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THE PRODUCT LIABILITY DIRECTIVE

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#SingleMarket

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THE PRODUCT LIABILITY DIRECTIVE

- Dates from 1985

- Technology neutral

- Applies to all products: raw materials as well as complex industrial products

- Producers are liable without fault for damage caused by a defective product

- Injured persons need to prove the defect, damage and the relationship between the two

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EVALUATION OF THE PRODUCT LIABILITY DIRECTIVE

- 5th Report on the Application of the Product Liability Directive (COM(2018)246 final)

- Evaluation of the Directive (SWD(2018)157 final)

  - Overall, the Directive's objectives of consumer protection and competition on the Single Market remain relevant

  - Some of the key concepts (e.g. product, producer, putting into circulation) may no longer be sufficiently clear

  - This may hamper the effectiveness of the Directive

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WHAT HAS CHANGED?

- Products are updated through hardware and software

- Repair and refurbishment need to be encouraged in a sustainable economy

- Impact on the Directive:

  ➢ Is software always a product?

  ➢ Does the notion of producer include refurbishers or providers of third party software updates?

  ➢ Was the defect foreseeable?

  ➢ Are producers' defences still adequate?

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GUIDANCE ON THE PRODUCT LIABILITY DIRECTIVE

Expert Group on Liability and New Technologies

- New Technologies Formation

- Product Liability Formation: Assist the Commission in drawing up Guidance

    - Member States

    - Industry

    - Civil Society

    - Academia

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PRODUCT LIABILITY AND ARTIFICIAL INTELLIGENCE

- Communication on Artificial Intelligence in Europe [COM(2018) 237 final]

- Artificial Intelligence '100 Days' initiative by President von der Leyen

- Forthcoming Report on Safety and Liability Implication of Artificial Intelligence

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CONCLUSIONS

- The Directive is a useful tool, especially in its application to all technologies

- It is probably not perfect and could be carefully updated