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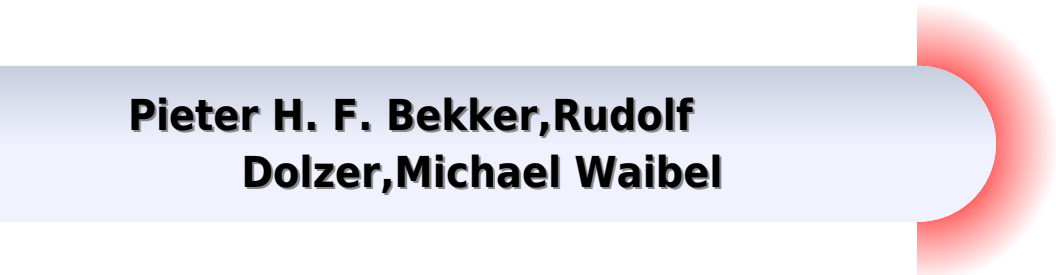
STATE LIABILITY IN TORT

A COMPARATIVE LAW STUDY

Duncan Fairgrieve

State Liability In Tort A Comparative Law Study

**Pieter H. F. Bekker, Rudolf
Dolzer, Michael Waibel**



State Liability In Tort A Comparative Law Study:

State Liability in Tort Duncan Fairgrieve, 2003 This book examines the topical sphere of governmental liability in damages arguing that there has been an important shift in the traditional English law approach as illustrated in a series of recent House of Lords decisions A detailed analysis is made of the torts applying to public bodies including negligence misfeasance in public office nuisance and breach of statutory duty as well as the influence of European human rights law and community law with discussion of the availability of damages under the Human Rights Act 1998 and the impact of the controversial decision of the European Court of Human Rights in *Osman v UK* and the subsequent retreat in *Z v UK* The discussion of state liability is also placed within the context of the evolving attitude of the courts to public law remedies with a detailed reconsideration of the relationship between ultra vires and liability in damages From a comparative law perspective it is argued that contrary to orthodox doctrinal opinion there are many similarities in the English and French law of administrative liability with parallels in the treatment of different types of loss causation finding of fault and underlying policy concerns The author discusses the direction in which English law might now move as well as analysing less orthodox sources of compensation such as the practice of the ombudsmen and statutory funds including the new French medical negligence compensation scheme

Vicarious Liability in Tort Paula Giliker, 2010-10-28 Vicarious liability is controversial a principle of strict liability in an area dominated by fault based liability By making an innocent party pay compensation for the torts of another it can also appear unjust Yet it is a principle found in all Western legal systems be they civil law or common law Despite uncertainty as to its justifications it is accepted as necessary In our modern global economy we are unlikely to understand its meaning and rationale through study of one legal system alone Using her considerable experience as a comparative tort lawyer Paula Giliker examines the principle of vicarious liability or to a civil lawyer liability for the acts of others in England and Wales Australia Canada France and Germany and with reference to legal systems in countries such as the United States New Zealand and Spain

The Oxford Handbook of Comparative Administrative Law Peter Cane, Herwig Hofmann, Eric C. Ip, Eric Chi Yeung Ip, Peter L. Lindseth, 2021 In this Handbook distinguished experts in the field of administrative law discuss a wide range of issues from a comparative perspective The book covers the historical beginnings of comparative administrative law scholarship and discusses important methodological issues and basic concepts such as administrative power and accountability

