

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

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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.

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 publicly-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.

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.

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.

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.

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

European Product Liability Piotr Machnikowski 2016 Thirty years after the entry into force of the Directive on liability for defective products (Council Directive 85/374/EEC), and in the light of the threat to user safety posed by consumer goods that make use of new technologies, it is essential to assess and determine whether the Directive remains an adequate legal response to the phenomenon of products brought to market that fail to ensure appropriate levels of safety for their users. European Product Liability is the result of an extensive international research project funded by the Polish National Science Centre. It brings together experienced scholars associated with the European Group on Tort Law (EGTL) and the European Research Group on Existing EC Private Law (Acquis Group). Individual country reports analyse the implementation of the Directive in the domestic law of several EU and EEA Member States (namely Austria, Czech Republic, Denmark, England, France, Germany, Italy, Netherlands, Norway, Poland, Spain, and Switzerland) and the relationship of the implemented rules with the already existing rules of tort law. The country reports show that the practical significance of product liability differs widely in the various Member States. Also taking into account non-EU countries (Canada, Israel, South Africa and the USA), this book examines whether EU law will ensure sufficient safety for individuals using goods that have been produced using new technologies that are currently under development, such as major advances in mechatronics, nanotechnology, regenerative medicine and contour crafting. Together with an economic analysis of product liability it makes the book valuable for academics, practitioners, policy makers and all those interested in the subject.

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.

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.

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.

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

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 coherency, 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.

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.

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

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.

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.

Tort Law in the European Union Gert Brüggemeier 2018-06-14 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 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.

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.

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.

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 Col lege 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.

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.

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.

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.

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.

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 personal interest in the same way.

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.

A Company's Right to Damages for Non-Pecuniary Loss Vanessa Wilcox 2016-08-15 This detailed examination explores the extent to which non-pecuniary damages can properly be awarded to companies.

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 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.

Fundamental Rights and Private Law in Europe Nuno Ferreira 2011-05-19 The book explores, from a comparative and interdisciplinary 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.

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.

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.

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?

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 1

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.

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.

Violations of Personality Rights Through the Internet Edina Márton 2016

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.