



# EUI WORKING PAPERS IN LAW

CHRISTIAN JOERGES (Ed.)

European Product Safety,  
Internal Market Policy and the New Approach  
to Technical Harmonisation and Standards

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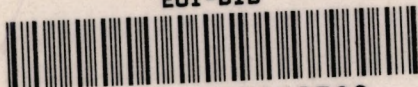
Volume 1

EUI Working Paper LAW No. 91/10

**The Juridification of Product Safety Policy**  
by  
Christian Joerges

European University Institute, Florence

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**EUROPEAN UNIVERSITY INSTITUTE, FLORENCE**

**DEPARTMENT OF LAW**

**CHRISTIAN JOERGES (ED.)**

**European Product Safety,  
Internal Market Policy and the New Approach  
to Technical Harmonisation and Standards**

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**Volume 1**

**EUI Working Paper LAW No. 91/10**

**The Juridification of Product Safety Policy**  
by  
**Christian Joerges**

**BADIA FIESOLANA, SAN DOMENICO (FI)**

This series of Working Papers is the translation of a study carried out on behalf of the Commission of the EC (Christian Joerges *et al.*, *Die Sicherheit von Konsumgütern und die Entwicklung der Gemeinschaft*, Baden-Baden: Nomos 1988). The Translation is – with the exception of Chapters I and V – by Iain Fraser.

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## ACKNOWLEDGEMENTS

### I.

This study was carried out on behalf of the Commission of the European Communities (Directorate General XI) between January and October 1986; it has been rearranged and updated for publication.

During work on the study, the authors were in part outside Bremen: from September 1985 to August 1986, Christian Joerges was on a fellowship from the Netherlands Institute for Advanced Studies in the Humanities and Social Sciences in Wassenaar; Hans-Wolfgang Micklitz was working for the International Organisation of Consumers Unions (IOCU) in The Hague examining exports of hazardous goods. It is the merit above all of Josef Falke that in spite of these conditions of co-operation, information and opinions were still continually exchanged. When it finally came to actual composition of the study there was such intense discussion about sections that individual responsibilities for ideas and arguments can hardly be discerned.

The authors have benefited not only from discussions among themselves, but also very significantly from the suggestions and readiness of others to provide information. We must therefore express our thanks to many quarters: at the Commission, Herr Benno W.K. Risch (DG XI), who suggested the study, and Herr Karlheinz Zachmann and Herr Norbert Anselmann from Directorate General III; in the Federal Republic of Germany, Herr Hans-Walter Bosserhoff, Deutsches Institut für Normung, Berlin, Dr. Martin Seidel, Bundesministerium für Wirtschaft,

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## II.

The translation of the German text has been made possible by an additional grant from Directorate General XI. This grant was a necessary but not a sufficient condition for this publication. Other essentials were the readiness and ability of Iain Fraser to convert our partly technical and partly typical teutonic style into English within rigid time constraints, and the patience and energy of Sra. Patricia Van den Bossche-Murillo to type the whole manuscript. The final editing has been done by Sig.ra Kathy Wolf-Fabiani who had to put up with the corrections necessitated by the many efforts of the authors to update their text. Herr Cengiz Ahrazoglu has lent his enormous technical expertise to preparing this print-out.

Up-dating a study like this is a cumbersome and time-consuming process. When we started our research back in 1985, the Commission had just published its White Book on the completion of the internal market. Since then the development of the field under scrutiny has been and continues to be extremely dynamic. Our own perspectives have been broadened, clarified and partially renewed. We are convinced that this study is helpful to the current debate, but we also feel that in view of the developments of both European legal policy and our own views, we should now write a new book. For this reason we decided to make the study available to the public as a working paper and then take the time for a thorough revision. In an annex to the bibliography we have compiled our own pertinent recent publications; this list indicates, at least partially, the many subjects we wish to deal with in renewing our effort to come to grips with the Europeanisation of product safety policy.

Florence, January 1991

On behalf of all the authors  
Christian Joerges

## FOREWORD

The safety of goods that consumers have to use at home and in their leisure time has become a major socio-political challenge. According to Commission calculations, 45 million "private" accidents requiring medical treatment and more than 50,000 deaths occur each year in the Community. Apart from the individual suffering that lies behind these figures, the economic

aspect of accidents has also come to assume unacceptable proportions. Not that this alarming finding is to be attributed simply to safety shortcomings in consumer goods. The causes of accidents in the home and in leisure time are manifold, and the contributions that improvements to consumer product safety can make towards accident prevention are hard to estimate. It is, however, indisputable that safety problems will continue to exist, that the public is responding in an increasingly sensitive manner to safety problems, and that protection of health and safety is a primary political task for government.

This responsibility affects not only Member States, but also the Community. In the course of its efforts at achieving the internal market, the Community must, as we know, ensure among other things the harmonisation of legal and administrative provisions aimed at protecting consumer safety. But every advance in harmonisation policy means that the Community's competency — and therefore also responsibility — for product safety grows. Consistently, the consumer policy programmes of 1975 and 1981 (OJ C 92, February 25, 1975, and C 125, June 3, 1981) adopted the principle that consumer goods should "under normal or foreseeable conditions of use ... present no risks to the health or safety of consumers" and that if they present such risks, "there should be quick and simple procedures for withdrawing them from the market".

The principles of the consumer policy programmes assume a major importance with intensification of the Community's efforts to complete the internal market by 1992. In the interest of the effectiveness of the Community's law-making processes, the policy of approximation of laws will, in the future, be confined to harmonising fundamental safety requirements on products or groups of products, while production of technical specifications is to be left to the competent standardisation organisations. This



new approach to technical harmonisation and standardisation is, however, not only of decisive importance to completion of the internal market, but also creates an additional need for action in the area of product safety policy. Whereas the Community would, in the future, like to confine directives it issues to the establishment of basic safety requirements on the type of product concerned, Member States are in the course of legislative augmentation of their product safety law. A number of Member States already have general product safety legislation (namely France, the Federal Republic of Germany, Spain and the UK), while others are preparing new legislation. This trend of development, which now extends to all Community Member States, underlines, yet again, the social policy topicality of the safety issue. However, it also contains dangers for the new harmonisation policy. If the Community is to avoid the independent development of product safety law by each Member State, resulting in difficult demarcation problems for the relationship between European directives and national law, then it must itself put more emphasis on the Europeanisation of product safety policy. To do so, the Community must both create a legal reference framework for further development of legislation in Member States, and improve its capability of contributing to the solution of acute problems in product safety policy.

The perception that an additional need for action by the Community has emerged in the area of product safety policy is revealed in a number of recent documents. These include, above all, the Commission communication to the Council on "a new impetus for consumer protection policy" of July 23, 1985 (COM (85) 314 final), approved by the Council on June 23, 1986 (OJ C 167, July 5, 1986). The communication stresses that policy on achieving the internal market must be accompanied by appropriate Community efforts on product safety and by a general product safety obligation in force Community-wide. And the

"Communication from the Commission to the Council on safety of consumers in relation to consumer products" of May 8, 1987 (COM (87) 209 final), noted and welcomed by the Council on June 25, 1987 (OJ C 176, July 4, 1987), has already set out some initial ideas for a general product safety directive.

The process of European law-making is costly, cumbersome and in general also time-consuming. The Commission itself has to arrive at a unitary position; it has to harmonise its own decision-making with Member State governments and at the European level. In this complex process of decision and persuasion, parallel scholarly efforts can be of enormous assistance. The study by the Zentrum für Europäische Rechtspolitik on "the safety of consumer products and the development of the European Community" has, with its thorough, fundamental discussion of product safety policy in general and European product safety policy in particular, made a very considerable contribution to the clarification of the Commission's thinking processes. Publication of this study should bring the message of Europeanisation of product safety policy closer to the academic and politically interested public.

Brussels, August 1987

B.W.K. Risch  
Commission of the EC  
Directorate General XI

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## Introduction

A study concerned with the "Europeanisation" of technical consumer product safety law must deal with all three sides of a "magic triangle", i.e. the process of European integration, the problems of legal regulation, and the measurement and assessment of risks. Seen from each of these three sides, the problem takes on a different, specific aspect. The European Community's target is to achieve a common market, and from this point of view the most important factors are the differences in product safety law in the various Member States and the effects of such differences on the free movement of goods. However, the Member States which need to change their legal provisions in the interests of achieving the common market are also interested in the "quality" of Community regulatory action, its basic approach and the effectiveness of legal instruments. After all, the subject of discussions on the forms and limits of safety legislation is inherently complex and politically sensitive. There are scientific methods of assessing risks, but establishing the origins of risk, i.e. the cause and effect connection between risks and damage, often involves a considerable level of doubt. This is particularly true when considering which risks can or must be taken and under what conditions products may be described as safe. This is a question of the normative aspect of safety, the social acceptability of risks, increased costs and prices, and political priorities and strategies. The integration problem, the "juridification" debate and product safety policy represent distinct though connected aspects of the subject of this study. Integration policy is primarily concerned with the elimination of trade barriers, but in practice decisions are taken in connection with the approximation of the legislation of the Member States which affect the form and nature of the juridification of product safety by the Member States. As a result of the qualitative dimension of its harmonisation policy,

the Community is becoming inextricably involved in the legislation policy discussions on safety problems.

Given the three sides of the triangle, the question is which side is to be regarded as the hypotenuse. The main subject of this study is the Europeanisation of the product safety problem, i.e. an analysis of law approximation measures taken so far, the "new approach to technical harmonisation and standards" and the steps towards an independent European product safety policy on the one hand, and the chances for the further development of this policy on the other. In contrast, the positive product safety legislation of the Member States is dealt with only selectively, and the general debate on regulation and the development of product safety policy itself are discussed only relatively briefly. However, this preferentiality, which is a result of the approach, cannot affect the structure of the study. Indeed, our main thesis is that harmonisation policy must not neglect the legislative "quality" of law approximation measures and that the success of the new approach to technical harmonisation and standards is primarily dependent on whether the Community manages to develop a positive product safety policy to complement its internal market policy. This fundamental statement explains first of all why the study starts with product safety policy (Chapter I), goes on to a comparative treatment of positive product safety law (Chapter II) and only then analyzes the integration process against this background (Chapters III-V).

However, the thesis of interdependence between internal market and product safety policies determines not only the structure of the study, but also the question asked in each section.

Chapter I aims to show why product safety law has given rise to extremely diverse regulation patterns and to provide an overview of the most important instruments for action. Chapter II



is concerned with recent developments in the relevant legislation of the economically most important Community Member States (France, United Kingdom, Federal Republic of Germany) and also refers to the USA on account of the Consumer Product Safety Act 1972, which is of crucial importance in the international debate. Chapter III on the "traditional" policy of approximation of law and on efforts at a "horizontal" European product safety policy begins with an analysis of general integration policy conditions (Chapter III, 1) and goes on to describe the relationship between internal market policy and product safety policy in the various phases of the integration process. The first phase is initiated by the 1969 General Programme for the elimination of technical barriers to trade (Chapter III, 2.1). This "traditional" harmonisation policy was on the one hand, in the interest of easing the strain on the Community legislative process, unburdened by a wide-ranging arsenal of regulatory techniques, while on the other, under the 1975 and 1981 consumer policy programmes, the Community made a start on the development of a European product safety policy which was independent of its internal market policy (Chapter III, 2.1.4.1). In both policy areas, as we know, it proved impossible to realise the Community's programmatic goals. As far as policy on achieving the internal market is concerned, the Commission itself has pointed out the reasons and called for, and implemented, a fundamental revision of traditional legal approximation policy.

This reorientation of Community policy is dealt with in Chapters IV and V. Chapter IV begins by describing the most important precursors of the new internal market policy, namely ECJ case law on Articles 30 and 36 EEC since the Cassis de Dijon judgment, and regulatory technique for the Low Voltage Directive. The new approach to technical harmonisation and standards, whereby the Community will restrict itself in its directives to setting "essential safety requirements", leaving it to European

and national standardisation bodies to convert these safety requirements into technical specifications, is the core of present internal market policy, though the framework within which this new approach operates has already been changed by the Single European Act, particularly Article 100 a.

The Community's new line is primarily a response to the failures of the traditional method of approximation of laws. Its effects extend to all existing approaches to European product safety policy. Chapter V goes into these effects in detail. It diagnoses a new need for action in the area of product safety policy, including in particular the internal organisation of the standardisation process, and participation by consumer associations in European standardisation.

Chapter VI continues a comprehensive discussion of alternatives open for co-ordinating internal market and product safety policy. It argues that a policy of "deregulating" Member States' product safety legislation would not be feasible, and opts for a "positive" supplementation of the new approach by a horizontal Community product safety policy. This option is elaborated in a number of recommendations: an Advisory Committee on product safety should handle co-ordination of developments in Member States and of the Community's activities; a Consumers' Consultative Committee on standardisation should be brought in alongside the European standards organisations; there should be a general product safety obligation in order to harmonise Member States' normative objectives; and finally, the regulatory technique of the new approach, aimed at facilitating trade within the Community through comprehensive market access rights, makes it essential to Europeanise follow-up market controls (product bans and recall arrangements).

