THE PRODUCT LIABILITY DIRECTIVE

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#SingleMarket
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
EVALUATION OF THE PRODUCT LIABILITY DIRECTIVE


  • 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
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?
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
• 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
CONCLUSIONS

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

• It is probably not perfect and could be carefully updated