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## Concurrence in European Private Law

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# Treaties and Legislation

## INTERNATIONAL TREATIES

### **CIV Uniform Rules**

Uniform Rules concerning the Contract of International Carriage of Passengers by Rail (CIV), appendix to the Convention concerning International Carriage by Rail of 9 May 1980.

### **Montreal Convention**

Convention for the Unification of Certain Rules for International Carriage by Air of 28 May 1999.

## EUROPEAN UNION LAW

### *Primary law*

#### **TFEU**

Consolidated Version of the Treaty on the Functioning of the European Union [2007] OJ C326/01.

#### **TEU**

Consolidated Version of the Treaty on European Union [2008] OJ C115/13.

#### **The Charter**

Charter of Fundamental Rights of the European Union [2012] OJ C326/02.

#### **Declaration No. 17 concerning primacy**

Declaration No. 17 concerning primacy [2007] OJ C115/344.

#### **Explanations relating to the Charter**

Explanations relating to the Charter of Fundamental Rights [2007] OJ C303/17.

#### **Protocol No. 25 on the exercise of shared competence**

Protocol No. 25 on the exercise of shared competence (annexed to the TFEU) [2008] OJ C115/307.

#### **Protocol No. 27 on the internal market and competition**

Protocol No. 27 on the internal Market and competition (annexed to the TFEU) [2008] OJ C115/309.

### *Secondary legislation*

#### *Directives*

#### **Directive 76/207/EEC (no longer in force)**

Council Directive 76/207/EEC of 9 February 1976 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions [1976] OJ L039/40.

**Directive 84/450/EEC (no longer in force)**

Council Directive 84/450/EEC of 10 September 1984 relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning misleading advertising [1984] OJ L250/17.

**Directive 85/374/EEC**

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 [1985] OJ L2010/29.

**Directive 85/577/EEC (no longer in force)**

Council Directive 85/577/EEC of 20 December 1985 on the protection of consumers in respect of contracts negotiated away from business premises [1985] OJ L372/31.

**Directive 86/653/EEC**

Council Directive 86/653/EEC of 18 December 1986 on the coordination of the laws of the Member States relating to self-employed commercial agents [1986] OJ L382/17.

**Directive 87/102/EEC (no longer in force)**

Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit [1986] OJ L042/48.

**Directive 90/314/EEC (no longer in force)**

Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours [1990] OJ L158/59.

**Directive 93/13/EEC**

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts [1993] OJ L95/29.

**Directive 94/47/EC (no longer in force)**

Directive 94/47/EC of the European Parliament and of the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects on contracts relating to the purchase of the right to use immovable properties on a timeshare basis [1994] OJ L280/83.

**Directive 95/46/EC (no longer in force)**

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1995] OJ L281/31.

**Directive 96/9/EC**

Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases [1996] OJ L77/20.

**Directive 97/7/EC (no longer in force)**

Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts [1997] OJ L144/19.

**Directive 1999/44/EC**

Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees [1999] OJ L171/12.

**Directive 2000/31/EC**

Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (*Directive on electronic commerce*) [2000] OJ L178/1.

**Directive 2000/43/EC**

Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin [2000] OJ L180/22.

**Directive 2000/78/EC**

Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation [2000] OJ L303/16.

**Directive 2001/29/EC**

Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society [2001] OJ L167/10.

**Directive 2001/83/EC**

Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use [2001] OJ L311/67.

**Directive 2002/22/EC**

Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (*Universal Service Directive*) [2002] OJ L108/51.

**Directive 2002/65/EC**

Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services [2002] OJ L271/16.

**Directive 2003/88/EC**

Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time [2003] OJ L299/9.

**Directive 2004/48/EC**

Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights [2004] OJ L157/45.

**Directive 2005/29/EC**

Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council (*Unfair Commercial Practices Directive*) [2005] OJ L149/22.

**Directive 2006/114/EC**

Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising [2006] OJ L376/21.

**Directive 2006/115/EC**

Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property [2006] OJ L376/28.

**Directive 2006/123/EC**

Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market [2006] OJ L376/36.

**Directive 2008/48/EC**

Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC [2008] OJ L133/66.