## Chapter I

### Product safety, product safety policy and product safety law

Questions of product safety alarm the public again and again. Information on the hazardousness of products used daily in household and leisure activities, short- and long-term environmental hazards, and risk associated with materials and technical faults at the workplace occupy the media, attract the attention of experts, provoke a search for the guilty and demands for remedial measures to be taken by the State<sup>1</sup>. In addition to concern about the hazards of large-scale technology, public attention is focused on dangers presented by medicines, foodstuffs and chemicals, whilst in comparison, technical consumer products tend to offer less spectacular things to say<sup>2</sup>. The emphasis of sociopolitical and legal discussion is similarly distributed<sup>3</sup>. Empirical research aimed at showing how attitudes towards hazards caused by technology change and at drafting appropriate recommendations for the policy treatment of such risks<sup>4</sup> mainly covers large-scale technological projects. Legal science concentrates on the development of environmental law and new regulations, particularly on pharmaceutical products and also on chemicals. Against this background it is easy to forget that in the field of technical consumer products the results of large-scale and intensive accident research are available, that this research is indispensable in assisting companies to make decisions on the technical design of products, and that regulations on the safety of technical consumer products have long since left behind them the naive notion of abstract safety standards which can be fulfilled completely. How-

- 1 See the colourful, though USA-related, examples given by Feldman, 1980, 73 et seq.; Lowrance, 1976, 102 et seq.
- 2 Though there are some counter-examples, the most prominent being Nader, 1965.
- 3 Cf. for more details Brüggemeier *et al.*, 1984, 8 et seq.

ever, the key legal concepts expressing this realisation sound more familiar, more small-scale and less ambitious. Product safety law is not concerned with threshold values, as in the case of law covering the environment, labour and foodstuffs or with "effectiveness" or "non-objection certificates" as in the case of pharmaceutical products, but with the "generally accepted state of the art" ("allgemein anerkannte Regeln der Technik", § 3 of the Gerätesicherheitsgesetz) or with justified safety expectations which manufacturers have to comply with in accordance with the Product Liability Directive.

There are objective reasons for these differences. The risks of nuclear power stations, the level of residual risk to be tolerated or the long-term effects of air pollution or food additives place different requirements on the identification and legal assessment of risks than do the dangers resulting from defective cots and playpens. Nevertheless, it would be illusory to imagine that the problems of technical consumer products are simple. The potential danger is considerable, and it can be just as difficult to assess the contribution of a construction feature towards accidents as it is to assess the health hazard of chemicals (see section 1 below). In connection with technical consumer products as well, we must ask which risks are unavoidable, which must be eliminated at all costs and which should be reduced through design requirements. The alignment of corresponding decisions to technical standards specifying general safety duties is equivalent to setting a threshold value establishing the extent of permissible risks in general terms (see section 2 below). And finally, a range of subtle and expensive instruments has also been developed for the purpose of regulating the safety of technical consumer products. The simple blanket clauses of safety laws in this area are entirely compatible with a regulatory practice which proceeds no less demandingly

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4 Cf. Paschen/Bechmann/Wingert, 1981.

than is customary in the present-day regulation of health or environmental hazards (see section 3 below).

## 1. The identification of risks

The potential danger of technical consumer products was for a long time underestimated or only rarely appreciated by the public. A change in attitude began to be noted in the fifties and sixties. As early as 1961 the United Kingdom passed a first product safety law (the Consumer Protection Act 1961)<sup>5</sup>, and in the Federal Republic of Germany the Act on Technical Work Materials (Gesetz über technische Arbeitsmittel) of 1968 (GtA) was replaced in 1979 by the Appliances Safety Act (Gerätesicherheitsgesetz) (GSG) which laid down a general safety obligation for technical consumer products<sup>6</sup>; since 1983 France has had a general law on consumer safety (Loi No.83-660 relative à la sécurité des consommateurs)<sup>7</sup>. The sixties saw the development in the USA of a widespread social regulation movement which led to a large number of legislative measures<sup>8</sup>. The establishing of the National Commission on Product Safety in 1968, one of the most popular successes of this movement, can be regarded as the birth of a modern product safety policy for technical consumer products<sup>9</sup>.

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5 Cf. Chapter II, 2.2.

6 Cf. Chapter II, 3.3.3.

7 Cf. Chapter II, 1.2.

8 Pertschuk, 1982, 5 et seq. and the summary in Bollier/Claybrook, 1986, 275 et seq.

9 Cf. Chapter II, 4.1; also OECD report Safety of Consumer Products, 1980, 14 et seq.

## 1.1 Data

"Americans — twenty millions of them — are injured each year in the home as the result of incidents connected with consumer products. Of the total, 110,000 are permanently disabled, and 30,000 are killed. A significant number of them could have been spared if more attention had been paid to hazard reduction. The annual cost to the nation of product-related injuries may exceed \$5.5 billion"<sup>10</sup>.

This much-quoted passage from the final report of the National Commission on Product Safety on the potential hazards of technical consumer products refers to all accidents in which these products played "a role". As a result, a number of States subsequently developed accident information systems aimed at systematically identifying the involvement of consumer products in accidents and the data<sup>11</sup> provided by these systems are as worrying as the National Commission on Product Safety's figures.

In 1981 the Consumer Product Safety Commission reported that the use of consumer products had led to 33 million injuries and 28,000 deaths<sup>12</sup>. In Britain, where a start on preparing accident statistics was made in 1976 (England and Wales), the number of injuries requiring medical treatment is estimated at 3 million per year and the number of deaths at 7,000 per year<sup>13</sup>. In the Netherlands, the 1985 annual report on the *Privé Ongevallen Registratie Systeem* (PORS) revealed that in 1984 there had been 633,000 accidents necessitating hospital treatment and 2,141

10 National Commission on Product Safety, Final Report, 1970, 1.

11 Cf. OECD, Data Collection Systems, 1978.

12 Evidence of Commission Chairman S. Statler, given to the hearings before the Subcommittee on Health and Environment of the Committee on Energy and Commerce. House of Representatives, 98th Congress, First Session on H.R. 2271 and H.R. 2201, 5 and 12.3.1981, No. 97-4, Washington D.C. 1981, 321. For the bases of these estimates cf. Chapter II, 4.2.

deaths<sup>14</sup>. The European Commission estimates that in the Community as a whole there are more than 30,000 deaths and 40 million injuries each year, at an annual cost of over 30,000 million ECU<sup>15</sup>.

Shortly after publication of the National Commission on Product Safety's final report, an alternative survey method was tried out in the form of a "Household Safety Study"<sup>16</sup> financed by several American companies and government departments. In the first phase of the study 27,000 households were questioned about injuries and damage sustained during the past three months. In the second phase diary records of 22,000 households covering a similar period were evaluated. "Environment-linked" accidents were found to be the most important category, with accidents in sport and play in second place; the user's own "misbehaviour" was universally found to be a major factor in the cause of accidents. A similar method was adopted for a study of household and leisure accidents carried out in 1985 on behalf of the Government of the Federal Republic of Germany by the HUK (association of insurance companies)<sup>17</sup>.

According to the findings of this study, 3 million home or leisure-time accidents requiring medical treatment or having an effect lasting for more than 14 days (and 100 million minor acci-

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13 Cf. Cmnd. 9302, *The Safety of Goods*, 1984, White Paper, para. 9, and details of the British system in Chapter II, 2.5.

14 Cf. Stichting Consument en Veiligheid, Report of 1984, 1985, 2 et seq., 10, 12, 46. The report "Veiligheid in de privésfeer" (Tweede Kamer, vergaderjaar 1983-84, 18.453), Nos. 1-2, 12, 17 et seq., estimates the dangers of accidents resulting from medical treatment at 2 to 2.6 million.

15 Cf. Section 6.2. of the report (COM (84) 735, section 6.2) on the model study attached to the Commission Proposal for a Council Decision on introducing a Community system of inforsupramation on accidents in which consumer products are involved (7 January 1985); for further details see Chapter III, 3.3.

16 Chicago 1972.

dents) can be assumed for the Federal Republic of Germany<sup>18</sup>, with 12,000 deaths per year. In order to be able to define the role of products more precisely, the study distinguishes between five accident categories. According to the study, only in the case of "handling" accidents, which account for 17% of accidents, are faulty appliances a potential cause; in practice they are responsible for still fewer, only 2% of all accidents. If cases of incorrect use are disregarded and a distinction made between old and new appliances, the figure falls still further. The conclusion is that "technical shortcomings on newly purchased machines, tools or other appliances are clearly an insignificant factor in the causes of household and leisure accidents"<sup>19</sup>.

## 1.2 Recording problems

"Measuring" hazards is a science in itself. When developing accident information systems it is necessary to reflect on whether data should be collected from hospital accident units and/or doctors' surgeries, how a representative sample can be obtained, to what level of detail information on the nature of injuries, the victims and the circumstances of the accident can be collected, and which product categories it would be useful to distinguish<sup>20</sup>. However, the data collected after clarification of all these questions still do not permit any definite conclusions on how dangerous products are. As well as the accident rate, the seriousness of injuries is also important. It is very difficult to grade and assess injuries. In the USA, the National Electronic Injury Surveillance

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17 Pfundt, 1985; cf. for more details Chapter II, 3.1.

18 Pfundt, 4 et seq.

19 Loc. cit., 190.





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This study was carried out on behalf of the Commission of the European Communities (Directorate General XI) between January and October 1986; it has been rearranged and updated for publication.

During work on the study, the authors were in part outside Bremen: from September 1985 to August 1986, Christian Joerges was on a fellowship from the Netherlands Institute for Advanced Studies in the Humanities and Social Sciences in Wassenaar; Hans-Wolfgang Micklitz was working for the International Organisation of Consumers Unions (IOCU) in The Hague examining exports of hazardous goods. It is the merit above all of Josef Falke that in spite of these conditions of co-operation, information and opinions were still continually exchanged. When it finally came to actual composition of the study there was such intense discussion about sections that individual responsibilities for ideas and arguments can hardly be discerned.

The authors have benefited not only from discussions among themselves, but also very significantly from the suggestions and readiness of others to provide information. We must therefore express our thanks to many quarters: at the Commission, Herr Benno W.K. Risch (DG XI), who suggested the study, and Herr Karlheinz Zachmann and Herr Norbert Anselmann from Directorate General III; in the Federal Republic of Germany, Herr Hans-Walter Bosserhoff, Deutsches Institut für Normung, Berlin, Dr. Martin Seidel, Bundesministerium für Wirtschaft,

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## II.

The translation of the German text has been made possible by an additional grant from Directorate General XI. This grant was a necessary but not a sufficient condition for this publication. Other essentials were the readiness and ability of Iain Fraser to convert our partly technical and partly typical teutonic style into English within rigid time constraints, and the patience and energy of Sra. Patricia Van den Bossche-Murillo to type the whole manuscript. The final editing has been done by Sig.ra Kathy Wolf-Fabiani who had to put up with the corrections necessitated by the many efforts of the authors to update their text. Herr Cengiz Ahrazoglu has lent his enormous technical expertise to preparing this print-out.

Up-dating a study like this is a cumbersome and time-consuming process. When we started our research back in 1985, the Commission had just published its White Book on the completion of the internal market. Since then the development of the field under scrutiny has been and continues to be extremely dynamic. Our own perspectives have been broadened, clarified and partially renewed. We are convinced that this study is helpful to the current debate, but we also feel that in view of the developments of both European legal policy and our own views, we should now write a new book. For this reason we decided to make the study available to the public as a working paper and then take the time for a thorough revision. In an annex to the bibliography we have compiled our own pertinent recent publications; this list indicates, at least partially, the many subjects we wish to deal with in renewing our effort to come to grips with the Europeanisation of product safety policy.

Florence, January 1991

On behalf of all the authors  
Christian Joerges

## FOREWORD

The safety of goods that consumers have to use at home and in their leisure time has become a major socio-political challenge. According to Commission calculations, 45 million "private" accidents requiring medical treatment and more than 50,000 deaths occur each year in the Community. Apart from the individual suffering that lies behind these figures, the economic

aspect of accidents has also come to assume unacceptable proportions. Not that this alarming finding is to be attributed simply to safety shortcomings in consumer goods. The causes of accidents in the home and in leisure time are manifold, and the contributions that improvements to consumer product safety can make towards accident prevention are hard to estimate. It is, however, indisputable that safety problems will continue to exist, that the public is responding in an increasingly sensitive manner to safety problems, and that protection of health and safety is a primary political task for government.

This responsibility affects not only Member States, but also the Community. In the course of its efforts at achieving the internal market, the Community must, as we know, ensure among other things the harmonisation of legal and administrative provisions aimed at protecting consumer safety. But every advance in harmonisation policy means that the Community's competency — and therefore also responsibility — for product safety grows. Consistently, the consumer policy programmes of 1975 and 1981 (OJ C 92, February 25, 1975, and C 125, June 3, 1981) adopted the principle that consumer goods should "under normal or foreseeable conditions of use ... present no risks to the health or safety of consumers" and that if they present such risks, "there should be quick and simple procedures for withdrawing them from the market".

