

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

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*Damages for Violations of Human Rights* Ewa Bagińska 2015-10-20 This volume analyses the legal grounds, premises and extent of pecuniary compensation for violations of human rights in national legal systems. The scope of comparison includes liability regimes in general and in detail, the correlation between pecuniary remedies available under international law and under domestic law, and special (alternative) compensation systems. All sources of human rights violations are embraced, including historical injustices and systematic and gross violations. The book is a collection of nineteen contributions written by public international law, international human rights and private law experts, covering fifteen European jurisdictions (including Central and Eastern Europe), the United States, Israel and EU law. The contributions, initially prepared for the 19th International Congress of Comparative Law in Vienna (2014), present the latest developments in legislation, scholarship and case-law concerning domestic causes of action in cases of human rights abuses. The book concludes with a comparative report which assesses the developments in tort law and public liability law, the role of the constitutionalisation of the right to damages as well as the court practice related to the process of enforcement of human rights through monetary remedies. This country-by-country comparison allows to consider whether the value of protection of human rights as expressed in international treaties, ius cogens and in national constitutional laws justifies the conclusion that the interests at stake should enjoy protection under the existing civil liability rules, or that a new cause of action, or even a whole new set of rules, should be created in national systems. **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.

*Risks and Wrongs* Jules L. Coleman 1992-11-27 Jules Coleman discusses the conflict between the goals of justice and economic efficiency in the allocation of risk, especially risk pertaining to safety.

**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 equalitarian justice, the book argues that they must reflect on the value of privacy and explore the bounds of legal possibility.

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

**Biased Trials** Goran Dominioni 2020-05-01 Goran Dominioni argues that research in behavioral economics, psychology, and neurosciences can offer novel insights on whether court decisions are accurate, non-discriminatory, and maximize social welfare. The author also shows that insights from these areas of research can help to improve trial outcomes if carefully applied to craft trial rules and practices. He covers central themes in behavioral law and economics, such as implicit racial biases, the fundamental attribution error, and gender-related biases.

**The Business of Judging** Tom Bingham 2011-09-08 Tom Bingham (1933-2010) was the 'greatest judge of our time' (The Guardian), a towering figure in modern British public life who championed the rule of law and human rights inside and outside the courtroom. The Business of Judging collects Bingham's most important writings during his period in judicial office before the House of Lords. The papers collected here offer Bingham's views on a wide range of issues, ranging from the ethics of judging to the role of law in a diverse society. They include his reflections on the main contours of English public and criminal law, and his early work on the incorporation of the European Convention on Human Rights and reforming the constitution. Written in the accessible style that made The Rule of Law (2010) a popular success, the book will be essential reading for all those working in law, and an engaging inroad to understanding the role of the law and courts in public life for the general reader.

**Tort Law** Mark Lunney 2008 Each section begins with a clear overview of the key points of the law, before fully explaining and illustrating the topic through substantial case extracts and further commentary."--BOOK JACKET.

**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.

**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. **Exploring Tort Law** M. Stuart Madden 2005-09-26 This is a collection of scholarship from the most influential contributors regarding Torts law.

**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.

*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.

**Evidential Uncertainty in Causation in Negligence** Gemma Turton 2016-05-19 This book undertakes an analysis of academic and judicial responses to the problem of evidential uncertainty in causation in negligence. It seeks to bring clarity to what has become a notoriously complex area by adopting a clear approach to the function of the doctrine of causation within a corrective justice-based account of negligence liability. It first explores basic causal models and issues of proof, including the role of statistical and epidemiological evidence, in order to isolate the problem of evidential uncertainty more precisely. Application of Richard Wright's NESS test to a range of English case law shows it to be more comprehensive than the 'but for' test that currently dominates, thereby reducing the need to resort to

additional tests, such as the Wardlaw test of material contribution to harm, the scope and meaning of which are uncertain. The book builds on this foundation to explore the solution to a range of problems of evidential uncertainty, focusing on the Fairchild principle and the idea of risk as damage, as well as the notion of loss of a chance in medical negligence which is often seen as analogous with 'increase in risk', in an attempt to bring coherence to this area of the law.

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

**Justice, Rights, and Tort Law** M.E. Bayles 1983-08-31 The essays in this volume are the result of a project on Values in Tort Law directed by the Westminster Institute for Ethics and Human Values. We are indebted to the Board of Westminster College for its financial support. The project involved two meetings of a mixed group of lawyers and philosophers to discuss drafts of papers and general issues in tort law. Beyond the principal researchers, whose papers appear here, we are grateful to John Bargo, Dick Bronaugh, Craig Brown, Earl Cherniak, Bruce Feldthusen, Barry Hoffmaster and Steve Sharzer for their helpful discussion, and to Nancy Margolis for copy editing. All of these papers except one have appeared before in the journal Law and Philosophy (Vol. 1 No.3, December 1982 and Vol. 2 No.1, April 1983). Chapman's paper which was previously published in The University of Western Ontario Law Review (Vol. 20 No.1, 1982) appears here with permission. Westminster Institute for Ethics and Human Values, M.D.B. Westminster College, London, Canada B.C. vii INTRODUCTION The law of torts is society's primary mechanism for resolving disputes arising from personal injury and property damage.

