

Resume - Private and public law aspects of product liability and general product safety

Product liability, i.e. liability for defective products, is part of consumer protection and in particular consumer protection focusing on consumer health and safety. Product liability is preceded by general product safety since only safety products are able not to cause to consumers damage resulting from products' defects. Therefore it is necessary to get acquainted with both general product safety as well as product liability legislation and judicature.

Regarding general product safety there are number of obligations set forth for producers in order to guarantee that only safety products are put into circulation/put into market. Breach of the said obligations is followed by various sanctions in the area of public law as well as private law (liability for damage caused by defective products). Among public law sanctions there belong administrative law and penal law sanctions resulting in punishing producers where a consumer activity is not required in order to punish producer. Czech Act on general product safety belongs among general legislation covering issues that are not covered by special Czech legislation. The Act is generally in line with Directive on general product safety.

On the other hand private law requires consumers to bring an action and claim damages as a result of damage caused to consumer by defective product. Although situation is currently much easier because of establishing producers' no-fault liability consumer is nevertheless deemed to be weaker contractual party often not able to properly claim damages. Therefore there is public law covering defective, i.e. not safety, products which serve as a preventive measure of consumer protection unlike it is a case of private law, i.e. product liability, which is deemed to be a subsequent measure of consumer protection. Functional connection and interrelation of both, general product safety legislation and product liability legislation, is definitely advantageous for consumers and protection of their lives, health and also property.