The principles of the consumer policy programmes assume a major importance with intensification of the Community's efforts to complete the internal market by 1992. In the interest of the effectiveness of the Community's law-making processes, the policy of approximation of laws will, in the future, be confined to harmonising fundamental safety requirements on products or groups of products, while production of technical specifications is to be left to the competent standardisation organisations. This



new approach to technical harmonisation and standardisation is, however, not only of decisive importance to completion of the internal market, but also creates an additional need for action in the area of product safety policy. Whereas the Community would, in the future, like to confine directives it issues to the establishment of basic safety requirements on the type of product concerned, Member States are in the course of legislative augmentation of their product safety law. A number of Member States already have general product safety legislation (namely France, the Federal Republic of Germany, Spain and the UK), while others are preparing new legislation. This trend of development, which now extends to all Community Member States, underlines, yet again, the social policy topicality of the safety issue. However, it also contains dangers for the new harmonisation policy. If the Community is to avoid the independent development of product safety law by each Member State, resulting in difficult demarcation problems for the relationship between European directives and national law, then it must itself put more emphasis on the Europeanisation of product safety policy. To do so, the Community must both create a legal reference framework for further development of legislation in Member States, and improve its capability of contributing to the solution of acute problems in product safety policy.

The perception that an additional need for action by the Community has emerged in the area of product safety policy is revealed in a number of recent documents. These include, above all, the Commission communication to the Council on "a new impetus for consumer protection policy" of July 23, 1985 (COM (85) 314 final), approved by the Council on June 23, 1986 (OJ C 167, July 5, 1986). The communication stresses that policy on achieving the internal market must be accompanied by appropriate Community efforts on product safety and by a general product safety obligation in force Community-wide. And the

"Communication from the Commission to the Council on safety of consumers in relation to consumer products" of May 8, 1987 (COM (87) 209 final), noted and welcomed by the Council on June 25, 1987 (OJ C 176, July 4, 1987), has already set out some initial ideas for a general product safety directive.

The process of European law-making is costly, cumbersome and in general also time-consuming. The Commission itself has to arrive at a unitary position; it has to harmonise its own decision-making with Member State governments and at the European level. In this complex process of decision and persuasion, parallel scholarly efforts can be of enormous assistance. The study by the Zentrum für Europäische Rechtspolitik on "the safety of consumer products and the development of the European Community" has, with its thorough, fundamental discussion of product safety policy in general and European product safety policy in particular, made a very considerable contribution to the clarification of the Commission's thinking processes. Publication of this study should bring the message of Europeanisation of product safety policy closer to the academic and politically interested public.

Brussels, August 1987

B.W.K. Risch  
Commission of the EC  
Directorate General XI

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## Introduction

A study concerned with the "Europeanisation" of technical consumer product safety law must deal with all three sides of a "magic triangle", i.e. the process of European integration, the problems of legal regulation, and the measurement and assessment of risks. Seen from each of these three sides, the problem takes on a different, specific aspect. The European Community's target is to achieve a common market, and from this point of view the most important factors are the differences in product safety law in the various Member States and the effects of such differences on the free movement of goods. However, the Member States which need to change their legal provisions in the interests of achieving the common market are also interested in the "quality" of Community regulatory action, its basic approach and the effectiveness of legal instruments. After all, the subject of discussions on the forms and limits of safety legislation is inherently complex and politically sensitive. There are scientific methods of assessing risks, but establishing the origins of risk, i.e. the cause and effect connection between risks and damage, often involves a considerable level of doubt. This is particularly true when considering which risks can or must be taken and under what conditions products may be described as safe. This is a question of the normative aspect of safety, the social acceptability of risks, increased costs and prices, and political priorities and strategies. The integration problem, the "juridification" debate and product safety policy represent distinct though connected aspects of the subject of this study. Integration policy is primarily concerned with the elimination of trade barriers, but in practice decisions are taken in connection with the approximation of the legislation of the Member States which affect the form and nature of the juridification of product safety by the Member States. As a result of the qualitative dimension of its harmonisation policy,

the Community is becoming inextricably involved in the legislation policy discussions on safety problems.

Given the three sides of the triangle, the question is which side is to be regarded as the hypotenuse. The main subject of this study is the Europeanisation of the product safety problem, i.e. an analysis of law approximation measures taken so far, the "new approach to technical harmonisation and standards" and the steps towards an independent European product safety policy on the one hand, and the chances for the further development of this policy on the other. In contrast, the positive product safety legislation of the Member States is dealt with only selectively, and the general debate on regulation and the development of product safety policy itself are discussed only relatively briefly. However, this preferentiality, which is a result of the approach, cannot affect the structure of the study. Indeed, our main thesis is that harmonisation policy must not neglect the legislative "quality" of law approximation measures and that the success of the new approach to technical harmonisation and standards is primarily dependent on whether the Community manages to develop a positive product safety policy to complement its internal market policy. This fundamental statement explains first of all why the study starts with product safety policy (Chapter I), goes on to a comparative treatment of positive product safety law (Chapter II) and only then analyzes the integration process against this background (Chapters III-V).

However, the thesis of interdependence between internal market and product safety policies determines not only the structure of the study, but also the question asked in each section.

Chapter I aims to show why product safety law has given rise to extremely diverse regulation patterns and to provide an overview of the most important instruments for action. Chapter II



is concerned with recent developments in the relevant legislation of the economically most important Community Member States (France, United Kingdom, Federal Republic of Germany) and also refers to the USA on account of the Consumer Product Safety Act 1972, which is of crucial importance in the international debate. Chapter III on the "traditional" policy of approximation of law and on efforts at a "horizontal" European product safety policy begins with an analysis of general integration policy conditions (Chapter III, 1) and goes on to describe the relationship between internal market policy and product safety policy in the various phases of the integration process. The first phase is initiated by the 1969 General Programme for the elimination of technical barriers to trade (Chapter III, 2.1). This "traditional" harmonisation policy was on the one hand, in the interest of easing the strain on the Community legislative process, unburdened by a wide-ranging arsenal of regulatory techniques, while on the other, under the 1975 and 1981 consumer policy programmes, the Community made a start on the development of a European product safety policy which was independent of its internal market policy (Chapter III, 2.1.4.1). In both policy areas, as we know, it proved impossible to realise the Community's programmatic goals. As far as policy on achieving the internal market is concerned, the Commission itself has pointed out the reasons and called for, and implemented, a fundamental revision of traditional legal approximation policy.

This reorientation of Community policy is dealt with in Chapters IV and V. Chapter IV begins by describing the most important precursors of the new internal market policy, namely ECJ case law on Articles 30 and 36 EEC since the *Cassis de Dijon* judgment, and regulatory technique for the Low Voltage Directive. The new approach to technical harmonisation and standards, whereby the Community will restrict itself in its directives to setting "essential safety requirements", leaving it to European

and national standardisation bodies to convert these safety requirements into technical specifications, is the core of present internal market policy, though the framework within which this new approach operates has already been changed by the Single European Act, particularly Article 100 a.

The Community's new line is primarily a response to the failures of the traditional method of approximation of laws. Its effects extend to all existing approaches to European product safety policy. Chapter V goes into these effects in detail. It diagnoses a new need for action in the area of product safety policy, including in particular the internal organisation of the standardisation process, and participation by consumer associations in European standardisation.

Chapter VI continues a comprehensive discussion of alternatives open for co-ordinating internal market and product safety policy. It argues that a policy of "deregulating" Member States' product safety legislation would not be feasible, and opts for a "positive" supplementation of the new approach by a horizontal Community product safety policy. This option is elaborated in a number of recommendations: an Advisory Committee on product safety should handle co-ordination of developments in Member States and of the Community's activities; a Consumers' Consultative Committee on standardisation should be brought in alongside the European standards organisations; there should be a general product safety obligation in order to harmonise Member States' normative objectives; and finally, the regulatory technique of the new approach, aimed at facilitating trade within the Community through comprehensive market access rights, makes it essential to Europeanise follow-up market controls (product bans and recall arrangements).

## Chapter I

### Product safety, product safety policy and product safety law

Questions of product safety alarm the public again and again. Information on the hazardousness of products used daily in household and leisure activities, short- and long-term environmental hazards, and risk associated with materials and technical faults at the workplace occupy the media, attract the attention of experts, provoke a search for the guilty and demands for remedial measures to be taken by the State<sup>1</sup>. In addition to concern about the hazards of large-scale technology, public attention is focused on dangers presented by medicines, foodstuffs and chemicals, whilst in comparison, technical consumer products tend to offer less spectacular things to say<sup>2</sup>. The emphasis of sociopolitical and legal discussion is similarly distributed<sup>3</sup>. Empirical research aimed at showing how attitudes towards hazards caused by technology change and at drafting appropriate recommendations for the policy treatment of such risks<sup>4</sup> mainly covers large-scale technological projects. Legal science concentrates on the development of environmental law and new regulations, particularly on pharmaceutical products and also on chemicals. Against this background it is easy to forget that in the field of technical consumer products the results of large-scale and intensive accident research are available, that this research is indispensable in assisting companies to make decisions on the technical design of products, and that regulations on the safety of technical consumer products have long since left behind them the naive notion of abstract safety standards which can be fulfilled completely. How-

- 1 See the colourful, though USA-related, examples given by Feldman, 1980, 73 et seq.; Lowrance, 1976, 102 et seq.
- 2 Though there are some counter-examples, the most prominent being Nader, 1965.
- 3 Cf. for more details Brüggemeier *et al.*, 1984, 8 et seq.

ever, the key legal concepts expressing this realisation sound more familiar, more small-scale and less ambitious. Product safety law is not concerned with threshold values, as in the case of law covering the environment, labour and foodstuffs or with "effectiveness" or "non-objection certificates" as in the case of pharmaceutical products, but with the "generally accepted state of the art" ("allgemein anerkannte Regeln der Technik", § 3 of the Gerätesicherheitsgesetz) or with justified safety expectations which manufacturers have to comply with in accordance with the Product Liability Directive.

There are objective reasons for these differences. The risks of nuclear power stations, the level of residual risk to be tolerated or the long-term effects of air pollution or food additives place different requirements on the identification and legal assessment of risks than do the dangers resulting from defective cots and playpens. Nevertheless, it would be illusory to imagine that the problems of technical consumer products are simple. The potential danger is considerable, and it can be just as difficult to assess the contribution of a construction feature towards accidents as it is to assess the health hazard of chemicals (see section 1 below). In connection with technical consumer products as well, we must ask which risks are unavoidable, which must be eliminated at all costs and which should be reduced through design requirements. The alignment of corresponding decisions to technical standards specifying general safety duties is equivalent to setting a threshold value establishing the extent of permissible risks in general terms (see section 2 below). And finally, a range of subtle and expensive instruments has also been developed for the purpose of regulating the safety of technical consumer products. The simple blanket clauses of safety laws in this area are entirely compatible with a regulatory practice which proceeds no less demandingly

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4 Cf. Paschen/Bechmann/Wingert, 1981.

than is customary in the present-day regulation of health or environmental hazards (see section 3 below).

## 1. The identification of risks

The potential danger of technical consumer products was for a long time underestimated or only rarely appreciated by the public. A change in attitude began to be noted in the fifties and sixties. As early as 1961 the United Kingdom passed a first product safety law (the Consumer Protection Act 1961)<sup>5</sup>, and in the Federal Republic of Germany the Act on Technical Work Materials (Gesetz über technische Arbeitsmittel) of 1968 (GtA) was replaced in 1979 by the Appliances Safety Act (Gerätesicherheitsgesetz) (GSG) which laid down a general safety obligation for technical consumer products<sup>6</sup>; since 1983 France has had a general law on consumer safety (Loi No.83-660 relative à la sécurité des consommateurs)<sup>7</sup>. The sixties saw the development in the USA of a widespread social regulation movement which led to a large number of legislative measures<sup>8</sup>. The establishing of the National Commission on Product Safety in 1968, one of the most popular successes of this movement, can be regarded as the birth of a modern product safety policy for technical consumer products<sup>9</sup>.

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5 Cf. Chapter II, 2.2.

6 Cf. Chapter II, 3.3.3.

7 Cf. Chapter II, 1.2.

8 Pertschuk, 1982, 5 et seq. and the summary in Bollier/Claybrook, 1986, 275 et seq.

9 Cf. Chapter II, 4.1; also OECD report Safety of Consumer Products, 1980, 14 et seq.

## 1.1 Data

"Americans — twenty millions of them — are injured each year in the home as the result of incidents connected with consumer products. Of the total, 110,000 are permanently disabled, and 30,000 are killed. A significant number of them could have been spared if more attention had been paid to hazard reduction. The annual cost to the nation of product-related injuries may exceed \$5.5 billion"<sup>10</sup>.

This much-quoted passage from the final report of the National Commission on Product Safety on the potential hazards of technical consumer products refers to all accidents in which these products played "a role". As a result, a number of States subsequently developed accident information systems aimed at systematically identifying the involvement of consumer products in accidents and the data<sup>11</sup> provided by these systems are as worrying as the National Commission on Product Safety's figures.

