contract in five major legal systems in the common law and civil law traditions: England, the United States, France, Germany and Italy. The book analyzes a select number of foundational issues that lie at the core of tort law in all the jurisdictions surveyed, and takes them as points of comparison for appreciating commonalities and differences between the common law and the civil law traditions, as well as within these traditions. The analysis covers the structure and content of tort law architectures, the role of negligence and the continuum between fault and strict liability, rules on recovery for personal injuries, non-economic losses and for pure economic losses, tests and approaches to causation, medical malpractice and products liability regimes. As such, the book provides an updated and enriched framework for understanding the rules, the theories, the styles of reasoning and the tort law cultures across the Atlantic.

Tort Liability of Public Authorities in European Laws Giacinto della Cananea 2021-01-15 Administrative law permeates all areas of law, and this series focuses on its role both regionally and globally. This volume considers tort liabilities in European public authorities. It looks at several European countries, using case studies to compare administrative laws across the EU.

The Influence of Human Rights and Basic Rights in Private Law Verica Trstenjak 2015-12-16 This book provides a comparative perspective on one of the most intriguing developments in law: the influence of basic rights and human rights in private law. It analyzes the application of basic rights and human rights, which are traditionally understood as public law rights, in private law, and discusses the related spillover effects and changing perspectives in legal doctrine and practice. It provides examples where basic rights and human rights influence judicial reasoning and lead to changes of legislation in contract law, tort law, property law, family law, and copyright law. Providing both context and background analysis for any critical examination of the horizontal effect of fundamental rights in private law, the book contributes to the current debate on an important issue that deserves the attention of legal practitioners, scholars, judges and others involved in the developments in a variety of the world's jurisdictions. This book is based on the General Report and national reports commissioned by the International Academy of Comparative Law and written for the XIXth International Congress of Comparative Law in Vienna, Austria, in the summer of 2014.

Methods of Comparative Law P. G. Monateri 2012-01-01 Comprising an array of distinguished contributors, this pioneering volume of original contributions explores theoretical and empirical issues in comparative law. The innovative, interpretive approach found here combines explorative scholarship and research with thoughtful, qualitative critiques of the field. The book promotes a deeper appreciation of classical theories and offers new ways to re-orient the study of legal transplants and transnational codes. Methods of Comparative Law brings to bear new thinking on topics including: the mutual relationship between space and law; the plot that structures legal narratives, identities and judicial interpretations; a strategic approach to legal decision making; and the inner potentialities of the 'comparative law and economics' approach to the field. Together, the contributors reassess the scientific understanding of comparative methodologies in the field of law in order to provide both critical insights into the traditional literature and an original overview of the most recent and purposive trends. A welcome addition to the lively field of comparative law, Methods of Comparative Law will appeal to students and scholars of law, comparative law and economics. Judges and practitioners will also find much of interest here.

Towards a Chinese Civil Code Lei Chen 2012-11-13 Currently, China is drafting its new Civil Code. Against this background, the Chinese legal community has shown a growing interest in various legal and legislative ideas from around the world. "Towards a Chinese Civil Code" aims at providing the necessary historical and comparative legal perspectives. The book addresses the following topics: property law, contract law, tort law and civil procedure.

Chinese Law of Personality Rights I Wang Liming 2022-07-26 This volume is a collection of up-to-date, authoritative essays on China's Law of Personality Rights, its impact in practice and its legal background. The Law of Personality Rights was enacted in China in May 2020, the first time that the Law has been legislated as an independent part of the Civil Code of the People's Republic of China, marking an unprecedented step in protecting the personality rights of citizens. As the first volume of a two-volume set that elucidates the theory, practice, and codification experience of the Law in China, the book examines the basis for the Law as a standalone part of the Civil Code, its overall framework and the delimitation and formation of the Law. In terms of practical aspects, the contributors delve into institutional arrangements, the relationship between human rights and personality rights and the relationship with laws on tort liability, as well as those pertaining to marriage and the family. The book will be an essential reference to scholars and students studying civil law, continental law, Chinese law, and the legal protection of personality rights.

Refining Privacy in Tort Law Patrick O'Callaghan 2012-09-14 This book is about privacy interests in English tort law. Despite the recent recognition of a misuse of private information tort, English law remains underdeveloped. The presence of gaps in the law can be explained, to some extent, by a failure on the part of courts and legal academics to reflect on the meaning of privacy. Through comparative, critical and historical analysis, this book seeks

to refine our understanding of privacy by considering our shared experience of it. To this end, the book draws on the work of Norbert Elias and Karl Popper, among others, and compares the English law of privacy with the highly elaborate German law. In doing so, the book reaches the conclusion that an unfortunate consequence of the way English privacy law has developed is that it gives the impression that justice is only for the rich and famous. If English courts are to ensure egalitarian justice, the book argues that they must reflect on the value of privacy and explore the bounds of legal possibility.