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 English, French & German Comparative Law Raymond Youngs,2014-06-13 This comparative analysis considers the differing approaches to important areas of law in England France and Germany In particular constitutions sources of law rights against the state to prevent abuse of power and rights of private individuals and organisations against each other in tort and contract are examined and compared and the system of courts is also considered Updated and revised each sub topic is introduced with the relevant material in the English system allowing easy comparison and assimilation of the other systems The text includes translations of relevant French and German codal material and references to relevant cases from all of the jurisdictions This new edition includes constitutional changes in France and the United Kingdom in particular the new procedure for challenging existing legislation before the Conseil constitutionnel It examines the consequences of the Lisbon Treaty as well as other recent codal and legislative changes Comprehensive and topical the text explores a wide variety of new case law on issues such as preventive detention the use of evidence obtained by torture the balance between suppression of terrorism and personal freedom the internet email monitoring artificial reproductive techniques use of global positioning systems GPSs deoxyribonucleic acid DNA and closed circuit television CCTV the wearing of religious clothing such as the headscarf and symbols such as the cross circumcision methods of crowd control the prevention of human trafficking the preservation of privacy especially for celebrities and the legality of pre nuptial agreements and success fees for lawyers Designed for students on comparative law courses this textbook will also prove valuable to students who are familiar with English law but require a readily comprehensible introduction to French or German law **The Indian Yearbook of Comparative Law 2019** Mathew John,Vishwas H. Devaiah,Pritam Baruah,Moiz Tundawala,Niraj Kumar,2021-07-28 This book is a compilation of thematically arranged essays that critically analyze emerging developments issues and perspectives in the field of comparative law especially in the field of comparative constitutional law The book discusses limits and challenges of comparativism comparative aspects of arbitral awards cross border consumer disputes online hate speech authoritarian constitutions issues related to legal transplants the indispensability of the idea of the concept of Rechtsstaat interdisciplinary challenges of comparative environmental law free exercise of religions public interest litigation constitutional interpretation and developments and sustainable development in model BITs It comprises seven parts wherein the first part focuses on general themes of comparative law the second part discusses private law through a comparative lens and the third fourth and fifth parts examine aspects of public law with

special focus on constitutional law human rights environmental law and economic laws The last part of the book covers recent developments in the field of comparative law The book intends to seamlessly tie together discussions on both public and private law aspects of comparative law It encourages readers to gain a nuanced understanding of the working of law legal systems and legal cultures while aiding deliberations on the constituents of an ideal system of law Public Liability in EU Law Pekka Aalto, 2011-11-01 Over the last two decades public law liability for breach of European Union law has been subject to remarkable developments This book examines the convergence between its two constituent systems the damages liability of the EU and that of its Member States for failing to comply with EU rules Member State liability based as it is on the Francovich case 1991 and Brasserie du P cheur and Factortame 1996 judgments of the European Court of Justice ECJ is well established But it is yet to be closely scrutinised by reference to the detailed rules on the liability of the European Union The focus of the book is on the two key legal criteria that are common to both systems namely the grant of rights to individuals by EU law and the notion of sufficiently serious breach of such rights The analysis concentrates on developments in the case law of the ECJ and the General Court since the Bergaderm judgment 2000 which consolidated the convergence of the two liability systems that was first indicated in Brasserie du P cheur and Factortame These two criteria are set side by side to evaluate the extent in real terms of the convergence of Member State and EU institutional damages liability and to determine the extent to which one has influenced the other This book shows that although full convergence between the two liability systems is not likely each stream of case law should look to the other more actively as this important element of EU remedial law develops Convergence in EU law public liability is supported by developments in adjacent areas most notably European tort law and European administrative law This study also illustrates how convergence in the EU liability systems to date has had spill over effects into national public liability law Lunney & Oliphant's Tort Law Donal Nolan, Ken Oliphant, 2023 The seventh edition provides a complete authoritative guide to the subject The book combines clear overviews of the law with well chosen extracts from cases and materials supported by insightful commentary *Cases, Materials and Text on Judicial Review of Administrative Action* Chris Backes, Mariolina Eliantonio, 2019-08-08 This casebook studies the law governing judicial review of administrative action It examines the foundations and the organisation of judicial review the types of administrative action and corresponding kinds of review and access to court Significant attention is also devoted to the conduct of the court proceedings the grounds for review and the standard of review and the remedies available in judicial review cases The relevant rules and case law of Germany England and Wales France and the Netherlands are analysed and compared The similarities and differences between the legal systems are highlighted The impact of the jurisprudence of the European Court of Human Rights is considered as well as the influence of EU legislative initiatives and the case law of the Court of Justice of the European Union in the legal systems examined Furthermore the system of judicial review of administrative action before the European courts is studied and compared to that of the national legal systems During the

last decade the growing influence of EU law on national procedural law has been increasingly recognised However the way in which national systems of judicial review address the requirements imposed by EU law differs substantially The casebook compares the primary sources legislation case law etc of the legal systems covered and explores their differences and similarities this examination reveals to what extent a *ius commune* of judicial review of administrative action is developing