In 1981 the Consumer Product Safety Commission reported that the use of consumer products had led to 33 million injuries and 28,000 deaths<sup>12</sup>. In Britain, where a start on preparing accident statistics was made in 1976 (England and Wales), the number of injuries requiring medical treatment is estimated at 3 million per year and the number of deaths at 7,000 per year<sup>13</sup>. In the Netherlands, the 1985 annual report on the *Privé Ongevallen Registratie Systeem* (PORS) revealed that in 1984 there had been 633,000 accidents necessitating hospital treatment and 2,141

10 National Commission on Product Safety, Final Report, 1970, 1.

11 Cf. OECD, Data Collection Systems, 1978.

12 Evidence of Commission Chairman S. Statler, given to the hearings before the Subcommittee on Health and Environment of the Committee on Energy and Commerce. House of Representatives, 98th Congress, First Session on H.R. 2271 and H.R. 2201, 5 and 12.3.1981, No. 97-4, Washington D.C. 1981, 321. For the bases of these estimates cf. Chapter II, 4.2.

deaths<sup>14</sup>. The European Commission estimates that in the Community as a whole there are more than 30,000 deaths and 40 million injuries each year, at an annual cost of over 30,000 million ECU<sup>15</sup>.

Shortly after publication of the National Commission on Product Safety's final report, an alternative survey method was tried out in the form of a "Household Safety Study"<sup>16</sup> financed by several American companies and government departments. In the first phase of the study 27,000 households were questioned about injuries and damage sustained during the past three months. In the second phase diary records of 22,000 households covering a similar period were evaluated. "Environment-linked" accidents were found to be the most important category, with accidents in sport and play in second place; the user's own "misbehaviour" was universally found to be a major factor in the cause of accidents. A similar method was adopted for a study of household and leisure accidents carried out in 1985 on behalf of the Government of the Federal Republic of Germany by the HUK (association of insurance companies)<sup>17</sup>.

According to the findings of this study, 3 million home or leisure-time accidents requiring medical treatment or having an effect lasting for more than 14 days (and 100 million minor acci-

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13 Cf. Cmnd. 9302, *The Safety of Goods*, 1984, White Paper, para. 9, and details of the British system in Chapter II, 2.5.

14 Cf. Stichting Consument en Veiligheid, Report of 1984, 1985, 2 et seq., 10, 12, 46. The report "Veiligheid in de privésfeer" (Tweede Kamer, vergaderjaar 1983-84, 18.453), Nos. 1-2, 12, 17 et seq., estimates the dangers of accidents resulting from medical treatment at 2 to 2.6 million.

15 Cf. Section 6.2. of the report (COM (84) 735, section 6.2) on the model study attached to the Commission Proposal for a Council Decision on introducing a Community system of information on accidents in which consumer products are involved (7 January 1985); for further details see Chapter III, 3.3.

16 Chicago 1972.

dents) can be assumed for the Federal Republic of Germany<sup>18</sup>, with 12,000 deaths per year. In order to be able to define the role of products more precisely, the study distinguishes between five accident categories. According to the study, only in the case of "handling" accidents, which account for 17% of accidents, are faulty appliances a potential cause; in practice they are responsible for still fewer, only 2% of all accidents. If cases of incorrect use are disregarded and a distinction made between old and new appliances, the figure falls still further. The conclusion is that "technical shortcomings on newly purchased machines, tools or other appliances are clearly an insignificant factor in the causes of household and leisure accidents"<sup>19</sup>.

## 1.2 Recording problems

"Measuring" hazards is a science in itself. When developing accident information systems it is necessary to reflect on whether data should be collected from hospital accident units and/or doctors' surgeries, how a representative sample can be obtained, to what level of detail information on the nature of injuries, the victims and the circumstances of the accident can be collected, and which product categories it would be useful to distinguish<sup>20</sup>. However, the data collected after clarification of all these questions still do not permit any definite conclusions on how dangerous products are. As well as the accident rate, the seriousness of injuries is also important. It is very difficult to grade and assess injuries. In the USA, the National Electronic Injury Surveillance

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17 Pfundt, 1985; cf. for more details Chapter II, 3.1.

18 Pfundt, 4 et seq.

19 Loc. cit., 190.



System (NEISS) uses an Age-Adjusted Frequency-Severity Index for this purpose, taking into account not only the accident figures for individual product categories, but also the average nature of injuries, with an additional distinction by user's age<sup>21</sup>; as of late, accident-related economic costs are also calculated, using an Injury Cost Model.

The "measuring" of product hazards can be taken even further. It seems logical for critics of the NEISS to insist that intensity of product use be considered or to call for epidemiological studies which would provide more accurate statistical information on the extent to which specific population groups are affected, or for the U.S. Product Safety Commission itself to test new procedures for gathering data on causes of accidents<sup>22</sup>. But accident circumstances are extraordinarily complex<sup>23</sup>. They are influenced both by permanent and fortuitous background factors (physiological and psychological capabilities and environmental factors on the one hand, and personal factors such as illnesses and external circumstances on the other), and by unexpected events which distract the person's attention or disturb his concentration. Product quality, the effect of normal wear on the same, and sudden faults are no more than contributing factors to a complex process. Consequently, accident information systems can treat the data they collect on the involvement of products in accidents only as an impulse for more detailed follow-up studies of typical accident patterns or individual accident circumstances — the only way to obtain true information on the contribution of design features towards accidents. Such studies inevitably lead to a ques-

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20 Cf. OECD, *Data Collection Systems*, 1978, 27 et seq. and the two preliminary studies published in the Netherlands on the extension of the PORS Bruggers/Rogmans, 1982 and Rogmans, 1982.

21 Cf. Chapter II, 4.2.1 and by way of comparison the OECD report, *Severity Weighting*, 1979.

22 Cf. Chapter II, 4.2.2.

tion of appraisal: as soon as statements on the hazardousness of products are no longer limited to statistical connections between product characteristics and accidents, in other words, where the safety of products is to be judged, a distinction has to be drawn between the spheres of responsibility of manufacturers and users. We shall return to this subject presently.

The difficult measurement and classification problems encountered in developing and applying accident information systems cannot be evaded by alternative study methods either. The example of the HUK study and its conclusion brings this difficulty out. While the survey method used there does allow all accidents to be taken into account and distortions to the data resulting from concentrating on hospital accident units to be excluded, the involvement of hospitals has the advantage that a suitably trained external observer can record the relevant data immediately after an accident (particularly useful in the case of accidents involving children). A survey, by contrast, depends on the psychological skill of the interviewer and the ability of the interviewee to express himself and remember things accurately, which means that in some cases, particularly accidents to children, no reliable information can be obtained. The most important advantage of accident information systems over later surveys is, however, probably that they rule out one severe source of error, namely the victim's memory or forgetfulness<sup>24</sup>.

The HUK study not only aims to measure hazards, but pursues the ambitious goal of assessing the safety of products as well. For this purpose a very small number of "case studies" were carried out, with the cases selected from among the handling accidents. These studies, based on the interviews with the persons

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23 Cf. Netherlands report "Veiligheid in de privésfeer", (note 14 supra), 21, and Compes, 1986 and Gürtler, 1986.

24 Cf. Chapter II, 3.1.

concerned, contain some very firm assessments (users chose "easy alternatives", acted "carelessly", "did not pay attention", "were thinking about television", "were trying to carry too much luggage", "selected an unsuitable position", or "were distracted by children")<sup>25</sup>. Such assessments are no doubt unavoidable in evaluating product safety. But simply questioning accident victims is a very poor basis for making judgments. A pilot study by the US Consumer Product Safety Commission<sup>26</sup> shows that only 27% of accident victims surveyed were capable of answering the question whether their accident should be attributed to a product defect, to the age of the product, to its design, to their own errors, personal inadequacies or environmental factors<sup>27</sup>. It also stresses that the interaction between survey personnel and respondents influences the findings in ways that are hard to calculate, that there is a tendency on the part of accident victims to blame themselves, that it is, above all, unrealistic to expect reliable, appropriate statements on product defects, and even less design faults, from users, and that therefore interviewers must be trained not only psychologically, but also technically. Clearly, therefore, a product hazard survey that is not only to measure the involvement of products in accidents but also to supply conclusions as to causes

- 25 Pfundt, *op. cit.* (note 17), 1985, 99, 101, 105, 119. Such assessments can be found even in cases that have elsewhere led to governmental regulations. Thus, the section on lawn-mowers states that the majority of accidents were caused by blades that were running or slowing down, but it states even earlier that the machine is dangerous not during mowing as such, but when stopping, starting or being cleaned (*loc. cit.*, 136). It was precisely these characteristics that led to the development of relevant safety standards in the US (see Chapter II, 4.3.2.2).
- 26 US Consumer Product Safety Commission, Division of Hazard and Injury Data Systems: Results of a Pilot Study to Collect Causal Data from Victims Treated in Hospital Emergency Rooms for Product-Related Injuries from April 15, 1985 through April 28, 1985, Washington, D.C. 1985.
- 27 All the same, 10% of those questioned identified manufacturing or design faults as causes of accidents. This very high proportion by comparison with the findings of the HUK study is a further indication of the relevance of forgetfulness in the case of retrospective studies. In 11% of cases, product misuse was seen as the cause of an accident;

and responsibilities has to be a much more sophisticated matter than the HUK study has been.

## 2. Assessment of hazards

According to the well-known statement by W.W. Lowrance, "a thing is safe if its attendant risks are judged to be acceptable"<sup>28</sup>. The references to the limitations of accident information systems and the weaknesses of the HUK study will no doubt have demonstrated the importance of the distinction between identifying the hazards of products and assessing their safety. "Safety" is a normative concept and cannot be assessed by a generally applicable unequivocal formula. Safety assessment procedures must therefore be flexible, above all because the hazards to be assessed vary tremendously in nature and intensity.

### 2.1. "Proper use", "foreseeable use", "foreseeable misuse", "unreasonable risk"

In the legal policy debate on consumer product safety, the distinction between "proper" and "foreseeable use" or "misuse" plays a central role. The distinctions represent intuitively plausible demarcations of the spheres of responsibility of manufacturers and users. Those who would like to see the responsibility of manufacturers limited to cases where products are put to their proper use plead for predictability and delimitation of liability,

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42% of these, though, concerned children under ten, whose "mistakes" were in part typical childish behaviour.

28 Lowrance, 1976, 75; similarly cf. e.g. OECD report, Product Safety, 1983, 13.

and at the same time appeal to the independence and judiciousness of users. Those who on the other hand wish to make manufacturers take account of foreseeable misuse are quickly accused of adopting paternalistic attitudes, and seem to assume that technical progress tends to place excessive demands on users. Between the two extremes of proper use and foreseeable misuse lies the category "foreseeable use". This compromise formula allows the manufacturer to be made liable in cases where, for example, his subjective definition of the use of his products does not correspond to the "normal" use; on the other hand, the user's own responsibility in the case of a foreseeable but "unreasonable" use is established.

The legal discussions on these divisions have an important fundamental meaning, but their practical significance is limited. The abandoning of "proper" use as the basis for manufacturer's liability acknowledges that what safety law is about is social protection, which no manufacturer can determine unilaterally by laying down what "proper use" is, nor any consumer ignore in making his purchase decisions. In this context, the abandoning of the criterion of proper use is fundamental, and there is general agreement on this.

However, § 3 (1) of the German GSG explicitly protects the user of technical consumer products only where they are put to their "proper use" and also refers to the "generally accepted state of the art". In explaining the phrase "proper use", § 2 (5) of the GSG does, however, state that this is either the use specified by the manufacturer or the "normal" one for the product. These criteria may clash; accordingly, the reference to "normal use" means that the manufacturer no longer has the power to "define" the care to be expected from users of his product<sup>29</sup>. Even more im-

portantly, especially in connection with safety matters, the relevant standards (DIN 820, Part 12, and DIN 31.000/ VDE 1000) lay down more stringent requirements, specifying that "foreseeable misuse" must be taken into account. This amendment to § 3 (1) of the GSG on the assessment of safety aspects corresponds to the general trend in present-day safety legislation and product and manufacturers' liability law<sup>30</sup>.

Whilst it is important to retain this basic consensus on safety policy, it is difficult on the other hand to deduce precise criteria for establishing the appropriate safety level from the alternatives to "proper use". All norms are both capable of being interpreted and in need of interpretation. If, as required by DIN 820, Part 12 and DIN 31.000/VDE 1000, foreseeable misuse must be taken into account, a decision must be made on whether and to what extent this has to be done at the product design stage ("direct safety technique") or whether other protective measures are needed ("indirect safety technique"), or whether safety information should be sufficient ("indicatory safety technique")<sup>31</sup>. The concept of "foreseeable" use leaves similar room for interpretation. Whilst Article 1 of the French Consumer Safety Act of 21 July 1983<sup>32</sup> refers to "conditions reasonably foreseeable by an expert" and the level of safety which can "legitimately" be expected, a decision is still required on the degree of anticipation to be required of the manufacturer and where the limits of legitimate consumer expectations lie. The fact that such decisions involve a difficult compromise between hazard avoidance, technical possi-

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30 Cf. Chapter II, 1.6. and on European Law Chapter III, 3.5.

31 Cf. Chapter II, 3.3.5.

32 Journal Officiel 115 No. 168, 2261; cf. Chapter II, 1.

bilities and economic constraints is well-known from product liability law<sup>33</sup>.