The Legal Protection of Personality Rights Ken Oliphant 2019 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.

The Europeanisation of English Tort Law Paula Giliker 2014-12-01 Tort law is often regarded as the clearest example of traditional common law reasoning. Yet, in the past 40 years, the common law of England and Wales has been subject to European influences as a result of the introduction of the European Communities Act 1972 and, more recently, the implementation of the Human Rights Act 1998 in October 2000. EU Directives have led to changes to the law relating to product liability, health and safety in the workplace, and defamation, while Francovich liability introduces a new tort imposing State liability for breach of EU law. The 1998 Act has led to developments in privacy law and made the courts reconsider their approach to public authority liability and freedom of expression in defamation law. This book explores how English tort law has changed as a result of Europeanisation - broadly defined as the influence of European Union and European human rights law. It also analyses how this influence has impacted on traditional common law reasoning. Has Europeanisation led to changes to the common law legal tradition or has the latter proved more resistant to change than might have been expected?

Tort Law in Portugal Nuno Manuel Pinto Oliveira 2020-07-21 Derived from the renowned multi-volume International Encyclopaedia of Laws, this book provides ready access to how the legal dimension of prevention against harm and loss allocation is treated in Portugal. This traditional branch of law not only tackles questions which concern every lawyer, whatever his legal expertise, but also concerns each person's most fundamental rights on a worldwide scale. Following a general introduction that probes the distinction between tort and crime and the relationship between tort and contract, the monograph describes how the concepts of fault and unlawfulness, and of duty of care and negligence, are dealt with in both the legislature and the courts. The book then proceeds to cover specific cases of liability, such as professional liability, liability of public bodies, abuse of rights, injury to reputation and privacy, vicarious liability, liability of parents and teachers, liability for handicapped persons, product liability, environmental liability, and liability connected with road and traffic accidents. Principles of causation, grounds of justification, limitations on recovery, assessment of damages and compensation, and the role of private insurance and social security are all closely considered. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable resource for lawyers Portugal. Academics and researchers will also welcome this very useful guide, and will appreciate its value not only as a contribution to comparative law but also as a stimulus to harmonization of the rules on tort.

Fundamental Rights and Private Law in the European Union: Comparative analyses of selected case patterns Gert Brüggemeier 2010 "Comparative study carried out by the Research Training Network on Fundamental Rights and Private Law in the European Union"--P. [iv] of cover, Vol. 1-2.

Tort Law in the Jurisprudence of the European Court of Human Rights Attila Fenyves 2012-01-01 The goal of this study is to provide a general overview and thorough analysis of how the European Court of Human Rights (ECtHR) deals with tort law issues such as damage, causation, wrongfulness, fault and compensation - namely when applying Art. 41 of the European Convention on Human Rights (ECHR). Methodological approaches to the tort law of the ECHR as well as the perspectives of human rights and tort law and public international law are also addressed.

Essential Tort Law Richard Owen 2000 This work is intended as a study/revision aid for students, rather than as a substitute for more detailed treatises. It analyzes the law of tort in terms of the issues that are likely to be of interest to examiners and explains these areas in an accessible manner, as well as summarizing existing academic opinion.; The emphasis throughout is on facilitating students' understanding of a topic. The new edition takes into account recent developments in the law of tort. These include the increasing use of the law of negligence in sport; further developments when suing public bodies for breach of a duty of care; the increasing influence of the European Court of Human Rights on the development of the law of tort; changes in the method of calculating personal injuries damages; the liability of Internet service providers in the law of defamation and use of the qualified privilege defence in libel.

Violations of Personality Rights Through the Internet: Jurisdictional Issues Under European Law Edina Márton 2016-03

Chinese Law of Personality Rights II Wang Liming 2022-09-30 This volume is a collection of articles on the codification experience of China's Law of Personality Rights, explaining the design of the Law as well as its innovations. As the second volume of a two-volume set that elucidates the theory, practice, and codification of the Law in China, the book explains the legal advancement of the Law of Personality Rights as a standalone part of the Civil Code of China. This includes innovative legislative thinking, law system arrangements, rule designs, and a systematic refinement of the provisions of personality rights in terms of nature, system, types, content, exercising rules and protection methods. Regarding the implementation of the Law, the book points out that personality rights are changing with the times so a more complete system of legal interpretation should be built. The final three chapters are appraisals of different versions of the draft law, with amendments to some articles advanced based on shortcomings and omissions. The book will be an essential reference to scholars and students studying civil law, continental law, Chinese law, and the legal protection of personality rights.