**Directive 2008/122/EC**

Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts [2009] OJ L33/10.

**Directive 2009/24/EC**

Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs [2009] OJ L111/16.

**Directive 2009/138/EC**

Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (*Solvency II*) [2009] OJ L335/1.

**Directive 2010/30/EU (no longer in force)**

Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products [2010] OJ L153/1.

**Directive 2011/7/EU**

Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions [2011] OJ L48/1.

**Directive 2011/83/EU**

Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council [2011] OJ L304/64.

**Directive 2014/17/EU**

Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 [2014] OJ L60/34.

**Directive 2014/104/EU**

Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union [2014] OJ L349/1.

**Directive 2015/2302/EU**

Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC [2015] OJ L326/1.

**Directive 2015/2366/EU**

Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC [2015] OJ L337/35.

**Directive 2016/943/EU**

Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure [2016] OJ L157/1.

**Directive 2017/1132/EU**

Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law [2017] OJ L169/46.

**Directive 2019/770/EU**

Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services [2019] OJ L136/1.

**Directive 2019/771/EU**

Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods, , amending Regulation (EU) 2017/2394 and Directive 2009/22/EC, and repealing Directive 1999/44/EC [2019] OJ L136/28.

**Directive 2019/790/EU**

Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC [2019] OJ L130/92.

**Directive 2019/1152/EU**

Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union [2019] OJ L186/105.

**Directive 2019/2161/EU**

Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 as regards the better enforcement and modernisation of Union consumer protection rules [2019] OJ L328/7.

*Regulations***Regulation (EC) 2100/94**

Council Regulation (EC) 2100/94 of 27 July 1994 on Community plant variety rights [1994] OJ L227/1.

**Regulation (EC) 889/2002**

Regulation (EC) 889/2002 of the European Parliament and of the Council of 13 May 2002 amending Council Regulation (EC) No 2027/97 on air carrier liability in the event of accidents [2002] OJ L140/2.

**Regulation (EC) 1/2003**

Council Regulation (EC) 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty [2002] OJ L1/1.

**Regulation (EC) 139/2004**

Council Regulation (EC) 139/2004 of 20 January 2004 on the control of concentrations between undertakings (*the EC Merger Regulation*) [2004] OJ L24/1.

**Regulation (EC) 261/2004**

Regulation (EC) 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 [2004] OJ L46/1.

**Regulation (EC) 1107/2006**

Regulation (EC) 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air [2006] OJ L204/1.

**Regulation (EC) 1371/2007**

Regulation (EC) 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations [2007] OJ L315/14.

**Regulation (EC) 1008/2008**

Regulation (EC) 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) [2008] OJ L293/3.

**Regulation (EC) 169/2009**

Council Regulation (EC) 169/2009 of 26 February 2009 applying rules of competition to transport by rail, road and inland waterway [2009] OJ L61/1.

**Regulation (EC) 392/2009**

Regulation (EC) 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents [2009] OJ L131/24.

**Regulation (EC) 906/2009**

Commission Regulation (EC) 906/2009 of 28 September 2009 on the application of Article 81(3) of the Treaty to certain categories of agreements, decisions and concerted practices between liner shipping companies (consortia) [2009] OJ L256/31.

**Regulation (EU) 1093/2010**

Regulation (EU) 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC [2010] OJ L331/12.



**Regulation (EU) 1177/2010**

Regulation (EU) 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 [2010] OJ L334/1.

**Regulation (EU) 181/2011**

Regulation (EU) 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) 2006/2004 [2011] OJ L55/1.

**Regulation (EU) 665/2013 (no longer in force)**

Commission Delegated Regulation (EU) 665/2013 of 3 May 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of vacuum cleaners [2013] OJ L192/1.

**Regulation (EU) 462/2013**

Regulation (EU) 462/2013 of the European Parliament and of the Council of 21 May 2013 amending Regulation (EC) No 1060/2009 on credit rating agencies [2013] OJ L146/1.

**Regulation (EU) 316/2014**

Commission Regulation (EU) 316/2014 of 21 March 2014 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of technology transfer agreements [2014] OJ L93/17.

**Regulation (EU) 655/2014**

Regulation (EU) 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters [2014] OJ L189/59.