In the face of these problems the American Consumer Product Safety Act 1972 has contented itself, in § 1 (b)(2), with describing the aim of the legal regulations as protecting the consumer against an "unreasonable risk of injury". It is evident from the background material, though not from the text of the Act itself, that a multiplicity of factors are to be balanced against each other: the likelihood of damage, its severity, the usefulness of products, the costs of anti-hazard measures, but also the obviousness of dangers, so that the question of the user's own responsibility remains an essential and legitimate aspect<sup>34</sup>.

As a result, terms such as "foreseeable use" and "foreseeable misuse" are certainly helpful in developing safety standards and in offering some guidance to courts and competent authorities<sup>35</sup>. At the same time, however, the need to adapt these terms shows that in order to be able to specify the appropriate safety level, a whole series of further aspects must be considered and assessed.

## 2.2 Hazard assessment, freedom of decision and cost-benefit analysis

The contrast between the "paternalistic" protection of the consumer against his own foreseeable incorrect behaviour on the

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33 Cf. for details Brüggemeier, 1986, Nos. 544 et seq.

34 For details on the difficulties of interpreting the "unreasonable risk" test, see Hoffman, 1976, 401 et seq.; see also LaMaccia, 1975, 849 et seq.

35 This debate is therefore fully documented; cf. Chapter II, 1.2 for French law, Chapter II, 2.6.2 for British law and Chapter III, 3.5 and VI, 3.3 for European law.

one hand and insistence on the consumer's own responsibility in the case of incorrect use of products is a permanent feature of the entire debate on the justification for and limits of product regulation by the State. The contrast between "paternalism" and "own responsibility" also takes the form of a dispute between political and moral judgement on the one hand and economic rationality concepts on the other. But not only have new terms been invented in these debates; relevant framework conditions for an appropriate decision on the level of safety have also been reconsidered.

### *2.2.1 Political and moral hazard assessments*

As soon as the safety level of technical consumer products is recognised as a normative decision problem, the question of the rationality of the procedures concerned has to be settled whilst at the same time the selection of a particular decision procedure also affects the criteria taken into account to arrive at a decision<sup>36</sup>. As long as the manufacturer does not have to comply with a specific safety level and consumers may define their own safety interests and are themselves responsible for observing the same, the safety level will remain a function of supply and demand decisions.

On the other hand, if the "accepted" state of the art is to be regarded as the binding minimum norm, the logical consequence is to make technical experts responsible for laying down these rules<sup>37</sup>. Finally, anyone who does not wish to leave safety decisions to market forces, but also does not wish to abide by the average level or the state of the art and sees the guaranteeing of

36 Cf. in particular Lave, 1981, 8 et seq.



safety as a political task will assign this task to either State authorities or independent agencies.

R. B. Lave has drafted a list of how such agencies can be used<sup>38</sup>. The elimination of hazards by strict bans can be called for, but as a rule such bans quickly turn out to be unenforceable. The best available technology can be demanded, but this norm, too, is usually controversial and particularly in the case of technical consumer products would be an illusion. Another possibility is to balance the health risks for a product against its uses, either ignoring or taking particular heed of economic factors; this means that in the first case the decision is based on safety criteria only, whilst in the second case all socially relevant factors will be considered. Even if in the latter case the decision framework remains discretionary, it is suitable for application in connection with consumer product safety regulation. The technical complexity and hazards of such products vary considerably. Some are essential despite inherent dangers, e.g. kitchen knives. Sometimes there can be a dispute about how necessary products are, as in the case of the banning of skateboards in Norway<sup>39</sup>. The ability to come to terms with hazards varies from one age group to another, as a result of which design safety demands also differ. Finally, the effects of safety requirements on production costs and selling prices do not just have an economic significance. They can put products beyond the means of specific population groups and thus have a discriminatory effect.

This large number of potentially relevant aspects does not exclude appropriate structuring of the decision process. This is illustrated by the OECD report on "Product Safety, Risk Man-

37 Consistently, DIN 31.000/VDE 1000 says that in case of doubt, safety requirements take priority over economic considerations.

38 Lave, 1981, 8 et seq.

39 Cf. OECD report, Product Safety 1983, 34 et seq.

agement and Cost-Benefit Analysis"<sup>40</sup>, which distinguishes six groups of considerations: general aspects of the product concerned (in particular its distribution and its usefulness); technical characteristics (including a check on technically possible alternatives); analysis of hazards attributable to design or misuse respectively; analysis of hazards due to the organisation of the production process rather than to design; differentiation by age groups, recognisability of dangers, likelihood of misuse; increased costs resulting from safety requirements and anticipated economic effect of a reduction of hazards.

### 2.2.2 *Economic rationality criteria*

In view of the intangible nature of normative safety policy decisions, the search for "objective" decision-making criteria is certainly understandable. The current call, particularly in the USA, for safety policy to be brought into line with cost-benefit analyses is often combined with a promise of clear and rational decision-making criteria. Cost-benefit analyses are seen as an instrument of regulation. However, the criteria of such analyses are linked to a view of the safety problem derived specifically from the market economy, namely the conceptualisation of the "optimal" safety level as an economically rational decision balancing the cost and benefit of safety. Microeconomically, this means that the usefulness of safety measures is to be measured in terms of willingness to pay for a reduction of hazards that entails costs. A cost-benefit analysis of safety measures cannot take account of individual safety decisions (readiness to accept costs), as the cost and benefit of such measures affect consumers as a whole (and not always to the same extent). Cost and benefit must each be aggregated, and the conceptualisation of the safety prob-

<sup>40</sup> Loc. cit., 45-51; a more general and even more sophisticated list is

lem as an economic problem then means that the total cost of a measure should not in any event exceed its total benefit<sup>41</sup>.

As far as the cost side is concerned, quantification can be based on the anticipated effect of a measure on the market price of the products concerned. Limitations on usability (e.g. time taken to open safety locks, etc.) and costs of implementing a regulation must be estimated, whilst on the other hand the medium- or long-term scale advantages which the introduction of a universally binding safety standard may bring must also be taken into account. It is still harder to quantify benefit. In addition to savings on medical costs and wage payments to sick workers, the suffering of potential victims must also be quantified; the American Consumer Product Safety Commission bases its findings on solatia awarded by American juries<sup>42</sup>, whereas the corresponding "benefit" in Europe would be considerably lower. The most familiar quantification problems concern deaths. One way is to use loss of income, but more widespread is recourse to wage differences between hazardous and less hazardous occupations, since an approach can be based on observable behaviour patterns on (labour) markets<sup>43</sup>.

Taking a position in principle on the application of cost-benefit analysis to problems of safety regulation serves little purpose unless we go into the details of the different variants of this analysis method. However, a thorough cost-benefit analysis indisputably involves considerable expense, is often based on very unreliable estimates<sup>44</sup> and does not take account of possible dis-

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provided by Lowrance, 1976, 86 et seq.

41 Out of the extensive literature available, cf. Miller III/Yandle, 1979; a brief introduction can be found in OECD, Product Safety, 1983, 63 et seq.

42 Non-authorized memorandum of the US Consumer Product Safety Commission of 25 February 1986 by P.H. Rubin, 3.

43 A summary of the situation can be found in Viscusi, 1983, 93 et seq.

tributive effects or the effects of regulations on competition; furthermore, criteria for calculating benefit in cash have to abstract from individual suffering, so that cost-benefit calculation requires willingness by the decision-maker to take an abstract approach.

### 3. Instruments of safety regulation

The spectrum of regulatory action is wide, and the possibilities include preventive approval regulations, performance standards, certification procedures, voluntary standards and safety symbols, warnings, safety campaigns, follow-up market controls (recalls and bans) and rules on liability. Employment of all these instruments is dependent on prior strategic and conceptual thinking. Product hazards can be reduced preventively by product bans, compulsory safety regulations or standards and certification requirements, as well as by information campaigns and, especially at work, by training measures. Liability rules, follow-up market control measures and safety-conscious purchasing advice also have an indirect effect on the safety level of products. However, in practice the decision on which of these possibilities to apply is very much subject to objective constraints. The most obvious of these is a direct result of the area concerned: the number and diversity of technical consumer products, technical progress and the different behaviour patterns and protective interests of users make positive regulation of all safety aspects of consumer products impracticable. Accordingly, if only for pragmatic reasons, it is advisable to assess the efficiency and performance limitations of the market mechanism before introducing any regulatory measures.

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44 Cf. Chapter II, 4.3.2.2 (lawn-mowers) and 4.3.2 (formaldehyde) and the examples in OECD, *Product Safety*, 1983, 79 et seq.

### 3.1 Self-regulation by the market and market-complementary regulation

Markets, too, are regulatory mechanisms. Their particular characteristic is that they do not specify the "regulatory outcome", but rely on the supply-and-demand discovery process. It can be shown that under certain circumstances markets bring about an optimum allocation of resources. This applies to the price-performance relationship in general and therefore also to the safety level of products. Here, too, it is a matter of weighing up benefit and cost in order to decide which safety precautions are economically viable and which hazards should be tolerated. However, the market process brings optimum results only under certain model conditions which in practice are difficult to guarantee, particularly as far as the level of safety is concerned<sup>45</sup>. This is particularly true of the rationality of a consumer's safety decision<sup>46</sup>. Only a "fully" informed decision would be economically rational. This condition is sometimes followed strictly, sometimes less so. It will certainly not be fulfilled, in fact it cannot be fulfilled, as long as the stage reached by medical research does not permit conclusions on health hazards. On the other hand, this condition is not sufficient in cases where the user of a product endangers not only himself, but others as well. "Normal" cases are more difficult to assess. The hazards are recognisable, but the user does not bother to obtain the information, for reasons of economy or convenience. Attention is drawn to hazards, but the information cannot be processed; hazards are seen but ignored, since "bad things always happen to the other guy"<sup>47</sup>. In addition, suppliers can put such cases of "information failure" to

45 Cf. Oi, 1973; Streit, 1984.

46 This is even conceded by Viscusi, 1984, 5 et seq.

47 G. Calabresi, 1970, 56.

strategic use. In any event we should not expect product advertising to draw attention to hazards, and we must not automatically assume that a high level of safety is always beneficial to the supplier<sup>48</sup>.

### *3.1.1 Information policy measures*

If under certain circumstances markets produce an optimum level of safety, the logical consequence is to react to safety problems primarily by means of regulative strategies aiming to guarantee the functional conditions of the market process. The policy of informing the consumer then has priority, especially as the individual consumer then has the freedom to make the best decision to suit his purposes. The actual organisation of such measures is in fact difficult and their effectiveness often questionable<sup>49</sup>. In order to "fully" compensate for information deficits, information should be supplied to the consumer in such a way that he can recognise and take notice of it. Simplification may help where receptiveness is limited, but information must also be expressed in a suitably explicit manner in order to overcome tendencies to ignore it. However, as shown by the example of the warning on swimming pool slides required by the Consumer Product Safety Commission<sup>50</sup>, these objectives may conflict; for instance, information in restrained form may be ineffective from the safety point of view, whilst effective information may have a dubious effect from the point of view of competition.

Such conflicts can also occur in the case of broader information policy measures. Safety symbols can under certain circumstances be awarded or product tests designed in such a way

48 Cf. Akerlof, 1970.

49 For the up-to-date situation cf. Dedler *et al.*, 1984.

as to provide simple and reliable safety information without unfairly distorting the competition process on the supply side. However, the safety effect of such measures is dependent on a large number of peripheral conditions<sup>51</sup>. Finally, whilst general information campaigns in principle reach all persons potentially concerned, they are a regulatory instrument with a tendency to go beyond the framework of an information policy aiming to optimise market processes<sup>52</sup>.

### *3.1.2 Product liability*

A manufacturer's strict liability for defective products constitutes, from the viewpoint of economic analysis of liability law, a form of compulsory insurance of consumers against particular hazards involved in the use of products; the customer's freedom to choose "uninsured", but cheaper, products and to rely on his own care in using the product is thus lost<sup>53</sup>. However, the obligation on the manufacturer to take responsibility is only an incentive to reduce product hazards. It remains up to the manufacturer what steps he takes in response: design changes, liability insurance, warning and seeing. This indirect mode of operation of liability law, which exploits the market mechanism, explains why product liability is often interpreted as a "pro-market" alternative to direct government regulation of product safety, and recommended as such.

The actual effects of product liability on the level of safety of consumer products depend on the details of liability, the treatment of development hazards, the requirements in respect of

50 Cf. Chapter II, 4.3.2.1.

51 Cf. Silberer/Raffée, 1984.

52 Cf. Mayer/Nicosia, 1976.

proving a connection between product defects and damage, the level of penalties and consequences of co-responsibility, etc. Moreover, only an analysis of these detailed regulations can show how far product liability in fact relies on the logic of the market process, and how far it additionally switches risks according to criteria of social acceptability. There are also other various factors which, independently of the more detailed legal aspects of liability, restrict its regulatory effects<sup>54</sup>. First of all, it is highly doubtful whether penalties under liability law are or ever can be so formulated as to produce the required safety policy effects. At any rate the "signals" of product liability law are rather too irrational; for example, in the case of injuries to children a death can be "cheaper" than a serious injury. Secondly, the reactions of firms to claims for damages depend on contingent circumstances: the competition situation on relevant markets, the internal organisation structures and financial strength of the firm concerned, and its willingness not to simply ignore the possibility of future penalties in favour of sure short-term advantages. A third cause is the insurability of the liability risk. Insurance premiums are obviously not specifically matched to risk. It seems possible to make distinctions only between branches or product groups, as adapting premiums to product-specific risk factors in all cases would not be compatible with the philosophy of insurance protection, nor in any case with insurance practice<sup>55</sup>. A fourth weakness of product liability law stems from the extreme selectivity of the private prosecution system. Product liability law can neither guarantee that injured parties will take upon them-

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53 Cf. on economic analysis of product liability, Adams, 1985, 17 et seq.