The Draft Common Frame of Reference as a "Toolbox" for Domestic Courts Marta Santos Silva 2017-07-03 This book investigates whether national courts could and should import innovative solutions from abroad in the adjudication of complex legal disputes. Special attention is paid to the concept of "legally relevant damage" and its importance in overcoming the deadlock created by the category of "pure economic loss" in the Portuguese and German tort law systems. These systems are essentially based on the concept of unlawfulness ("Rechtswidrigkeit"), which limits the compensation for pure economic loss to where a protective rule is infringed. These losses have nevertheless been compensated for through the extensive interpretation of rules and the appeal to near-contractual devices, which has been detrimental to legal certainty, the equality before the law, and subjects' freedom of action. This book explains why courts can and should take a proactive role and apply DCFR-based solutions in order to compensate for every loss that is worthy of legal protection.

Essential Cases on Damage Benedict Winiger 2012-01-01 With an emerging *ius commune* in the field of tort law, the extensive range of experiences derived from national court practice on the basis of prior laws will in certain respects be of comparatively less importance. A major lacuna is thus apparent: While publications of court decisions and databases exist, none provide access to a comparative selection of recurring issues in the various European legal systems. Along the lines of the previous Digest project on Causation, this study covers another key element of tort law - damage. The publication contains a systematic selection of cases from 27 countries across Europe in addition to ECJ case-law, with each case benefiting from an analysis and commentary from a national and, where appropriate, a comparative perspective. Further, the impact of these rulings on a future European law of torts is highlighted. Finally, the publication also looks into how key cases would be resolved under unified European tort law drafts. The object of the study is thus to bridge domestic case-law with the new body of uniform tort law thus facilitating the continuity of legal development in Europe.

Comparative Tort Law Mauro Bussani 2015-08-28 Comparative Tort Law: Global Perspectives provides a framework for analyzing and understanding the current state of tort law in most of the world's legal systems. The book examines tort law theories and cultures through a comparative methodology. It I

Human Rights and the Protection of Privacy in Tort Law Hans-Joachim Cremer 2010-10-04 In its case law, the European Court of Human Rights has acknowledged that national courts are bound to give effect to Article 8 of the European Convention of Human Rights (ECHR) which sets out the right to private and family life, when they rule on controversies between private individuals. Article 8 of the ECHR has thus been accorded *mittelbare Drittwirkung* or indirect 'third-party' effect in private law relationships. The German law of privacy, centring on the "allgemeines Persönlichkeitsrecht", has quite a long history, and the influence of the European Court of Human Rights' interpretation of the ECHR has led to a strengthening of privacy protection in the German law. This book considers how English courts could possibly use and adapt structures adopted by the German legal order in response to rulings from the European Court of Human Rights, to strengthen the protection of privacy in the private sphere.

Comparative Tort Law Thomas Kadner Graziano 2018-03-20 Comparative Tort Law promotes a 'learning by doing' approach to comparative tort law and comparative methodology. Each chapter starts with a case scenario followed by questions and expertly selected material, such as: legislation, extracts of case law, soft law principles, and (where appropriate) extracts of legal doctrine. Using this material, students are invited to: • solve the proposed scenario according to the laws of several jurisdictions; • compare the approaches and solutions they have identified; • evaluate their respective pros and cons; and • reflect upon the most appropriate approach and solution. This book is essential reading for all students and scholars of comparative tort law and comparative law methodology and is the ideal companion for those wishing to both familiarise themselves with real-world materials and understand the many diverse approaches to modern tort law.

Conflict of Laws and the Internet Pedro de Miguel Asensio 2020-04-24 The ubiquity of the Internet contrasts with the territorial nature of national legal orders. This book offers a comprehensive analysis of jurisdiction, choice of law and enforcement of judgments issues concerning online activities in the areas in which private legal relationships are most affected by the Internet. It provides an in-depth study of EU Law in this particularly dynamic field, with references to major developments in other jurisdictions. Topics comprise information society services, data protection, defamation, copyright, trademarks, unfair competition and contracts, including consumer protection and alternative dispute resolution.

Causation in European Tort Law Marta Infantino 2017-12-28 This book takes an original and comparative approach to issues of causation in tort law across many European legal systems.

A Company's Right to Damages for Non-Pecuniary Loss Vanessa Wilcox 2016-09-01 Applying appropriate legal rules to companies with as much consistency and as little consternation as possible remains a challenge for legal systems. One area causing concern is the availability of damages for non-pecuniary loss to companies, a disquiet that is rooted in the very nature of such damages and of companies themselves. In this book, Vanessa Wilcox presents a detailed examination of the extent to which damages for non-pecuniary loss can be properly awarded to companies. The book focusses on the jurisprudence of the European Court of Human Rights and English law, with a chapter also dedicated to comparative treatment. While the law must be adaptable, Wilcox concludes that considerations of coherence, certainty and ultimately justice dictate that the resulting rules should conform to certain core legal principles. This book lays the foundation for further comparative research into this topic and will be of interest to both the tort law and broader legal community.

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