**Regulation (EU) 910/2014**

Regulation (EU) 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (eIDAS Regulation) [2014] OJ L257/73.

**Regulation (EU) 2015/848**

Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings [2015] OJ L141/19.

**Regulation (EU) 2016/679**

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (*General Data Protection Regulation*) [2016] OJ L119/1.

**Regulation (EU) 2017/745**

Regulation (EU) 2017/745 of the European Parliament and of the Council of 5 April 2017 on medical devices, amending Directive 2001/83/EC, Regulation (EC) No 178/2002 and Regulation (EC) No 1223/2009 and repealing Council Directives 90/385/EEC and 93/42/EEC [2017] OJ L117/1.

**Regulation (EU) 2017/1001**

Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark [2017] OJ L154/1.

**Regulation (EU) 2017/1128**

Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market [2017] OJ L168/1.

**Regulation (EU) 2017/1369**

Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU [2017] OJ L198/1.

**Regulation (EU) 2019/1150**

Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services [2019] OJ L186/57.

*Documents***Commission Notice 2004**

European Commission Notice, 'Guidelines on the effect on trade concept contained in Arts. 81 and 82 of the Treaty' [2004] OJ C101/81.

**De Minimis Notice 2014**

European Commission Notice, 'Notice on agreements of minor importance which do not appreciably restrict competition under Article 101(1) of the Treaty on the Functioning of the European Union (De Minimis Notice)' [2014] OJ C291/01.

**Report of the Task Force on Subsidiarity, Proportionality and "Doing Less More Efficiently" 2018**

Commission, 'Report of the Task Force on Subsidiarity, Proportionality and "Doing Less More Efficiently"', 10 July 2018.

## NATIONAL LEGISLATIVE TEXTS AND PROPOSALS

*France***Loi n° 85-677**

*Loi n° 85-677 du 5 juillet 1985 tendant à l'amélioration de la situation des victimes d'accidents de la circulation et à l'accélération des procédures d'indemnisation (Loi Badinter).*

**L'avant-projet de réforme du droit des obligations et du droit de la prescription**

*Avant-projet de réforme du droit des obligations et du droit de la prescription (avant-projet Catala), 22 September 2005, available via [http://www.justice.gouv.fr/art\\_pix/RAPPORTCATALASEPTEMBRE2005.pdf](http://www.justice.gouv.fr/art_pix/RAPPORTCATALASEPTEMBRE2005.pdf) (last accessed 15 November 2019).*

**Loi n° 2008-561**

*Loi n° 2008-561 du 17 juin 2008 portant réforme de la prescription en matière civile, JUSX0711031L.*

**Ordonnance n° 2016-131**

*Ordonnance n° 2016-131 du 10 février 2016 portant réforme du droit des contrats, du régime général et de la preuve des obligations*, JUSC1522466R, available via [www.legifrance.gouv.fr](http://www.legifrance.gouv.fr) and via [www.textes.justice.gouv.fr/art\\_pix/THE-LAW-OF-CONTRACT-2-5-16.pdf](http://www.textes.justice.gouv.fr/art_pix/THE-LAW-OF-CONTRACT-2-5-16.pdf) (translation into English by John Cartwright, Bénédicte Fauvarque-Cosson & Simon Whittaker, commissioned by the *Direction des affaires civiles et du sceau, Ministère de la Justice, France*) (last accessed 15 November 2019).

**Projet de réforme du droit de la responsabilité civile 2017**

*Projet de réforme du droit de la responsabilité civile*, 13 March 2017, available via [www.justice.gouv.fr/publication/Projet\\_de\\_reforme\\_de\\_la\\_responsabilite\\_civile\\_13032017.pdf](http://www.justice.gouv.fr/publication/Projet_de_reforme_de_la_responsabilite_civile_13032017.pdf) (last accessed 15 November 2019) and via [www.textes.justice.gouv.fr/art\\_pix/reform\\_bill\\_on\\_civil\\_liability\\_march\\_2017.pdf](http://www.textes.justice.gouv.fr/art_pix/reform_bill_on_civil_liability_march_2017.pdf) (translation into English by Simon Whittaker, in consultation with Jean-Sébastien Borghetti, commissioned by the *Direction des affaires civiles et du sceau, Ministère de la Justice, France*) (last accessed 15 November 2019).