54 Cf. Pierce, 1980, Sugarman, 1985; Eads/Reuter, 1983; Brüggemeier, 1987.

55 See also Schäfer/Ott, 1986.



selves the trouble and financial risk of a private prosecution, nor can or should it exclude out-of-court settlements<sup>56</sup>.

### 3.2 Product standards

The weaknesses of information policy and product liability law mean that in principle the justification for preventive safety regulations is undisputed. It is also undisputed that the technical complexity of product regulations and of continually adapting them to technical progress is beyond the means of general parliamentary legislation procedures, meaning that the task of introducing specific regulations has to be delegated. In this connection there are ideally two alternatives: the introduction of legally binding safety regulations by specialised public agencies, or the introduction of self-administered safety norms by the industry concerned. However, in practice these ideal alternatives are not encountered; product regulation is dominated by hybrid systems with a tendency towards "corporatism".

#### 3.2.1 *Mandatory product standards*

As the assurance of safety is one of the duties of the State, it would appear logical to make State authorities responsible for drafting product regulations. This is the path followed by modern product safety laws. The UK Consumer Protection Act 1961 delegated the issuing of safety regulations to the executive authorities, giving Parliament only the right to participate in the process, and the right of subsequent annulment<sup>57</sup>. In the USA the Consumer Product Safety Act, in its original version of 1972, went

<sup>56</sup> Ramsay, 1984.

even further. It set up, in the form of the Consumer Product Safety Commission, a State agency (though protected from the direct control of the House of Representatives or the Administration), which was allowed to fix its own priorities and draft its own regulations<sup>58</sup>. The practical and organisational problems of such an allocation of responsibilities match the complexity of a comprehensive normative assessment of hazards<sup>59</sup>. For such an assessment it is first of all necessary to "measure" risks, i.e. to develop an information system for the identification of product hazards. A second precondition is that the authority concerned should be competent, from the technical and scientific point of view, to assess design characteristics of technical consumer products, to identify any risks and develop technically feasible requirements aimed at reducing the risk. A third precondition is that it should be competent, from an economic and sociological viewpoint, to assess the social consequences, implications for competition policy, costs and benefits of a regulation. Authorities invested with only legal competence to pass product regulations are not in a position, or if so only to a limited extent, to carry out a comprehensive assessment of risks.

Technical safety legislation has nowhere made adequate provision for the assessment of risks, whether in organisational or in technical terms. In the UK, the CPA 1961 was based on State adoption of standards drafted by the competent institutions and did not seek to set up independent administration for the implementation of safety regulations; these shortcomings were only partly counterbalanced by later measures<sup>60</sup>. In the USA, the CPSC was set up taking into account the preconditions for drafting product regulations. However, there, too, the available re-

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57 Cf. Chapter II, 2.2.2.

58 Cf. Chapter II, 4.1.1.

59 See 2.2.1 *supra*.

sources meant that from the outset only selective action was possible; above all, the legal and technical fields of responsibility of the CPSC were subsequently reduced to such an extent that the Commission's role was limited to merely supervising standards drafted by the standards institutions, in sharp contrast to original intention<sup>61</sup>.

### 3.2.2 *Technical norms*

The normative aspect of safety assessment does not become any simpler when responsibility for drafting product standards is transferred to private organisations, and the practical and organisational advantages of reducing the burden on the legislative process in this way are offset by an endangering of the normative quality of safety regulations. In the past the impulse for the "voluntary" introduction of product standards came from the development of industrial mass production, as the need for technical standardisation became essential so that it would be possible to interchange and combine production elements<sup>62</sup>. This function of private standardisation is still valid, but has become more and more caught up in the whirlpool of society's increasing demands that "technical" solutions take account of safety and environmental aspects<sup>63</sup>. The basis for criticism is as simple as it is obvious<sup>64</sup>: as long as the industries concerned are themselves responsible for standards, genuine consideration of safety and environmental aspects cannot be expected. The justification of such reservations about self-regulation as opposed to State regulation

60 Cf. Chapter II, 2.2 and 2.3.

61 Cf. Chapter II, 4.4.

62 Cf. Marburger, 1979, 181 et seq.; Kypke, 1983, Chapter III; Hamilton, 1978, 1331 et seq., 1368 et seq.

63 Cf. Schuchardt, 1979, 236 et seq.

is in principle generally acknowledged. It is therefore also generally accepted that such a transfer of decision-making functions must be compensated for by laying down special requirements for the drafting of standards, which in particular must guarantee a "balanced" representation of all interests concerned in the standardisation process and the consideration of "social" requirements, among them safety<sup>65</sup>. Finally, it is recognised that the State should remain in a position to set safety priorities and that standards should not become legally binding until they have been through an additional checking procedure.

The actual role played by "private" norms within the framework of genuine governmental product regulation on the one hand and the influence of the State on private standardisation on the other moderate the contrasts between basically governmental and private standardisation. However, for the time being the forms of interaction between State and society vary considerably. In the Federal Republic of Germany<sup>66</sup>, the United Kingdom<sup>67</sup> and now at European Community level<sup>68</sup>, the measure of influence of the State is restricted by conventions, or by mutually agreed "general principles". However, the formal rights of participation of social groups differ, and the degree to which standardisation results are subjected to subsequent checks also does not seem to be uniform. In France the administration's possibilities for exercising direct influence seem to be more distinct<sup>69</sup>. In the USA the role of the CPSC in drafting voluntary standards has been defined in detailed regulations and its powers to introduce compulsory regulations remained significant for the inclusion of

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64 Cf. summary given by Hamilton, 1978, 1379 et seq.

65 Cf. Marburger, *Rechtliche Bedeutung*, 1982, 138 et seq.

66 Cf. Chapter II, 3.4.2.

67 Cf. Chapter II, 2.6.2.

68 Cf. Chapter IV, 3.5.

safety aspects in "voluntary standards"<sup>70</sup>. Consequently, the only principle to become generally accepted is that technical safety regulations should be developed by private standards institutions drawing on the technical expertise of the industries concerned ("it is expensive to reinvent the wheel"<sup>71</sup>). There is, however, no consensus on the regulative mechanisms to guarantee acceptance of private standardisation from the point of view of safety policy.

### 3.3 Follow-up market controls (recalls and bans)

All product safety policy instruments aimed at the preventive control of design hazards of technical consumer products have a selective effect. State regulations can cover only a fraction of risks potentially requiring regulation; private standards institutes too must lay down priorities and cannot enforce the implementation of their norms, which are not legally binding. When all is said and done, the primary function of product liability is to compensate for any damage, and its influence on the level of safety is indirect and incomplete. However, preventive safety measures are not only inevitably selective, but also imperfect. The complexity of accidents means that particularly in the development of new products it is impossible in advance to recognise all hazards precisely. The selectiveness of preventive safety measures and the uncertainty of hazard forecasts are already two reasons to suggest that monitoring products in use and powers of subsequent intervention are essential. However, follow-up market controls also have a redistributive function. If the marketing of dangerous products is banned, traders suffer economic losses; if

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69 Cf. Chapter II 1.7 for more on this.

70 Cf. Chapter II, 4.4.

71 Hamilton, 1978, 1447.

the products are already in the hands of final consumers, the repair or exchange of the products or the payment of compensation involves additional costs. The development of effective instruments of follow-up market control is, in the context of these functions, a difficult task from the legal point of view. However, primarily because of the costs involved, the loss of image which the companies concerned may suffer and the potential effects on product liability procedures, follow-up market control comes up against considerable legal resistance.

In 1981 the OECD proposed solutions to the problems of follow-up market control based on the recall provisions of Section 15 of the CPSA 1972<sup>72</sup>. The OECD report divides the procedure into three stages<sup>73</sup>: (1) The essential first step is the systematic recording of information on product hazards. The main information sources are accident information systems and reports from supervisory or certification authorities, followed by reports from manufacturers and importers, and complaints from consumers and consumer organisations. (2) When the dangers have been identified, suitable remedies must be taken. First of all, the consumers concerned must be warned about the hazards, then positive action must be taken to eliminate hazards and provide compensation for any damage. Measures must be adapted to the individual case; repairs may be sufficient, but in some cases products will have to be exchanged or destroyed and damages paid. (3) For the collection of information, assessment of hazards, and the preparation and monitoring of remedial measures it is necessary to set up a central authority which is in a position to carry out follow-up market control and must therefore be invested with the required legal powers.

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72 OECD, Recall Procedures, 1981; for US law cf. Chapter II, 4.5.

73 Cf. in particular OECD, Recall Procedures, 1981, 14 et seq., 31-32.

No Community Member State has yet fulfilled these requirements. German law provides for marketing bans (§ 5, GSG), but a recall obligation exists only in conjunction with producers' liability<sup>74</sup>. English law provides for "prohibition orders" and "prohibition notices" which the Secretary of State can invoke in the case of "imminent hazards" (see § 3 (1) a-c of the Consumer Safety Act 1978); in practice, however, these instruments are not applied and it is not intended to develop them into a recall procedure<sup>75</sup>. In France the Consumer Safety Law of 21 July 1983 is a potentially far-reaching instrument providing for recalls through the State machinery, but as yet it has hardly been tried out<sup>76</sup>.

In the face of such reticence and resistance in the Member States, it should be noted at this point that the Community's current efforts to complete the internal market will be bound to have consequences for the development of follow-up market controls. The principle that products with European certificates of conformity manufactured according to foreign standards or tested by foreign institutes should be allowed to move freely in all Member States will encounter safety-motivated reservations which may also be linked to protectionist interests. We will return to the resulting need for action at a later stage<sup>77</sup>.

#### 4. Summary

Product safety represents a scarcely consolidated policy area, where information measures, liability rules, self-regulatory mechanisms and legal intervention exist side by side. Each of

74 Cf. Chapter II, 3.5, and Brüggemeier, 1986, Nos. 563 et seq.

75 Cf. Chapter II, 2.3.3 and 2.4.

76 Article 3 of Loi No. 83-660 (note 32) and Chapter II, 1.5.2.

these instruments fulfil specific functions and therefore uses different regulative mechanisms. However, at the same time each instrument leads its own legal life; as yet there is no coherent product safety policy to co-ordinate these instruments, take account of the effectiveness of each, harmonise safety standards and control the development of legal instruments with the overall aim of reducing product hazards. As far as the approximation of laws in the European Community is concerned, this situation results in both problems and opportunities. The difficulties stem from the fact that the approximation of laws in a specific field involves inter-State co-ordination of heterogeneous legal instruments, and therefore may result in changes which lead to gaps in protection, in turn causing difficulties in reaching agreement or even resistance to the implementation of Community law. On the other hand, as shown by the example of environment law, it is precisely in new policy areas that willingness to change and learn is likely to be encountered — provided that integration policy provides the incentives and constraints that are needed to bring about innovation.

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77 Chapter III, 3.4; Chapter IV, 3.3 and 3.4; Chapter V, 3.2 and 4; Chapter VI, 3.4.