Third-Party Certifiers Jan De Bruyne, 2019-07-12 Third Party Certifiers Jan De Bruyne Third party certifiers are organisations that are independent a requesting entity They attest that a product service information or person possesses certain qualifications or meets safety quality or technical standards This important book presents an in depth analysis of the liability and obligations of certifiers evaluates existing certification processes in selected fields and proposes new mechanisms which could increase the accuracy and reliability of certifiers ratings marks or reports Highlighting the risks of errors in this activity inaccurate certification was a major factor in the global financial crisis of 2008 the author takes a comparative approach looking at the certification process in several European countries Australia and the United States Such aspects of the process as the following are thoroughly described obligations and liability of certifiers during the certification process risk of information asymmetry between the requesting entity and the end user and relationship between the civil liability of certifiers and public law aspects The analysis includes detailed research on key industries and jurisdictions and a specific proposed framework for more accurate and reliable certification Because the efficient and effective functioning of third party certifiers is extremely important in today s world especially in such areas as health the environment safety or economic values this deeply researched contribution to an important area of commercial law combining analysis of current issues with proposed reforms will be welcomed by practitioners when confronted with legal issues with regard to the certification process The book s conceptual framework will also prove highly useful for policymakers charged with developing reliable certification mechanisms

Global Encyclopedia of Public Administration, Public Policy, and Governance Ali Farazmand, 2023-04-05 This global encyclopedic work serves as a comprehensive collection of global scholarship regarding the vast fields of public administration public policy governance and management Written and edited by leading international scholars and practitioners this exhaustive resource covers all areas of the above fields and their numerous subfields of study In keeping with the multidisciplinary spirit of these fields and subfields the entries make use of various theoretical empirical analytical practical and methodological bases of knowledge Expanded and updated the second edition includes over a thousand of new entries representing the most current research in public administration public policy governance nonprofit and nongovernmental organizations and management covering such important sub areas as 1 organization theory behavior change and development 2 administrative theory and practice 3 Bureaucracy 4 public budgeting and financial management 5 public economy and public management 6 public personnel administration and labor management relations 7 crisis and emergency management 8 institutional theory and public administration 9 law and regulations 10 ethics and accountability

11 public governance and private governance 12 Nonprofit management and nongovernmental organizations 13 Social health and environmental policy areas 14 pandemic and crisis management 15 administrative and governance reforms 16 comparative public administration and governance 17 globalization and international issues 18 performance management 19 geographical areas of the world with country focused entries like Japan China Latin America Europe Asia Africa the Middle East Russia and Eastern Europe North America and 20 a lot more Relevant to professionals experts scholars general readers researchers policy makers and manger and students worldwide this work will serve as the most viable global reference source for those looking for an introduction and advance knowledge to the field **Tort Law in France** Jonas

Knetsch,2025-07-23 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 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 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 **Street on Torts**

Christian A. Witting,2015 Street on Torts provides a scholarly and incisive treatment of the law of torts with a focus upon key concepts and clear explanations This book builds upon the learning of its previous celebrated authors and nearly 60 years after publication of the first edition is considered a classic exposition of the law of torts **Child Abuse Tort Claims**

Against Public Bodies Duncan Fairgrieve,Sarah Green,2017-11-30 Increasing international cooperation in tackling the worldwide problem of child abuse and neglect has helped to raise the profile of this important issue Scholarly literature on the problem is growing yet there is still a pressing need for a legal comparative commentary on the issue of child abuse claims in tort Addressing this omission this valuable work investigates how the factual circumstances as laid out in the landmark English cases of X v Bedfordshire County Council and Barrett v Enfield London Borough Council have been dealt with by the European Court of Human Rights and in a number of key jurisdictions including the US Canada Australia South Africa France Germany and Italy Examining the substantive tort law in these jurisdictions the book highlights differences in

procedure and compares alternative non judicial sources of compensation for claimants It also offers suggestions for reform providing a work that will greatly benefit all those working within this specific area of law or having an interest in the subject

Calculation of Compensation and Damages in International Investment Law Irmgard Marboe,2017 Dealing with the issue of valuation of legal claims in international dispute settlement proceedings especially in the context of foreign investment this text provides an analysis of the practice of international courts and tribunals as regards the valuation of claims of individuals against foreign states *The Impact of Investment Treaty Law on Host States* Mavluda Sattorova,2018-02-08