*The United Kingdom***Misrepresentation Act 1967**

Act of 22 March 1967 to amend the law relating to innocent misrepresentations and to amend sections 11 and 35 of the Sale of Goods Act 1893.

**Civil Liability (Contribution) Act 1978**

Act of 31 July 1978 to make new provision for contribution between persons who are jointly or severally, or both jointly and severally, liable for the same damage and in certain other similar cases where two or more persons have paid or may be required to pay compensation for the same damage; and to amend the law relating to proceedings against persons jointly liable for the same debt or jointly or severally, or both jointly and severally, liable for the same damage.

**Contracts (Rights of Third Parties) Act 1999**

Act of 11 November 1999 to make provision for the enforcement of contractual terms by third parties.



## Case law

### UNION COURTS

#### *Judgments delivered by the Court of Justice of the European Union*

- Case 26/62, *Van Gend & Loos v. Administratie der Belastingen*, ECLI:EU:C:1963:1.
- Case 6/64, *Flaminio Costa v. ENEL*, ECLI:EU:C:1964:66.
- Case 5/69, *Franz Völk v. Établissements J. Vervaecke*, ECLI:EU:C:1969:35.
- Case 11/70, *Internationale Handelsgesellschaft v. Einfuhr- und Vorratsstelle für Getreide und Futtermittel*, ECLI:EU:C:1970:114.
- Case 22/71, *Béguelin Import Co. and Others v. S.A.G.L. Import Export and Others*, ECLI:EU:C:1971:113.
- Case 6/72, *Europemballage Corporation and Continental Can Company v. Commission*, ECLI:EU:C:1973:22.
- Case 152/73, *Giovanni Maria Sotgiu v. Deutsche Bundespost*, ECLI:EU:C:1974:13.
- Case 167/73, *Commission v. France*, ECLI:EU:C:1974:35.
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- Case 33/76, *Rewe-Zentralfinanz and Rewe-Zentral v. Landwirtschaftskammer für das Saarland*, ECLI:EU:C:1976:188.
- Case 45/76, *Comet v. Produktschap voor Siergewassen*, ECLI:EU:C:1976:191.
- Case 85/76, *Hoffmann-La Roche v. Commission*, ECLI:EU:C:1979:36.
- Case 90/76, *Henry van Ameyde v. UCI*, ECLI:EU:C:1977:101.
- Case 5/77, *Carlo Tedeschi v. Denkavit Commerciale*, ECLI:EU:C:1977:144.
- Case 106/77, *Amministrazione delle Finanze dello Stato v. Simmenthal*, ECLI:EU:C:1978:49.
- Joined Cases 177 and 178/82, *Criminal proceedings against Jan van de Haar and Kaveka de Meern*, ECLI:EU:C:1984:144.
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- Case 66/86, *Ahmed Saeed Flugreisen and Silver Line Reisebüro v. Zentrale zur Bekämpfung unlauteren Wettbewerbs*, ECLI:EU:C:1989:140.

- Case 186/87, *Ian William Cowan v. Le Trésor public*, ECLI:EU:C:1989:47.
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- Case 4/88, *Lambregts Transportbedrijf v. Belgian State*, ECLI:EU:C:1989:320.
- Case C-177/88, *Dekker v. Stichting Vormingscentrum voor Jong Volwassenen*, ECLI:EU:C:1990:383.
- Case C-49/89, *Corsica Ferries France v. Direction générale des douanes*, ECLI:EU:C:1989:649.
- Case C-234/89, *Stergios Delimitis v. Henninger Bräu*, ECLI:EU:C:1991:91.
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- Case C-330/91, *The Queen v. Inland Revenue Commissioners ex parte: Commerzbank AG*, ECLI:EU:C:1993:303.
- Case C-19/92, *Dieter Kraus v. Land Baden-Württemberg*, ECLI:EU:C:1993:125.
- Case C-37/92, *José Vanacker v. André Lesage*, ECLI:EU:C:1993:836.
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