**The Commercial Appropriation of Personality** Huw Beverley-Smith 2002-08-15 Commercial exploitation of attributes of an individual's personality, such as name, voice and likeness, forms a mainstay of modern advertising and marketing. Such indicia also represent an important aspect of an individual's dignity which is often offended by unauthorized commercial appropriation. This volume provides a framework for analysing the disparate aspects of the problem of commercial appropriation of personality and traces, in detail, the discrete patterns of development in the major common law systems. It also considers whether a coherent justification for a remedy may be identified from a range of competing theories. The considerable variation in substantive legal protection reflects more fundamental differences in the law's responsiveness to commercial practices and different attitudes towards the proper scope and limits of intangible property rights.

*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.

**Principles of European Tort Law** European Group on Tort Law 2009-09-02 The European Group on Tort Law presents the results of its extensive research project, the Principles of European Tort Law. They were drafted on the basis of several comparative studies on the most fundamental questions of tortious liability and the law of damages. The Principles are not a mere restatement of the common core of tort law in Europe, but rather a proposal for a comprehensive system of tortious liability for the future, though necessarily linked to existing regimes. They are meant to stimulate discussion both among academics and practitioners and could serve as guidelines for national legislatures, thereby fostering gradual harmonization. The text of the Principles, which is offered in English and several other languages, is accompanied by commentaries on the various parts elaborating their intended meaning and interplay. **State Liability** Carol Harlow 2004 The lectures presented in this volume examine the fast-growing compensation culture and the consequential pressure on courts to widen the range of situations in which individuals can claim damages from the State. Pressure on domestic legal systems has been further increased by transnational courts. Carol Harlow argues that this trend towards judicialization is undesirable, and that greater use should be made of extrajudicial remedies. She contends that the issue of compensation is too important to be left to the courts.

**The Commercial Appropriation of Fame** David Tan 2017 This book encourages a cultural understanding of the contemporary celebrity and analyses the laws governing the commercial appropriation of fame.

**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.

*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.

**Transnational Legal Activism in Global Value Chains** Miriam Saage-Maaß 2021-08-01 This open access book documents and analyses the various interventions – legal, political, and even artistic – that followed the Ali Enterprises factory fire in Karachi, Pakistan, in 2012. It illuminates the different substantive and procedural aspects of the legal proceedings and negotiations between the various local and transnational actors implicated in the Ali Enterprises fire, as well as the legal and policy reforms sparked by the incident. This endeavour serves to embed these legal cases and reform efforts in the larger context of human and labour rights protection and global value chain governance. It also offers a concrete case study relevant for ongoing debates around the role of transnational approaches in making human rights litigation, advocacy, and law reform more effective. In this regard, the book interrogates and critically reflects on such legal campaigns and local and transnational reform work with a view to future transformative legal and social activism.

*Tort Law* Ernest J. Weinrib 2018-04-27 This title was first published in 2002. The first series of The

International Library of Essays in Law and Legal Theory has established itself as a major research resource. The rapid growth of theoretically interesting scholarly work in law has increased a demand for a Second Series which includes significant recent work and also gives an opportunity to include additional areas of law. The new series follows the successful pattern established in the first of reproducing entire essays with the original page numbers as an aid to comprehensive research and accurate referencing. Volume editors have selected not only the most influential essays but those which they consider will be of greatest continuing importance. Each volume has an introduction which explains the context and the significance of the essays chosen.

**Philosophical Foundations of the Law of Torts** John Oberdiek 2014-02 This book offers a rich insight into the law of torts and cognate fields, and will be of broad interest to those working in legal and moral philosophy. It has contributions from all over the world and represents the state-of-the art in tort theory.

**Human Rights and European Law** Mary Arden 2015 In light of recent criticism of the EU and Strasbourg, Mary Arden makes an invaluable contribution to the debate on transnational courts and human rights. Drawing on years of experience as a senior judge, she explains clearly how human rights law has evolved, and the difficult balances that judges have to strike when interpreting it.

**Roman Law and the Legal World of the Romans** Andrew M. Riggsby 2010-06-14 In this book, Andrew Riggsby surveys the main areas of Roman law, and their place in Roman life.

**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.

**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.

**Tort Law in Poland, Germany and Europe** Bettina Heiderhoff 2009 "This book represents the outcome of a conference, which was attended by Polish and German scholars and discusses miscellaneous topics, relating to current problems in tort law, that prove crucial in the light of current European practice"--P. 4 of cover.

