The Computer & Internet Lawyer

Volume 43 ▲ Number 10 ▲ November-December 2026

Ronald L. Johnston, Arnold & Porter, Editor-in-Chief

The New EU Product Liability Reform: Addressing the Digital Age

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European Directive 2024/2853 on liability for defective products, known as the Product Liability Directive (the New PLD), repeals and replaces former European Directive 85/374/EEC (the 1985 PLD).

The New PLD was adopted on October 23, 2024 and entered into force on December 8, 2024. It is to be transposed by Member States into national law by December 9, 2026 and will apply to products placed on the market or put into service after that date.[1]

This reform seeks to modernize the EU's product liability framework to capture within its scope new technologies, including artificial intelligence, alongside emerging circular economy business models and evolving global supply chains. The upshot of the reform pertains to evidentiary rules for consumers to pursue product liability claims. Importantly, the potential scope of liability for businesses is impacted particularly by (a) the widening of the definition of "product" to include (among others) software and AI systems, and (b) a broader pool of potential defendants, including manufacturers of allegedly defective components of products. The product liability regime in the UK is currently unchanged, but the Law Commission is in the process of consulting on proposals for reform which expressly cover similar issues.[2]

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KEY TAKEAWAYS

Pending national transpositions, the New PLD represents a significant expansion of product liability. It substantially broadens the scope of liability under EU product liability law to address modern issues, including alleged defects in software, AI systems, and digital products, while extending compensable damage to include psychological harm, data loss, and corruption.

This reform reflects the EU's continued effort to adapt its regulatory framework to emerging technologies and to address consumer protection in an increasingly digital marketplace—an approach that has not been universally embraced by all stakeholders.

It also introduces new categories of products, damages, and procedural mechanisms that will require businesses to reassess their liability exposure and compliance obligations. Since non-compliance with applicable mandatory safety requirements under other EU legislation, such as the EU AI Act and Cyber Resilience Act, results in a presumption of defectiveness under the New PLD, and since other EU digital regulations impose a raft of compliance requirements that sometimes contradict or misalign with safety and security obligations, it has never been more important for technology companies to adopt a holistic product compliance program that addresses the interconnectivities between the suite of EU laws related to technology safety, security, and interoperability.

As Member States transpose the New PLD into national law, it remains to be seen which domestic specificities will be preserved, and whether this may lead to varying levels of protection and divergent procedural frameworks across the EU despite the New PLD's requirement of full harmonization.

Such disparities may encourage cross-border litigation and forum shopping strategies, as claimants seek to identify the most advantageous jurisdictions for pursuing product liability claims.

This article outlines the key substantive changes introduced by the New PLD, with a particular focus on its implications for tech companies (I.). It further examines existing national provisions under the 1985 PLD that may—or may not—remain applicable following transposition (II.). Finally, it addresses the risk arising from the New PLD in relation to consumer class actions within the EU, as well as UK-specific considerations (III.).

I. MAIN FEATURES OF THE NEW PRODUCT LIABILITY FRAMEWORK

A. Expanded Definition of Product – Software Now Included

While the 1985 PLD limited the definition of "product" to movables and electricity, the New PLD significantly broadens its scope expressly to include software, raw materials, and digital manufacturing files. Crucially, the updated framework now recognizes products that are inter-connected with—and not simply integrated into—other products, thereby capturing the complex digital ecosystems that characterize modern technology beyond mere physical incorporation. This marks a turning point for tech companies, as the following "products" are now expressly brought within the scope of the New PLD:

- operating systems, firmware, computer programs, applications, and AI systems;
- inter-connected goods, including related digital services when integrated into, or inter-connected with, the product and within the control of the manufacturer of that product (e.g., continuous supply of traffic data in a navigation system, a health monitoring service relying on a physical product's sensors to track physical activity or health metrics, a temperature control service monitoring and regulating the temperature of a smart fridge or a voice-assistant service allowing one or more products to be controlled by using voice);[3]
- all software, including software updates and upgrades, with the exception of free and open-source software;[4]
- digital manufacturing files, when they contain the functional information necessary to produce a tangible item through automated machinery or tools (e.g., defective computer-assisted-design file used to create a 3D-printed good),[5] thus excluding mere digital files.

