

Resume – Liability for Defective Products (Product Liability)

This study deals with the subject of product liability law. This is a growing area in which manufacturers and suppliers are finding themselves more and more responsible for the quality of their products and for the consequences flowing from any defects therein. There is a growing amount of litigation throughout the world tackling the problems arising from the safety of products. These laws take into account the manufacturing process, the transportation, storage and delivery of goods, the intended use of products, their fitness for such purpose, and any warning or instructions as to use given to consumers and end-users.

Injuries caused by products began to give rise to serious policy concerns in the second half of the 20th century, when the combined effect of increasingly sophisticated consumer products automated large-scale production processes and modern distribution chains left the end-user in a difficult position. The end-user was purchasing a product not from the manufacturer directly, but from a retailer who might stand a number of steps away from the manufacturer in the distribution chain. The complex processes of product development and manufacture were internal to the manufacturer and thus unknown to the end-user and probably to the retailer as well. If the end-user suffered physical injury or damage to property due to the product, the traditional liability systems offered him or her some form of contractual recourse (typically based on warranty) against the retailer, and perhaps also a delictual or tortious recourse against the manufacturer. While the contractual liability of the retailer might be easier to establish such liability might be limited, and in any event the retailer usually did not have the financial resources required to meet substantial claims by the victim. As regards the manufacturer, the victim faced an uphill battle in trying to demonstrate fault or negligence, as the case may be.

The new attitude to this problem was set on the modified regime of tort liability applicable to the manufacturer. At the opposite extreme from traditional fault-based liability would be a regime where the manufacturer would be liable for all injury caused by the products that it has placed on the market.

This study focuses on the consumer protection established by the Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products. Differences between the legal systems of the Member States led the European

Community to attempt to harmonize the law of product liability with Directive 85/374. However, the Directive did not affect existing law, but merely supplemented it with a new harmonized regime. The crucial element of this Directive is that the producer shall be liable for damage caused by a defect in his product.

The second main part of this work surveys how the Directive has been implemented in the legal system of the Czech Republic, and the difficulties to which it has give rise.

The final part deals with Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety and again how the Directive has been implemented in the legal system of the Czech Republic. The purpose of this Directive is to ensure that products placed on the market are safe.