**Laws of Image** Samantha Barbas 2015-09-30 Americans have long been obsessed with their images—their looks, public personas, and the impressions they make. This preoccupation has left its mark on the law. The twentieth century saw the creation of laws that protect your right to control your public image, to defend your image, and to feel good about your image and public presentation of self. These include the legal actions against invasion of privacy, libel, and intentional infliction of emotional distress. With these laws came the phenomenon of "personal image litigation"—individuals suing to vindicate their image rights. Laws of Image tells the story of how Americans came to use the law to protect and manage their images, feelings, and reputations. In this social, cultural, and legal history, Samantha Barbas ties the development of personal image law to the self-consciousness and image-consciousness that has become endemic in our media-saturated culture of celebrity and consumerism, where people see their identities as intertwined with their public images. The laws of image are the expression of a people who have become so publicity-conscious and self-focused that they believe they have a right to control their images—to manage and spin them like actors, politicians, and rock stars.

**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.

**The Measure of Injury** Martha Chamallas 2010-05-31 Citizenship is generally viewed as the most desired legal status an individual can attain, invoking the belief that citizens hold full inclusion in a society, and can

exercise and be protected by the Constitution. Yet this membership has historically been exclusive and illusive for many, and in *Citizenship and its Exclusions*, Ediberto Roman provides a sweeping, interdisciplinary analysis of citizenship's contradictions. Roman offers an exploration of citizenship that spans from antiquity to the present, and crosses disciplines from history to political philosophy to law, including constitutional and critical race theories. Beginning with Greek and Roman writings on citizenship, he moves on to late-medieval and Renaissance Europe, then early Modern Western law. His analysis culminates with an explanation of how past precedents have influenced U.S. law and policy regulating the citizenship status of indigenous and territorial island people, as well as how different levels of membership have created a de facto subordinate citizenship status for many members of American society, often lumped together as the "underclass." "What kind of harms matter, and why? Steeped in the history of American tort law, Martha Chamallas and Jennifer B. Wriggins demonstrate how attitudes about race and gender run through the harms recognized—and not recognized—by American law. Along the way, this fine book sheds light on deliberate and unconscious stereotyping, the shifting treatments of workplace and family injuries, the influence of social movements on law and public attitudes, and alternative approaches to harms, causation, and damages. This book is brimming with insights about how societies do and should express what matters in assigning liability for human pain and loss." "This book asks important questions about the tort system. Tort law is largely taught and described from a doctrinal perspective that makes no attempt to see how it is actually working on the ground. This book assesses how the tort system fares in operation by examining how race and gender influence court decisions in torts cases. A promising direction for scholarship on the tort system."

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

**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.

**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.

**The Cambridge Handbook of International and Comparative Trademark Law** Irene Calboli 2020-09-30 Trade in goods and services has historically resisted territorial confinement, but trademark protection remains territorial, albeit within an increasingly important framework of multilateral treaties. Trademark law therefore demands that practitioners, policy-makers and academics understand principles of international and comparative law. This handbook assists in that endeavour, with chapters describing and critically analyzing international and regional frameworks, and providing comparative perspectives on the substantive issues in trademark law and related fields, such as geographic indications, advertising law, and domain names. Chapters contrast common law and civil law approaches while focusing on the US and EU trademark systems in light of the role these systems have played in the development of trademark laws. Additionally, this handbook covers other jurisdictions, both common law and civil law, on the Asia-Pacific, African, and South American continents. This work should be read by anyone seeking a better understanding of trademark law around the world.

**Philosophical Foundations of Tort Law** David G. Owen 1995 This exceptional collection of twenty-two essays on the philosophical fundamentals of tort law assembles many of the world's leading commentators on this particularly fascinating conjunction of law and philosophy. The contributions range broadly, from inquiries into how tort law derives from Aristotle, Aquinas, and Kant to the latest economic and rights-based theories of legal responsibility. This is truly a multi-national production, with contributions from several distinguished Oxford scholars of law and philosophy and many prominent scholars from the United States, Canada, and Israel. A provocative closing essay by one of the world's leading moral philosophers illuminates how tort law enables philosophers to observe the abstract theories of their discipline put to the concrete test in the legal resolution of real-world controversies based on principles of right and wrong.

**Cross-Border Infringement of Personality Rights via the Internet** Symeon C. Symeonides 2021-01-11 Conflicts of laws arising from injuries to rights of personality—such as defamation or invasion of privacy—have always been difficult, if only because they implicate conflicting societal values about the rights of freedom of speech and access to information, on the one hand, and protection of reputation and privacy, on the other hand. The ubiquity of the internet has dramatically increased the frequency and intensity of these conflicts. This book explores the ways in which various Western countries have addressed these conflicts, but also advances new, practical ideas about how these conflicts should be resolved. These ideas are part of an international model law unanimously adopted by a Resolution of the Institut de droit international, which addresses jurisdiction, choice of law, and recognition and enforcement of foreign judgments. The book provides extensive article-by-article commentary, which explains the philosophy and intended operation of the Resolution.