B. Expanded Circumstances to Assess Defect – Apprehending Cybersecurity matters, AI, and Inter-connected Products

The New PLD maintains the same core definition of defectiveness as the 1985 PLD: a product is deemed defective if it does not meet the safety standards that consumers are entitled to expect or that are required by EU or national laws.[6] No proof of fault is required. The assessment is objective, based on what consumers are entitled to expect.

However, the New PLD introduces new factors specifically relevant to tech companies when assessing defectiveness of a product:

- Cybersecurity vulnerabilities: a product may be defective due to cybersecurity flaws, such as security weaknesses, poor encryption, or inadequate cybersecurity protections.[7]
- AI and self-learning systems: a product may be defective after being put into service if its ability to continue to learn or acquire new features causes safety issues.[8]
- Inter-connected products: the assessment must consider the reasonably foreseeable effect on the product of other products expected to be used together with the product, including via inter-connection (e.g., within a smart home system).[9]

C. Broader Pool of Potential Defendants

The New PLD establishes a cascading liability system for injured persons to identify a liable economic operator within the EU.

First Tier: Manufacturers and Modifiers

- the manufacturer of a defective finished product;[10]
- the manufacturer of a defective component;[11]
- any person making a substantial modification to a product outside the manufacturer's control.[12]

Second Tier: EU Representatives (For Non-EU Manufacturers)

Where the manufacturer of the finished product or component is established outside the EU (and without prejudice to the liability of that manufacturer):

- the importer of the defective product or component into the EU;[13]
- the manufacturer's authorized representative in the EU.[14]

Third Tier: Fulfilment Service Providers – where there is no EU-established importer or authorized representative, the fulfilment service provider becomes liable.[15]

Fourth Tier: Distributors and Online Platforms – where no EU economic operator from the above tiers can be identified, distributors (and—under strict conditions—online platform providers)[16] become liable, provided that, within one month from being requested to do so by the claimant, they fail to identify a relevant EU-established economic operator (manufacturer, importer, authorized representative, etc.) or their own upstream distributor.

Fifth Tier: National Compensation Schemes – Member States may use existing or establish new national sectoral compensation schemes (preferably not publicly funded) to compensate injured persons where no liable party can be held responsible under the New PLD or where liable persons are insolvent or have ceased to exist.

This approach enables claimants to identify an EU-based liable party, while prioritizing manufacturer liability and progressively extending responsibility down the supply chain when upstream operators cannot be identified or held accountable.

D. New Categories of Potentially Compensable Damages

In line with its previous regime, the New PLD covers damage to or destruction of any property, subject to the following exclusions: the defective product itself, a product damaged by a defective component that was integrated into, or inter-connected with that product by its manufacturer or under that manufacturer's control, and property used exclusively for professional purposes.[17]

As under the 1985 PLD, it also covers death and personal injury. But it now extends the scope of recoverable damage to include medically recognized damage to psychological health[18] and destruction or corruption of data.[19]

i. Psychological Harm

The New PLD now recognizes medically certified damage to psychological health as compensable harm if it "affects the victim's general state of health and could require therapy or medical treatment."[20] However, it remains unclear how this new category of damage should be construed,[21] including which specific psychological conditions will qualify for compensation and what standard of medical evidence national courts will require.[22] In jurisdictions in which psychological harm is a new category of compensable harm, these uncertainties will need to be resolved through national implementation measures or the development of future case law. That said, the challenges arising from these ambiguities may vary considerably across Member States.

For instance, French courts have interpreted the scope of recoverable damages under the 1985 PLD to include non-material losses. In a decision of May 25, 2023, the French Supreme Court (Cour de cassation) held that non-material losses resulting from reputational damage fall within the product liability regime and are compensable.[23]

Similar to French law, the current German product liability law under the 1985 PLD acknowledges "tangible" psychological or mental harm as a category of recoverable damage if the psychological or mental effects caused are appreciable and of a certain duration. In cases in which a "tangible" or "appreciable" injury to the affected person's psychological or mental health occurred, German law not only provides economic damages but also recognizes (monetary) compensation for pain and suffering (Schmerzensgeld).

