



European Convention on Products Liability in regard to Personal Injury and Death

Strasbourg, 27.I.1977

The member States of the Council of Europe, signatory hereto,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering the development of case law in the majority of member States extending liability of producers prompted by a desire to protect consumers taking into account the new production techniques and marketing and sales methods;

Desiring to ensure better protection of the public and, at the same time, to take producers' legitimate interests into account;

Considering that priority should be given to compensation for personal injury and death;

Aware of the importance of introducing special rules on the liability of producers at European level,

Have agreed as follows:

Article 1

- 1 Each Contracting State shall make its national law conform with the provisions of this Convention not later than the date of entry into force of the Convention in respect of that State.
- 2 Each Contracting State shall communicate to the Secretary General of the Council of Europe, not later than the date of the entry into force of the Convention in respect of that State, any text adopted or a statement of the contents of the existing law which it relies on to implement the Convention.

Article 2

For the purpose of this Convention:

- a the term "product" indicates all movables, natural or industrial, whether raw or manufactured, even though incorporated into another movable or into an immovable;
- b the term "producer" indicates the manufacturers of finished products or of component parts and the producers of natural products;

- c a product has a "defect" when it does not provide the safety which a person is entitled to expect, having regard to all the circumstances including the presentation of the product;
- d a product has been "put into circulation" when the producer has delivered it to another person.

Article 3

- 1 The producer shall be liable to pay compensation for death or personal injuries caused by a defect in his product.
- 2 Any person who has imported a product for putting it into circulation in the course of a business and any person who has presented a product as his product by causing his name, trademark or other distinguishing feature to appear on the product, shall be deemed to be producers for the purpose of this Convention and shall be liable as such.
- 3 When the product does not indicate the identity of any of the persons liable under paragraphs 1 and 2 of this Article, each supplier shall be deemed to be a producer for the purpose of this Convention and liable as such, unless he discloses, within a reasonable time, at the request of the claimant, the identity of the producer or of the person who supplied him with the product. The same shall apply, in the case of an imported product, if this product does not indicate the identity of the importer referred to in paragraph 2, even if the name of the producer is indicated.
- 4 In the case of damage caused by a defect in a product incorporated into another product, the producer of the incorporated product and the producer incorporating that product shall be liable.
- 5 Where several persons are liable under this Convention for the same damage, each shall be liable in full (*in solidum*).

Article 4

- 1 If the injured person or the person entitled to claim compensation has by his own fault contributed to the damage, the compensation may be reduced or disallowed having regard to all the circumstances.
- 2 The same shall apply if a person, for whom the injured person or the person entitled to claim compensation is responsible under national law, has contributed to the damage by his fault.

Article 5

- 1 A producer shall not be liable under this Convention if he proves:
 - a that the product has not been put into circulation by him; or
 - b that, having regard to the circumstances, it is probable that the defect which caused the damage did not exist at the time when the product was put into circulation by him or that this defect came into being afterwards; or
 - c that the product was neither manufactured for sale, hire or any other form of distribution for the economic purposes of the producer nor manufactured or distributed in the course of his business.
- 2 The liability of a producer shall not be reduced when the damage is caused both by a defect in the product and by the act or omission of a third party.

Article 6

Proceedings for the recovery of the damages shall be subject to a limitation period of three years from the day the claimant became aware or should reasonably have been aware of the damage, the defect and the identity of the producer.

Article 7

The right to compensation under this Convention against a producer shall be extinguished if an action is not brought within ten years from the date on which the producer put into circulation the individual product which caused the damage.

Article 8

The liability of the producer under this Convention cannot be excluded or limited by any exemption or exoneration clause.

Article 9

This Convention shall not apply to:

- a the liability of producers *inter se* and their rights of recourse against third parties;
- b nuclear damage.

Article 10

Contracting States shall not adopt rules derogating from this Convention, even if these rules are more favourable to the victim.