## Abbreviations

A.C.	Appeal Cases (Law Reports)
AFAST	Association Franco-Allemande pour la Science et la Technologie
AFNOR	Association Française de Normalisation
AG	Advocate General
AgV	Arbeitsgemeinschaft der Verbraucher
AöR	Archiv des öffentlichen Rechts
Art.	Article
Arts.	Articles
Aufl.	Auflage
AVV	Allgemeine Verwaltungsvorschrift
BArbBl.	Bundesarbeitsblatt
BAU	Bundesanstalt für Arbeitsschutz (und Unfallforschung)
BB	Betriebs-Berater
BBA	British Board of Agreement
Bd., Bde.	Band, Bände
BEAB	British Electrotechnical Approvals Board
BEUC	Bureau Européen des Unions des Consommateurs
BGB	Bürgerliches Gesetzbuch
BGBI.	Bundesgesetzblatt
BGH	Bundesgerichtshof
BGHZ	Entscheidungen des BGH in Zivilsachen
BMA	Bundesministerium für Arbeit und Sozialordnung
BR-Drs.	Bundesrats-Drucksache
BS	British Standard
BSI	British Standards Institution
BT-Drs.	Bundestags-Drucksache
Bull. civ.	Bulletin civil
Bull. EC	Bulletin of the EC
BVA	Beratender Verbraucherausschuß
BVerfG	Bundesverfassungsgericht
BVerfGE	Entscheidungen des BVerfG
BVerwG	Bundesverwaltungsricht
Cal.	Californian Reporter
CCC	Comité Consultatif des Consommateurs
CEN	Comité Européen de Normalisation
CENELEC	Comité Européen de Normalisation Electrotechnique
cf.	confer; compare
CFR	Code of Federal Regulations
ch.	chapter
Cir.	Circuit
Cmd., Cmnd.	Command Paper
CMLR	Common Market Law Review
CPA	Consumer Protection Act
CPSC	Consumer Product Safety Commission
CSA	Consumer Safety Act
DAR	Deutsches Autorecht
DB	Der Betrieb

DCRF	Direction Générale de la Consommation et de la Répression des Fraudes
DG	Directorate General
DGWK	Deutsche Gesellschaft für Warenkennzeichnung GmbH
DIN	Deutsches Institut für Normung, Deutsche Industrienorm
DIN-Mitt.	DIN-Mitteilungen
Diss. jur.	Juristische Dissertation
DKE	Deutsche Elektrotechnische Kommission
DNA	Deutscher Normenausschuß
DR	Deutsches Recht
DTI	Department of Trade and Industry
DVB	Deutsches Verwaltungsblatt
DVGW	Deutscher Verein des Gas- und Wasserfaches
EC	European Community(ies)
ECJ	European Court of Justice
ECPSA	European Consumer Product Safety Association
ECRC	Economic and Social Research Council
ECSC	European Coal and Steel Community
ed.	edited; edition; editor
EEC	European Economic Community
EFTA	European Free Trade Association
EG	Europäische Gemeinschaft(en)
EGKSV	Vertrag über die Gründung der Europäischen Gemeinschaft für Kohle und Stahl vom 29.4.1952
ELR	European Law Review
EnWG	Energiewirtschaftsgesetz
et seq.	et sequens; and the following
EuR	Europarecht
EWG	Europäische Wirtschaftsgemeinschaft
EWGV	Vertrag zur Gründung der Europäischen Wirtschaftsgemeinschaft
F.R.	Federal Reporter
FR	Frankfurter Rundschau
FS	Festschrift
FTC	Federal Trade Commission
GATT	General Agreement on Tariffs and Trade
GewA	Gewerbearchiv
GRUR	Gewerblicher Rechtsschutz und Urheberrecht
GS	Geprüfte Sicherheit
GSG	Gerätesicherheitsgesetz
GtA	Gesetz über technische Arbeitsmittel
HADD	Home Accident and Death Database
HAI	Health Action International
HASS	Home Accident Surveillance System
Hg.	Herausgeber
HMSO	Her(His) Majesty's Stationery Office
HSWA	Health and Safety at Work Act
HUK	Verband der Haftpflichtversicherer, Unfallversicherer, Autoversicherer und Rechtsschutzversicherer e.V.
IEC	International Electrotechnical Commission
INC	Institute National de la Consommation
IOCU	International Organization of Consumers' Unions

ISO	International Standardization Organization
J.	Journal
J.O.	Journal officiel
JCMSt	Journal of Common Market Studies
JCP	Journal of Consumer Policy
JuS	Juristische Schulung
KOM	Dokumente der Europäischen Kommission
LG	Landgericht
LNE	Laboratoire National d'Essais
loc. cit.	loco citato; at the place cited
MD	Mitteilungsdienst
N.E.	North Eastern Reporter
N.Y.	New York Reporter
NF	Norme Française
NJW	Neue Juristische Wochenschrift
No., no.	number, numéro
Nos., nos.	numbers
NVwZ	Neue Zeitschrift für Verwaltungsrecht
O.J.	Official Journal of the European Communities
OECD	Organisation for Economic Co-operation and Development
OLG	Oberlandsgericht
op. cit.	opere citato; in the work quoted
OVG	Oberverwaltungsgericht
P.	Pacific Reporter
PAN	Pesticide Action Network
para.	paragraph
PHI	Produkthaftpflicht International
PORS	Privé Ongevallen Registratie Systeem
PVS	Politische Vierteljahresschrift
RabelsZ	Rabels Zeitschrift für ausländisches und internationales Privatrecht
RdA	Recht der Arbeit
Rev.	Review, Revue
RG	Reichsgericht
RGZ	Entscheidungen des Reichsgerichts in Zivilsachen
RIW	Recht der Internationalen Wirtschaft
RMC	Revue du Marché Commun
RTDE	Revue trimestrielle de droit européen
RVO	Reichsversicherungsordnung
s.i.s.	sicher ist sicher
sec.	section
TC	Technical Committee
TI.	Teil
U.S.C.	United States Code
UPR	Umwelt- und Planungsrecht
UVV	Unfallverhütungsvorschriften
v.	versus; against; von
VDE	Verband Deutscher Elektrotechniker
VDI	Verein Deutscher Ingenieure
VersR	Versicherungsrecht
VGB	Vereinigung der Berufsgenossenschaften
VO	Verordnung
vol.	volume

VuR	Verbraucher und Recht
VZ-NRW	Verbraucherzentrale Nordrhein-Westfalen
WM	Wertpapier-Mitteilungen
WRP	Wettbewerb in Recht und Praxis
WSA	Wirtschafts- und Sozialausschuß
ZaöRV	Zeitschrift für ausländisches öffentliches Recht und Völkerrecht
ZHR	Zeitschrift für das gesamte Handels- und Wirtschaftsrecht
ZLR	Zeitschrift für das gesamte Lebensmittelrecht
ZRP	Zeitschrift für Rechtspolitik
ZZP	Zeitschrift für Zivilprozeß

## BIBLIOGRAPHY

- Accidents Domestiques: La Perception par les Consommateurs des Risques liés à l'Utilisation Domestique des Produits Industriels, Ministère de l'Industrie, No. 9, Etude commandée par le Ministère et réalisée par la Fédération Nationale des Cooperatives des Consommateurs, Paris 1981.
- Activité des Centres Anti-Poisons en France, Paris 1982 (Ministère des Affaires Sociales et de la Solidarité Nationale).
- Adams, M., Ökonomische Analyse der Gefährdungs- und Verschuldenshaftung, Heidelberg 1985.
- Adams, M., Zur Aufgabe des Haftungsrechts im Umweltschutz, ZZP 99 (1986), 129 et seq.
- ADFAST, Deutsch-Französische Gesellschaft für Wissenschaft und Technologie (Ed.), Zusammenarbeit zwischen deutschen und französischen Prüf- und Normungsorganisationen, Kolloquium am 4. und 5. Juni 1984 in Straßburg, Bulletin Nr. 10, Bonn 1984.
- AgV, Der Fahrradmarkt in der Europäischen Gemeinschaft, Studie über den Markt, die Sicherheit und die Normung von Fahrrädern in Europa, Bonn 1986.
- Akerlof, G.A., Market for Lemons: Quality and the Market Mechanism, Quarterly J. of Economics 84 (1970), 488 et seq.
- Albertz, R., Sicherheitsgeprüfte Geräte - Wert des GS-Zeichens, s.i.s. 1985, 262 et seq.
- Andresen, K., Arbeitsschutz - wie es die Natur des Betriebs gestattet, in: Kaiske, R. (Ed.), Gesundheit am Arbeitsplatz, Reinbek 1976, 123 et seq.
- Anselmann, N., Die Rolle der europäischen Normung bei der Schaffung des europäischen Binnenmarktes, RIW 1986, 936 et seq.

- Antonmattei, P., La Place de la France dans l'Economie Mondiale dépend aussi de ses Normes, Enjeux No. 31, 12/1982, 54 et seq.
- Arbeitsschutzsystem. Untersuchung in der Bundesrepublik Deutschland, Dortmund 1980.
- Arndt, G., Die dynamische Rechtsnormverweisung in verfassungsrechtlicher Sicht - BVerfGE 47, 285, JuS 1979, 784 et seq.
- Arnulf, A., The Single European Act, ELR 11 (1986), 358 et seq.
- Ashford, N./Ryan, C.W./Caldart, Ch., A Hard Look at Federal Regulation of Formaldehyde: An Assessment of its Health Effects, Harvard Environmental L. Rev. 7 (1983), 297 et seq.
- Backherms, J., Das DIN Deutsches Institut für Normung e.V. als Beliehener. Zugleich ein Beitrag zur Theorie der Beliehung, Köln/Berlin/Bonn/München 1978.
- Barents, R., New Developments in Measures Having Equivalent Effect, CMLR 18 (1981), 271 et seq.
- Bauer, C.O., Normung - Ärger oder Chance, Arbeitsgemeinschaft für Rationalisierung des Landes Nordrhein-Westfalen, Heft 150, 37 et seq.
- Baum, D., Das berufsgenossenschaftliche Vorschriften- und Regelwerk, DIN-Mitt. 65 (1986), 153 et seq.
- Beauvais, E. v., Diskussionsbeitrag, in: Recht und Technik, Rechtliche Regelungen für Anlagen, Geräte und Stoffe im deutschen und im französischen Recht, Studienreihe des Bundesministers für Wirtschaft, Nr. 53, Bonn 1985, 76 f.
- Becker, U., Fortschritte durch Vertrauen, BARbBl. 2/1985 et seq.
- Behrens, P./Korb-Schikaneder, F., Europäisches Wettbewerbsrecht vor französischen Gerichten, RabelsZ 1984, 457 et seq.
- Behrens, P., Integrationstheorie - Internationale wirtschaftliche Integration als Gegenstand politologischer, ökonomischer und juristischer Forschung, RabelsZ 45 (1981), 8 et seq.

- Die beratenden Ausschüsse der Gemeinschaft mit sozioökonomischer Zielsetzung. Die Einzelheiten der Befassung und der Beteiligung der wirtschaftlichen und sozialen Kreise an der Ausarbeitung der Gemeinschaftsentscheidung, ed. v. WSA, Generalsekretariat, Baden-Baden 1979.
- Bernholz, R./Faber, M., Überlegungen zu einer normativen ökonomischen Theorie der Rechtsvereinheitlichung, *RabelsZ* 50 (1986), 35 et seq.
- Bertram, Ch., Das Verwaltungsausschußverfahren, Diss. jur. Bonn 1967.
- BEUC, Bericht über die Beteiligung der Europäischen Verbraucher an der Europäischen Normung, *BEUC*, 211/84 V. 26.10.1984.
- BEUC, Consumer Participation in Standards Work, *STD* 17/86 v. 15.5.1986.
- BEUC, Manifest für die Sicherheit in Europa, *BEUC-News* 47/1985.
- BEUC, Rapport de la Standardisation, *STD* 20/85 v. 31.12.85.
- Bier, M., Das CECC-Gütebestätigung-System für Bauelemente der Elektronik, in: CECC-Gütebestätigungssystem für Bauelemente Elektronik. Referate und Podiumsdiskussion des ZVEI-Bauelemente-Symposium '83, Berlin/Offenbach 1983, 11 et seq.
- Blachère, G., Normung und gesetzliche Bestimmungen auf dem Gebiet des Bauwesens, sofern sie die nationalen, europäischen und internationalen Normen betreffen, *DIN-Mitt.* 61 (1982), 284 et seq.
- Börner, B., Die Harmonisierung der Regeln der Technik in der EWG, in: Studien zum deutschen und europäischen Wirtschaftsrecht, Bd. 1, Köln/Bonn/München 1973, 231 et seq.
- Börner, B., Die Produkthaftung oder das vergessene Gemeinschaftsrecht, in: Grewe, W.G. (Ed.), Europäische Gerichtsbarkeit und nationale Verfassungsgerichtsbarkeit, FS zum 70. Geburtstag von Hans Kutscher, Baden-Baden 1981, 43 et seq.

- Böttger, J., Ursachen und Wirkungen des Vertrages zwischen der Bundesrepublik Deutschland und dem DIN Deutsches Normungsinstitut e.V., in: Technische Normung und Recht, DIN Normungskunde, Heft 14, Berlin/Köln 1979, 31 et seq.
- Bollier, D./Claybrook, J., Freedom from Harm, Washington, D.C./New York 1986.
- Bonhomme, M.-H., L'Information certifiée, une des plus anciennes Revendications des Consommateurs, Enjeux No. 43, 1/1984, 62 et seq.
- Bopp-Schmehl, A./Heibült, U./Kypke, U., Technische Normung und Verbraucherinteressen im gesellschaftlichen Wandel, Duisburg 1983.
- Borrie, G., The Development of Consumer Law and Policy - Bold Spirits and Timorous Souls, London 1984.
- Bosma, Ir.F.A., International Standardization and Consumer Interest, Final Report, Commission Contract no. V/83/266, for the attention of DG XI, Heelsum 1984.
- Bosma, Ir.F.A., International Standardization and Consumer Interest, Part II. Commission Contract no. V/84/150, for the attention of DG XI, Heelsum 1985.
- Bosserhoff, H.-W., Die Bedeutung der technischen Normung für den Verbraucher, MD VZ-NRW 2-1984, 1 et seq.
- Bosserhoff, H.-W., Europäisches Forum über Verbraucher und Normung, DIN-Mitt. 66 (1987), 525 et seq.
- Bosserhoff, H.-W., Prioritätenprogramm für die Normung von Konsumgütern - verbrauchsgerechte Normung, DIN-Mitt. 66 (1987), 530 et seq.
- Bosserhoff, H.-W., Sechs Jahre Verbraucherrat, DIN-Mitt. 59 (1980), 670 et seq.
- Bosserhoff, H.-W., Technische Überwachungs-Vereine und Verbraucherrat des DIN - Möglichkeiten der Zusammenarbeit, Technische Überwachung 19 (1978), 115 et seq.
- Bourgeois, J.H.J., The Tokyo Round Agreements on Technical Barriers and on Government Procurement in International and EEC Perspective, CMLR 19 (1982), 5 et seq.