The change could be more significant in Italy, where psychological harm is currently compensable only when it arises from an injury to a person's constitutionally protected values or interests.

ii. Data Loss and Corruption

This specific category of damage is only recoverable where the data is not used for professional purposes.[24] This approach excludes mixed-used data from this specific category of damage (i.e., the right to compensation

for destruction or corruption of data) under the New PLD regime,[25] though this does not preclude a right to compensation for the other types of damage if caused by defective or corrupted mixed-use data (e.g., death or personal injury caused by mixed-use data corruption in a medical device).

Material losses are recoverable, including direct costs of data recovery, expenses for recreating lost data (such as re-purchasing music or applications), and any consequential material losses resulting from the data loss and/or corruption.

Non-material losses, such as pain and suffering caused by the data loss or corruption, may also be compensable to the extent allowed under national law.[26] Member States therefore retain discretion to recognize or exclude non-material losses arising from data loss or corruption (such as distress from losing irreplaceable family photographs or anxiety resulting from the loss of personal information and need to reconstruct one's entire digital identity (tax filing access codes, health insurance system credentials, etc.).

It is important to note that data destruction or corruption differs from data leaks or breaches of data protection rules. Compensation for infringements of the GDPR or other national data protection legislation remains unchanged by the New PLD,[27] with the result that large-scale data destruction or corruption incidents may give rise to parallel claims under both GDPR and national legislation implementing the New PLD.

E. Disclosure Procedure

The New PLD introduces a court-ordered disclosure mechanism which enables injured persons, subject to judicial control, to seek access to relevant evidence held by defendants that is necessary to substantiate a product liability claim.

Conditions for Disclosure – the party seeking disclosure must first present facts or evidence demonstrating the plausibility of its claim or defence.[28] Evidence disclosure must be restricted to what is necessary and proportionate, precluding any fishing expedition,[29] and must take into account the interests of all parties involved (including third parties), particularly regarding the protection of confidential information (see below) and trade secrets.[30]

Scope of Evidence – the New PLD does not define what constitutes "evidence" under this procedure. Where the concept of disclosure does not yet exist in national law, the scope of discoverable evidence will be determined through national implementation and judicial interpretation, subject to the proportionality and necessity requirements set out by the directive.

Court-ordered Document Creation and Presentation – courts may also require defendants to present the disclosed evidence "in an easily accessible and easily understandable manner" if deemed proportionate.[31] The practical implications of this requirement will depend on how national courts will interpret and apply the proportionality standard, particularly in industries with technologically highly complex products.

Sanction for Non-Compliance – the New PLD establishes a presumption of defectiveness in case of failure to comply with the disclosure obligation.[32] However, it does not specify what constitutes non-compliance with the disclosure obligation. The scope of circumstances that may trigger the presumption of defectiveness will also be determined through national implementation and case law—to the extent not already established under national laws.

Confidentiality Protection – the New PLD requires protection of disclosed evidence relating to trade secrets, demonstrating a clear intent to safeguard certain confidential information, including trade secrets.

Protection may be requested by a party or initiated by the Court, with measures including (but not limited to): restricted access to sensitive documents, limited hearing attendance, and access only to redacted documents or transcripts.

France, Germany, and Italy already have confidentiality measures in place, such as confidentiality rings, redacted documents and judgments, and closed hearings. However, some differences remain:

- For instance, in Italy, confidentiality measures currently apply only to trade secret misappropriation and antitrust follow-on cases. Italian legislators will need to extend the existing framework or establish a separate regime for product liability claims brought under the New PLD.

- Since German procedural law until today does not generally provide for discovery in civil litigation (with the exception of rather rarely used rules that allow German courts to order the production of certain documents), the manufacturer's need for confidentiality protection is limited to cases in which disclosure is available. Disclosure claims exist in certain fields of the law (such as antitrust damages litigation), with related confidentiality and trade secret protection provisions. Also, a new rule in German procedural law introduced in 2025 allows parties to request the court to issue an order by which certain information submitted to the court needs to be kept secret—with accompanying restrictions of use of such information outside the respective litigation.

