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STATE LIABILITY IN TORT

A COMPARATIVE LAW STUDY

Duncan Fairgrieve

State Liability In Tort A Comparative Law Study

Michael Brown



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

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

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

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

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

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

Comparative Law Studies ,1986 **Illinois Studies in the Social Sciences** University of Illinois (Urbana-Champaign campus),1946 Tilburg Foreign Law Review ,2002 Hastings International and Comparative Law Review ,2006

Administrative Law Paul P. Craig,2008 The TRIPS Agreement Drafting History and Analysis 3rd Ed Useful for IP practitioners and academics this work which is split into three parts discusses and analyses the TRIPS Agreement Part 1 describes the development of the TRIPS Agreement Part 2 is a commentary on the Articles of the Agreement and Part 3 consists of reports on relevant dispute settlement cases The Use of Comparative Law by Courts Ulrich Drobnig,J. H. M. van Erp,1999 This new volume contains fourteen national reports and a General Report on the use of comparative law by courts which were presented at the XIVth International Congress of Comparative Law in Athens It provides a general survey of the frequency and methods of a comparative recourse to foreign law by courts describing both the methods of such recourse and the typical fields in which it is undertaken The reports offer an interesting cross section of contemporary court practice from a wide variety of countries around the world andndash large and small unitary and federal and with differing historical backgrounds All demonstrate the needs of national courts to look to foreign law for inspiration or as a model for dealing with new unsettled issues of national law and the reports illustrate well the impact of divergent traditions attitudes and surrounding circumstances Of special interest are both the role of comparative law and the comparative method employed in the practice of a supranational court such as the European Court of Justice In addition to the General Report this volume contains national reports from the following countries Canada European Union France Germany Greece Iceland Israel Japan Luxembourg The Netherlands United Kingdom and United States of America **Journal of Comparative Legislation and International Law** ,1936 Includes annual Review of legislation covering the years 1859 1949 The Law

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