Traditionally international investment law was conceptualised as a set of norms aiming to ensure good governance for foreign investors in exchange for their capital and know how However the more recent narratives postulate that investment treaties and investor state arbitration can lead to better governance not just for foreign investors but also for host state communities Investment treaty law can arguably foster good governance by holding host governments liable for a failure to ensure transparency stability predictability and consistency in their dealings with foreign investors The recent proliferation of such narratives in investment treaty practice arbitral awards and academic literature raises questions as to their juridical conceptual and empirical underpinnings What has propelled good governance from a set of normative ideals to enforceable treaty standards Does international investment law possess the necessary characteristics to inspire changes at the national level How do host states respond to investment treaty law The overarching objective of this monograph is to unpack existing assumptions concerning the effects of international investment law on host states By combining doctrinal empirical comparative analysis and unveiling the emerging nationally felt responses to international investment norms the book aims to facilitate a more informed understanding of the present contours and the nature of the interplay between international investment norms and national realities **Retail Depositor and Retail Investor Protection under EU Law**

Constantinos Tokatlides,2017-02-10 Retail Depositor and Retail Investor Protection under EU Law offers an original perspective on EU financial law in the area of retail investor protection examining the status of protection awarded by EU law to retail depositors and retail investors in the event of financial institution failure The analysis of relevant EU law is on the basis of effectiveness and has been elaborated in two levels of comparison The first comparative approach examines relevant EU law both externally and internally externally vis vis relevant international initiatives and developments in the area of financial law as the latter affect the features and evolution of EU law and internally by examining relevant instruments of EU law with regard to each other as to their normative structure and content The second comparative approach also examines the status of retail depositors in relation to that of retail investors under EU law in the event of financial institution failure and the relevant legal consequences thereof **Principles and Values in Criminal Law and Criminal Justice**

Lucia Zedner,Julian V. Roberts,2012-08-16 Celebrating the scholarship of Andrew Ashworth Vinerian Professor of English Law at the University of Oxford this collection brings together leading international scholars to explore

questions of principle and value in criminal law and criminal justice Internationally renowned for elaborating a body of principles and values that should underpin criminalization the criminal process and sentencing Ashworth's contribution to the field over forty years of scholarship has been immense Advancing his project of exploring normative issues at the heart of criminal law and criminal justice the contributors examine the important and fascinating debates in which Ashworth's influence has been greatest The essays fall into three distinct but related areas reflecting Ashworth's primary spheres of influence Those in Part 1 address the import and role of principles in the development of a just criminal law with contributions focusing upon core tenets such as the presumption of innocence fairness accountability the principles of criminal liability and the grounds for defences Part 2 addresses questions of human rights and due process protections in both domestic and international law In Part 3 the essays are addressed to core issues in sentencing and punishment they explore questions of equality proportionality adherence to the rule of law the totality principle in respect of multiple offences wrongful acquittals and unduly lenient sentences Together they demonstrate how important Ashworth's work has been in shaping how we think about criminal law and criminal justice and make their own invaluable contribution to contemporary discussions of criminalization and punishment

Making Transnational Law Work in the Global Economy Pieter H. F. Bekker, Rudolf Dolzer, Michael Waibel, 2010-10-28 This tribute to Professor Detlev Vagts of the Harvard Law School brings together his colleagues at Harvard and the American Society of International Law as well as academics judges and practitioners many of them his former students Their essays span the entire spectrum of modern transnational law international law in general transnational economic law and transnational lawyering and dispute resolution The contributors evaluate established fields of transnational law such as the protection of property and investment and explore new areas of law which are in the process of detaching themselves from the nation state such as global administrative law and the regulation of cross border lawyering The implications of decentralised norm making the proliferation of dispute settlement mechanisms and the rising backlash against global legal interdependence in the form of demands for preserving state legal autonomy are also examined

Courts and Comparative Law Mads Andenas, Duncan Fairgrieve, 2015-07-30 While the role of comparative law in the courts was previously only an exception foreign sources are now increasingly becoming a source of law in regular use in supreme and constitutional courts There is considerable variation between the practices of courts and the role of comparative law and methods remain controversial In the US the issue has been one of intense public debate and it is still one of the major dividing issues in the discussion about the role of the courts Contributing to the existing discussion of the use of comparative law in the courts this book provides an inclusive coherent and practical analysis of the relevant law and jurisprudence in comparative law in the courts It examines the consequences for court procedures and the form of judgments as well as how foreign sources are drawn upon in private international law European law administrative law and constitutional law as well as before general courts The book also includes case studies of comparative law used in particular

spheres of the law such as tort law and consumer law Written by practising judges and lawyers as well as leading academics this book serves as a central reference point concerning the role of comparative law before the courts

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