Legal Privilege Issues – Legal privilege protection varies significantly across Member States and is generally less

stringent than in the UK and U.S. France has recently extended legal privilege to in-house lawyer consultations,[33] making it one of a handful of EU Member States to offer such protection. By contrast, in other Member States such as Italy and Germany, in-house counsel communications largely remain unprotected, even when they contain legal advice. Since claims under the New PLD will be brought before national courts, legal privilege protection will depend on the court where claims are filed, creating significant uncertainty for multinational companies as courts tend to apply their local privilege rules even to foreign communications.

EU disclosure could reach communications that would normally be protected in U.S. courts under attorney-client privilege (such as in-house counsel legal strategy, internal legal memos). This disparity, together with the amended regime on disclosure obligations and defectiveness presumptions set forth by the New PLD, could create risks of forum shopping: claimants may strategically choose to file their claims in the EU to gain easier access to documents if Member States offer weaker protection.

F. Rebuttable Presumptions

One of the key changes of the New PLD is the introduction of rebuttable presumptions regarding defectiveness and the causal link.

Under the New PLD, defectiveness could be presumed where: (i) the defendant fails to comply with its obligation to disclose relevant evidence;[34] (ii) the claimant establishes that the product does not comply with applicable mandatory safety requirements;[35] or (iii) the claimant establishes that the damage was caused by an obvious malfunction of the product during normal use or under ordinary circumstances.[36]

With respect to software and AI products, the presumption of defectiveness for non-compliance with the applicable mandatory safety requirements will need to be assessed in conjunction with technology-specific safety and behavioral requirements under EU AI, cybersecurity and digital regulations, such as the EU AI Act,[37] Cyber Resilience Act,[38] and Digital Markets Act.[39]

The causal link between the defectiveness of the product and the damage could be presumed where the damage is established and is of a kind typically consistent with the defect in question.[40]

The defectiveness of the product, the causal link, or both could also be presumed where, despite disclosure of evidence, the claimant: (i) faces excessive difficulties in proving defectiveness and/or the causal link, in particular due to technical or scientific complexity[41] (e.g., in cases involving pharmaceuticals or AI systems);[42] and (ii) establishes that it is likely that the product was defective and/or that the defectiveness is a likely cause of the damage.[43]

The defendant may rebut these presumptions, effectively shifting the evidential burden onto the defendant.

In practice, manufacturers and other economic operators should review their systems and processes to ensure they can easily provide technical and scientific evidence demonstrating compliance with safety requirements and the absence of defectiveness. This includes maintaining thorough records on product design, development, testing, performance monitoring, and corrective actions.

G. Limitation Periods

The general framework for limitation periods set under the 1985 PLD remains largely unchanged. Claims must be brought within three years from the date when the claimant became aware, or should reasonably have become aware, of the damage, the defectiveness, and the identity of the liable economic operator.[44]

The New PLD maintains a general expiry period of 10 years from the date the defective product was placed on the market or put into service. However, when an injured person was unable to initiate proceedings within this timeframe due to long-latency injuries, an extended period of 25 years shall apply. This specific extension acknowledges that certain product-related injuries, particularly those involving harmful substances or defective medical devices, may not manifest until many years after market placement.

II. NATIONAL TRANSPOSITION AND CURRENT KEY CHANGES

Targeted Full Harmonization Regime – The New PLD contains a full harmonization clause, pursuant to which Member States are prohibited from maintaining or introducing national provisions that diverge from its stipulations—whether more or less stringent—unless expressly provided otherwise.[45]

France: Anticipated Delays – Significant delays are expected in France. The 1985 PLD took over 10 years to transpose into French law,[46] and similar delays may occur for the New PLD, particularly as the transposition could be integrated into a broader civil liability reform. Pending formal transposition, French courts are expected to interpret existing provisions in light of the New PLD. As a result of this full harmonization approach, it will be necessary to await the French transposition legislation to determine whether certain derogations from the 1985 PLD will be maintained such as: (i) standing for legal entities (not only individual consumers) to bring product liability claims; and (ii) compensation for damage to goods used for professional

purposes, as French law does not currently distinguish between professional and non-professional use of such goods.