Article 11

States may replace the liability of the producer, in a principal or subsidiary way, wholly or in part, in a general way, or for certain risks only, by the liability of a guarantee fund or other form of collective guarantee, provided that the victim shall receive protection at least equivalent to the protection he would have had under the liability scheme provided for by this Convention.

Article 12

This Convention shall not effect any rights which a person suffering damage may have according to the ordinary rules of the law of contractual and extra-contractual liability including any rules concerning the duties of a seller who sells goods in the course of his business.

Article 13

- 1 This Convention shall be open to signature by the member States of the Council of Europe. It shall be subject to ratification acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.
- 2 This Convention shall enter into force on the first day of the month following the expiration of a period of six months after the date of deposit of the third instrument of ratification, acceptance or approval.

- 3 In respect of a signatory State ratifying, accepting or approving subsequently, the Convention shall come into force on the first day of the month following the expiration of a period of six months after the date of the deposit of its instrument of ratification, acceptance or approval.

Article 14

- 1 After the entry into force of this Convention, the Committee of the Ministers of the Council of Europe may invite any non-member State to accede thereto.
- 2 Such accession shall be effected by depositing with the Secretary General of the Council of Europe an instrument of accession which shall take effect on the first day of the month following the expiration of a period of six months after the date of its deposit.

Article 15

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories to which this Convention shall apply.
- 2 Any State may, when depositing its instrument of ratification, acceptance, approval or accession or at any later date, by declaration addressed to the Secretary General of the Council of Europe, extend this Convention to any other territory or territories specified in the declaration and for whose international relations it is responsible or on whose behalf it is authorised to give undertakings.
- 3 Any declaration made in pursuance of the preceding paragraph may, in respect of any territory mentioned in such declaration, be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect on the first day of the month following the expiration of a period of six months after the date of receipt by the Secretary General of the Council of Europe of the declaration of withdrawal.

Article 16

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, or at any later date, by notification addressed to the Secretary General of the Council of Europe, declare that, in pursuance of an international agreement to which it is a Party, it will not consider imports from one or more specified States also Parties to that agreement as imports for the purpose of paragraph 2 and 3 of Article 3; in this case the person importing the product into any of these States from another State shall be deemed to be an importer for all the States Parties to this agreement.
- 2 Any declaration made in pursuance of the preceding paragraph may be withdrawn by means of a notification addressed to the Secretary General of the Council of Europe. Such withdrawal shall take effect the first day of the month following the expiration of a period of one month after the date of receipt by the Secretary General of the Council of Europe of the declaration of withdrawal.

Article 17

- 1 No reservation shall be made to the provisions of this Convention except those mentioned in the Annex to this Convention.
- 2 The Contracting State which has made one of the reservations mentioned in the Annex to this Convention may withdraw it by means of a declaration addressed to the Secretary General of the Council of Europe which shall become effective the first day of the month following the expiration of a period of one month after the date of its receipt by the Secretary General.

Article 18

- 1 Any Contracting State may, in so far as it is concerned, denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
- 2 Such denunciation shall take effect on the first day of the month following the expiration of a period of six months after the date of receipt by the Secretary General of such notification.

Article 19

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention of:

- a any signature;
- b any deposit of an instrument of ratification, acceptance, approval or accession;
- c any date of entry into force of this Convention in accordance with Article 13 thereof;
- d any reservation made in pursuance of the provisions of Article 17, paragraph 1;
- e withdrawal of any reservation carried out in pursuance of the provisions of Article 17, paragraph 2;
- f any communication or notification received in pursuance of the provisions of Article 1, paragraph 2, Article 15, paragraphs 2 and 3 and Article 16, paragraphs 1 and 2;
- g any notification received in pursuance of the provisions of Article 18 and the date on which denunciation takes effect.

In witness whereof, the undersigned, being duly authorised thereto, have signed this Convention.

Done at Strasbourg, this 27th day of January 1977, in English and in French, both texts being equally authoritative, in a single copy which shall remain deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies of each of the signatory and the acceding States.