Germany: Expected Timely Transposition – Timely transposition is anticipated following the September 2025 draft bill. Significant delays are currently not expected. While existing German product liability law already provides for mechanisms and notions that the New PLD now seeks to harmonize across the EU (including compensation for psychological harm), there will also be changes to the current rules. For example, a liability cap of € 85 million currently applies under product liability rules transposing the 1985 PLD in Germany. However, general tort law, under the requirements applicable there, offers an additional product liability claim which, while requiring at least negligence (often presumed), extends to products used for professional purposes and is not subject to a liability cap. Yet, it remains unsettled (and has not been addressed in the draft bill) whether the separate fault-based liability under general German tort law can still be invoked in light of the harmonization requirement in Recitals No. 8 and 9 of the New PLD.

Italy: Expected Timely Transposition – Major delays or significant departures from the New PLD are not anticipated in Italy. Italy transposed the 1985 PLD closely, without extending liability to damage to property used professionally or granting standing to legal entities (which remain governed by ordinary tort and contract rules). A similarly faithful approach is expected for the New PLD.

III. CROSS-BORDER COLLECTIVE ACTIONS: EU V. UK

The New PLD does not affect national redress mechanisms, including court proceedings, alternative dispute resolution, or representative actions under the EU Directive 2020/1828 on representative actions (hereafter, the RAD) or national collective redress schemes.[47] Collective actions may therefore be brought to enforce product liability claims.

Product liability claims fall within the RAD's scope, allowing "qualified entities"[48] to bring claims for injunctive or redress measures (compensation, repair, replacement, etc.) on behalf of affected consumers. Member States may implement opt-in, opt-out, or mixed collective action mechanisms.[49] The RAD provides for compensation claims, with available damages determined by Member State law.

While the RAD is ambivalent as to the precise damages that can be claimed, it specifically provides for compensation claims as redress for infringements of EU consumer protection laws, with available damages otherwise determined by Member State law.

Consequently, there is added risk that a RAD action is brought on a cross-border basis for a defect under the New PLD (or its implementation by Member States' national laws), which would need to be brought on an opt-in basis. Unlike the EU's harmonized RAD framework, the UK offers multiple separate collective action routes for product liability claims. Group Litigation Orders allow multiple individual claims of "common or related issues of fact or law" to be combined and run jointly.[50] These actions are opt-in only, necessitating that each member of the "class" issue individual claims (with the corresponding costs), limiting its effectiveness for dispersed consumer harm.[51] The representative actions regime, by comparison, allows a person with any civil cause of action recognized in English law to bring a singular opt-out action on behalf of all persons with the "same interest."[52] The meaning of "same interest," however, has been narrowly construed by the courts such that the regime has proven unsuitable for the potentially complex or varied loss of product liability.[53] Finally, the opt-out collective proceedings regime before the Competition Appeal Tribunal, despite being strictly for damages arising from breaches of competition law, has attracted a number of pseudo-consumer protection actions.[54] The CAT has recently looked unfavorably on such attempts to contort the regime[55] such that its ongoing usefulness as a vehicle for product liability remains questionable. Despite this, the UK's collective action ecosystem remains one of the more developed in Europe, offering multiple avenues to prospective product liability claims.

Notes

1. New PLD, Article 2.1 (Scope) and Article 21 (Repeal and national provision). The former Directive 85/374/EEC is repealed with effect from December 9, 2026. However, it shall continue to apply with regard to products placed on the market or put into service before December 9, 2026.
2. See more details: Product liability – Law Commission, at https://lawcom.gov.uk/project/product-liability/.
3. New PLD, Recitals No. 17. This definition aims to include digital services within the New PLD where they are integrated into or inter-connected with a product such that their absence would prevent the product from performing its functions. Internet access services are expressly excluded, as they fall outside a manufacturer's control. However, products relying on internet connectivity may be deemed defective if they fail to maintain safety when service is unavailable.
4. New PLD, Article 2. 2 (Scope) excludes free and open-source software when developed or supplied outside the course of a commercial activity, since such products are by definition not placed on the market. However, Recitals No. 15 specifies that

a manufacturer can be held liable for any damage caused by defects in a free and open-source software if the latter is put into its product in the course of a commercial activity (but the manufacturer of the free and open-source software himself would not be deemed liable as he would not have fulfilled the conditions of placing a product or component on the market).

5. New PLD, Recitals No. 16.
6. New PLD, Article 7.1. (Defectiveness).
7. New PLD, Article 7.2.(f) (Defectiveness) targeting "relevant product safety requirements, including safety-relevant cybersecurity requirements."
8. New PLD, Article 7.2.(c) (Defectiveness) targeting "the effect on the product of any ability to continue to learn or acquire new features after it is placed on the market or put into service."
9. New PLD, Article 7.2.(d) (Defectiveness) targeting "the reasonably foreseeable effect on the product of other products that can be expected to be used together with the product, including by means of inter-connection."
10. New PLD, Article 4.(10) (Definitions) - A manufacturer being defined as any natural or legal person who (a) develops, manufactures or produces a product, (b) has a product designed or manufactured, or who, by putting their name, trademark or other distinguishing features on that product, presents themselves as its manufacturer; or (c) develops, manufactures or produces a product for their own use.
11. New PLD, Article 8 (Economic operators liable for defective products) specifies "where that component was integrated into, or inter-connected with, a product within the manufacturer's control and caused that product to be defective."
12. New PLD, Article 8.2 (Economic operators liable for defective products) specifies that "any natural or legal person that substantially modifies a product outside the manufacturer's control and thereafter makes it available on the market or puts it into service shall be considered to be a manufacturer of that product for the purposes of paragraph 1."
13. New PLD, Article 4.(12) (Definitions) specifies that "importer" means any natural or legal person who places a product from a third country on the European Union market.
14. New PLD, Article 4.(11) (Definitions) specifies that "authorized representative" means any natural or legal person established within the European Union who has received a written mandate from a manufacturer to act on that manufacturer's behalf in relation to specified tasks.
15. New PLD, Article 4.(13) (Definitions) specifies that "fulfilment service provider" means any natural or legal person offering, in the course of a commercial activity, at least two of the following services: warehousing, packaging, addressing and dispatching of a product, without having ownership of that product, excluding postal services, parcel delivery services and any other postal services or freight transport services.
16. New PLD, Article 8.4 specifies that such online platform should fulfill conditions set out by Article 6(3) of the DSA, i.e. online platforms are liable when they present information or enable transactions in a manner that would lead an average consumer to believe the product or service is provided by the platform itself or by a party acting under its authority or control.
17. New PLD, Article 6.1.(b) (Damage).
18. New PLD, Article 6.1.(a) (Damage).
19. New PLD, Article 6.1.(c) (Damage).
20. New PLD, Recitals No. 21.
21. The only guidance provided is a reference to the International Classification of Diseases of the World Health Organization, which recognises conditions such as depression and anxiety as mental and behavioural disorders (see Directive (EU) 2024/2853, Recitals No. 21).
22. It is yet to be confirmed whether national courts will require a specialist diagnosis or a standard medical certificate.
23. French Supreme Court, Cass. Civ. 1ère, May 25, 2023, No. 21-23.174.
24. New PLD, Article 6.1.(c) (Damages).
25. The different wording of the New PLD Article 6(1)(c) - "data that are not used for profession purposes" and Article 6(1)(b)(iii) – excluding "property used exclusively for professional purposes" – indicates that the destruction or corruption of mixed-used data is not compensable under this specific type of damage under the New PLD regime, i.e., the right to compensation for the destruction or corruption of data alone. This position is reinforced by Recitals No. 22 stating that "In order to address a potential risk of litigation in an excessive number of cases, the destruction or corruption of data that are used for professional purposes, even if not exclusively so, should not be compensated for under this Directive."
26. Directive (EU) 2024/2853 of the European Parliament and of the Council of October 23, 2024 on liability defective products and repealing Council Directive 85/374/EEC, Article 6.2.
27. New PLD, Recitals No. 20.
28. New PLD, Article 9.1 (Disclosure of evidence) stating that the claimant must present facts and evidence "sufficient to support the plausibility of the claim for compensation."
29. New PLD, Article 9.3 (Disclosure of evidence) stating that Member States shall ensure that such disclosure of evidence is limited to what is necessary and proportionate.
30. New PLD, Article 9.4 (Disclosure of evidence) stating that Member States shall ensure protection of confidential information and trade secrets.
31. New PLD, Article 9.6 (Disclosure of evidence).
32. New PLD, Article 10.2.(a) (Burden of proof).
33. On 14 January 2026, France's Senate approved a bill extending legal privilege to in-house lawyers. Protection is granted only where specific requirements relating to the author, the protected documents and their recipients are met.
34. New PLD, Article 10.2(a) (Burden of Proof).
35. New PLD, Article 10.2(b) (Burden of Proof).
36. New PLD, Article 10.2(c) (Burden of Proof).
37. Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonized rules on artificial intelligence and amending Regulations

(EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

38. Regulation (EU) 2024/2847 of the European Parliament and of the Council of 23 October 2024 on horizontal cybersecurity requirements for products with digital elements and amending Regulations (EU) No 168/2013 and (EU) 2019/1020 and Directive (EU) 2020/1828 (Cyber Resilience Act).
39. Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).
40. New PLD, Article 10.3 (Burden of Proof).
41. New PLD, Article 10.4(a) (Burden of Proof).
42. New PLD, Recitals No. 48.
43. New PLD, Article 10.4(b) (Burden of Proof).
44. New PLD, Article 16 (Limitation period).
45. For instance, Article 18 of the New PLD reserves the possibility for national legislators to depart from its stipulations regarding the development risk defense. According to such article, Member States may maintain in their legal systems existing measures whereby economic operators are liable even if they prove that the objective state of scientific and technical knowledge at the time the product was placed on the market or put into service or during the period in which the product was within the manufacturer's control was not such that the defectiveness could be discovered.
46. Liability for defective products was derived from the Directive of 25 July 1985 and was transposed into French law on 19 May 1998 (Law No. 98-389).
47. New PLD, Recitals No. 29.
48. Under Directive 2020/1828, Article 4(1) the following requirements must be met: legal person constituted in accordance with national law that demonstrates 12 months of actual public activity in consumer interests prior to request for designation with legitimate interest in protecting consumer interest, non-profit, not subject to insolvency proceedings, independent and transparent.
49. Only Portugal, Hungary, Slovenia, Cyprus and the Netherlands implemented opt-out regimes.
50. Civil Procedure Rules 1998, Part 19, Rule 21.
51. A number of product liability claims have still been managed under the GLO regime, most notably the NOx Emissions Group Litigation (Case No: QB-2022-002405 and others).
52. Civil Procedure Rules 1998, Part 19, Rule 8.
53. See: Lloyd v. Google LLC [2021] UKSC 50; Prismall v. Google UK Ltd [2023] EWHC 1169 (KB); Wirral Council as administering Authority of Merseyside Pension Fund v. Indivior PLC and another [2025] EWCA Civ 40; cf. Commission Recovery Ltd v. Marks & Clerk LLP and another [2023] EWHC 398.
54. See, for example, 1468/7/7/22 Justin Gutmann v. Apple Inc., Apple Distribution International Limited, and Apple Retail UK Limited.
55. Justin Gutmann v. First MTR South Western Trains Limited and Another [2025] CAT 64, §79. "We have no doubt that abuse is a broad concept, and that the concept of exploitative abuse by "unfair" conduct should develop to reflect new patterns of commerce. However, that concept is not unlimited. Competition law is not a general law of consumer protection. And where the allegations concern systemic conduct, the fact that the dominant company could have carried out a particular aspect of its business better, or in a different way that would have benefited consumers, does not mean that this conduct crosses the line to constitute abuse."

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