- Bourgoignie, Th., Consumer Law and the European Community, Issues and Prospects, in: Bourgoignie, Th./Trubek, D., Consumer Law, Common Law, Common Markets and Federalism in Europe and the United States, in: Cappelletti, M./Seccombe, M./Weiler, J. (eds.), Integration Through Law. Europe and the American Federal Experience, vol. 3, Berlin/New York 1985, 89 et seq.
- Braun, F., Nationale Rechtsvorschriften für Anlagen, Geräte und Stoffe in der Gemeinschaft, in: Recht und Technik. Rechtliche Regelungen für Anlagen, Geräte im deutschen und im europäischen Recht, Studienreihe des Bundesministers für Wirtschaft, Nr. 53, Bonn 1985, 176 et seq.
- Breaking the Rules: The Problem of Crime and Contraventions. A Report by Justice, London 1980.
- Breitschaft, G., EUROCODES für das Bauwesen, DIN-Mitt. 63 (1984), 136 et seq.
- Brendt, E., Produkt- und Produzentenhaftung. Handbuch für die betriebliche Praxis, 3 Bde. Loseblattsammlung, Feiburg 1980.
- Breuer, R., Direkte und indirekte Rezeption technischer Regeln durch die Rechtsordnung, AöR 101 (1976), 46 et seq.
- Brinkmann, W., Die Verbraucherorganisationen in der Bundesrepublik Deutschland und ihre Tätigkeit bei der überbetrieblichen technischen Normung, Köln/Berlin/Bonn/München 1976.
- British Standards Institution (ed.), Annual Report 1986, London 1986.
- British Standards Institution (ed.), BS O: A Standard for Standards, 3 Parts, London 1986.
- Brüggemeier, G., Deliktsrecht. Ein Hand- und Lehrbuch, Baden-Baden 1986.
- Brüggemeier, G./Reich, N., Die EG-Produkthaftungs-Richtlinie 1985 und ihr Verhältnis zur Produzentenhaftung nach § 823 Abs. 1 BGB, WM 40 (1986), 149 et seq.
- Brüggemeier, G., Produkthaftung und Produktsicherheit, ZHR 152 (1988), 511 et seq.

- Brüggemeier, G./Falke, J./Holch-Treu, H./Joerges, Ch./Micklitz, H.-W., Sicherheitsregulierung und EG-Integration, Bremen ZERP-DP 3/84.
- Brügger, W., Rechtsprobleme der Verweisung im Hinblick auf Publikation, Demokratie und Rechtsstaat, Verwaltungs Archiv 78 (1987), 1 et seq.
- Bruggers, J.H.A./Rogmans, W.H.J., Registratie van Ongevallen in de privéfeer, Veiligheids Instituut, Amsterdam 1982.
- Bruha, Th., Rechtsangleichung in der Europäischen Wirtschaftsgemeinschaft, Deregulierung durch "Neue Strategie"?, ZaöRV 1986, 1 et seq.
- Bruha, Th./Kindermann, H., Rechtssetzung in der Europäischen Gemeinschaft, Zeitschrift für Gesetzgebung 1 (1986), 293 et seq.
- Bruha, Th./Münch, W. Stärkung der Durchführungsbefugnisse der Kommission. Anmerkungen zu Art. 10 der Einheitlichen Europäischen Akte, NJW 1987, 542 et seq.
- Bub, H., Internationale Harmonisierung im Bauwesen, DIN-Mitt.58 (1979), 669 et seq.
- Bub, H., Normung und Zulassung der Baustoffe und Bauteile aus europäischer Sicht. Güteanforderungen, Prüfungen, Kennzeichnung, Güteüberwachung, DIN-Mitt. 61 (1982), 63 et seq.
- Buckenberger, H.-U., Gleitende Verweisung aus der Sicht der Wirtschaft, in: Verweisung auf technische Normen in Rechtsvorschriften, DIN-Normungskunde, Bd. 17, Berlin/Köln 1982, 52 et seq.
- Budde, E./Reihlen, H., Die EG-Richtlinie zur Produzentenhaftung aus der Sicht der Ersteller technischer Regeln, DIN-Mitt.66 (1987), 63 et seq.
- Budde, E., Rechtsprechung und DIN-Normen, DIN-Mitt. 66 (1987), 317 et seq.
- Budde, E., Vorschlag für eine EG-Richtlinie über die Sicherheit von Maschinen, DIN-Mitt. 66 (1987), 390-391.
- Budde, E./Reihlen, H., Zur Bedeutung technischer Regeln in der Rechtsprechungspraxis der Richter. Sind technische

- Normen antizipierte Sachverständigengutachten?, *DIN-Mitt.* 63 (1984), 248 et seq.
- Bulmer, S., *Domestic Politics and European Policy Making*, *JCMSt* 32 (1983), 349 et seq.
- Buss, P., *Zusammenarbeit der gewerblichen Berufsgenossenschaften mit dem DIN*, *DIN-Mitt.* 63 (1984), 295 et seq.
- Calabresi, G., *The Costs of Accident*, New Haven/London 1970.
- Calais-Auloy, J., *Droit de la Consommation*, Paris 1980.
- Calais-Auloy, J., *Proposition pour un Nouveau Droit de la Consommation, Rapport de la Commission de la Refonte de Droit de la Consommation au Secrétaire d'Etat auprès du Ministre de l'Economie des Finances et du Budget chargé du Budget et de la Consommation*, Paris 1985.
- Capelli, F., *Les Malentendus Provoqués par l'Arrêt sur le Cassis de Dijon*, *RMC* 1981, 421 et seq.
- Claybrook, J., *Retreat from Safety*, New York 1984.
- Close, G., *Harmonization of Laws: Use or Abuse of the Powers of the EEC-Treaty*, *ELR* 1978, 461 et seq.
- Colliard, C.-A./Herzog, P.E., *Kommentar zu den Art. 30-37*, in: Smit, H./Herzog, P.E., *The Law of the European Economic Community. A Commentary on the EEC Treaty*, New York/San Francisco.
- Collins, Ph./Hutching, M., *Articles 101 and 102 of the EEC Treaty: Completing the Internal Market*, *ELR* 11 (1986), 191 et seq.
- Comment, *The Consumer Product Safety Act was a Freedom of Information Withholding Statute*, *University of Pennsylvania L. Rev.* 128 (1980), 1166 et seq.
- Commission de la sécurité des consommateurs, *1er Rapport au Président de la République et au Parlement*, 1985 (cited as Commission, 1985).
- Commission de la sécurité des consommateurs, *2ème Rapport au Président de la République et au Parlement*, 1986 (cited as Commission, 1986).

- Commission of the European Communities, Proceedings of the European Symposium on Product Safety in the European Community, Brussels, 17-18 May 1984.
- Compes, P.C., Sicherheitsstrategie und -taktik in der Privatsphäre, Einführung in die Problematik, in: Unfall-Risiken der Privatsphäre. Epidemiologie - Diagnose - Prävention, VI. Internationales GfS-Sommer-Symposium, 3.-5. Juni 1985, Wuppertal 1986, 59 et seq.
- Cornell, N.W./Noll, R.G./Weingast, B., Safety Regulation, in: Owen, H./Schultze, ch.L. (eds.), Setting National Priorities. The Next Ten Years, Washington, D.C. 1976, 457 et seq.
- Dashwood, A., Hastening Slowly: The Community's Path Towards Harmonization, in: Wallace, H./Wallace, W./Webb, C. (eds.), Policy Making in the European Community, 2nd ed., London 1983, 177 et seq.
- Dauses, M.A., Dogmatik des Freien Warenverkehrs in der Europäischen Gemeinschaft, RiW 1984, 197 et seq.
- Dauses, M.A., Die neuere Rechtsprechung des EuGH im Lebensmittelrecht unter besonderer Berücksichtigung des sogenannten Bier Urteils, ZLR 1987, 243 et seq.
- Dedler, K./Gottschalk, J./Grunert, K.G./Heiderich, M./Hoffmann, A.L./Scherhorn, G., Das Informationsdefizit der Verbraucher, Frankfurt/New York 1984.
- Dellenbach, O., Les Normes de Sécurité, Mémoire Droit de la Consommation soutenue en Octobre 1984, Université de Montpellier, Directeur de Mémoire: J. Calais-Auloy, Montpellier 1984.
- Dey, W., EG-Richtlinie über die Sicherheit von Maschinen, DIN-Mitt. 66 (1987), 233 et seq.
- Dey, W., Status Europäischer Normen oder: Dürfen maßgebliche Sicherheitsanforderungen genormt werden?, DIN-Mitt. 66 (1987) 392-393.
- Dias, R.W..M./Markesinis, B.S., Tort Law, Oxford 1984.
- Dickershoff, K.H., Gerätesicherheitsgesetz, in: Handbuch zur Humanisierung der Arbeit, Bd. 1, Bremerhaven 1985, 607 et seq.

- DIN (Ed.), *Handbuch der Normung*, Bd. 1, 5. Aufl., Berlin/Köln 1981.
- DIN (Ed.), *Normen und Norm-Entwürfe für den Verbraucher*, Verzeichnis 1985, Berlin 1985.
- DIN (Ed.), *Partnerschaft*, DIN-Mitt. 54 (1975), 365 et seq.
- Domzalksi, Y., *The Interpol of the Consumer Association*, in: Commission of the European Communities, *Proceedings of the European Symposium on Product Safety in the European Community*, Brussels, 17-18 May 1984, 18 et seq.
- Dworkin, T.M., *Federal Reform of Product Liability Law*, *Tulane L. Rev.* 57 (1983), 602 et seq.
- Eads, G./Reuter, P., *Designing Safe Products. Corporate Responses to Product Liability Law and Regulation*, Santa Monica, Cal. 1983.
- Eberstein, H.H., *Technische Regeln und ihre rechtliche Bedeutung*, BB 1969, 1291 et seq.
- Ehlermann, C.-D., *Die einheitliche Europäische Akte: Die Reform der Organe*, *Integration* 9 (1986), 101 et seq.
- Ehlermann, C.-D., *How Flexible is Community Law? An Usual Approach to the Concept of Two Speeds*, *Michigan L. Rev.* 82 (1984), 1274 et seq.
- Ehlermann, C.-D., *Institutionelle Probleme der Durchführung des abgeleiteten Gemeinschaftsrechts. Institutionelle Probleme zum Urteil des EuGH in der Rs. 22/70 v. 31.3.1971*, *EuR* 6 (1971), 250 et seq.
- Ehlermann, C.-D., *The International Market Following the Single European Act*, *CMLR* 24 (1987), 361 et seq.
- Ehlermann, C.-D., *Das Verbot der Maßnahmen gleicher Wirkung in der Rechtsprechung des Gerichtshofes*, in: FS Hans Peter Ipsen, Tübingen 1977, 579 et seq.
- Ehlermann, C.-D., *Die Verfolgung von Vertragsverletzungen der Mitgliedstaaten durch die Kommission*, in: Grewe, W./Rupp, H./Schneider, H. (Ed.), *Europäische Gerichtsbarkeit und nationale Verfassungsgerichtsbarkeit*, FS zum

70. Geburtstag von Hans Kutscher, Baden-Baden 1981, 135 et seq.
- Eiden, Ch., Abgestufte Integration in der EG. Risiken für Rechtsangleichung und Gemeinsamen Markt, Europa-Archiv 1984, 365 et seq.
- Eiden, Ch., Die Rechtsangleichung gem. Art. 100 des EWG-Vertrages, Berlin 1984.
- Ernst, W., Rechtsgutachten zur Gestaltung des Verhältnisses der überbetrieblichen technischen Norm zur Rechtsordnung, Berlin/Frankfurt 1973.
- European Consumer Law Group, Consumer Protection After Ratification of the Single Act, JCP 10 (1987), 319 et seq.
- Evans, A.C., The Enforcement of Article 169 EEC: Commission Discretion, ELR 4 (1979), 442 et seq.
- Everling, U., Die Mitgliedstaaten der Europäischen Gemeinschaft vor ihrem Gerichtshof, EuR 18 (1983), 101 et seq.
- Everling, U., Möglichkeiten und Grenzen der Rechtsangleichung in der Europäischen Gemeinschaft, in: FS Reimer Schmidt, Karlsruhe 1976, 165 et seq.
- Fabius, L., Ansprache anlässlich der ersten Sitzung des obersten Normungsrates, DIN-Mitt. 1984, 610 et seq.
- Falke, J., Untersagungsverfügungen über sicherheitstechnisch mangelhafte Geräte, VuR 1987, 3 et seq.
- Falke, J., What Should Be the Content of an E.E.C. General Directive on the Safety of Technical Consumer Goods, BEUC Legal News No. 16 (Nov./Dec. 1986), 16 et seq.
- Feldman, L.P., Consumer Protection. Problems and Prospects, St. Paul/New York/Los Angeles/San Francisco 1980.
- Fischer, R., Systematische Marktkontrollen durch die Zentralstelle für Sicherheitstechnik. Ein Beitrag zur Abwehr sicherheitswidriger Produkte, MD VZ-NRW 2-1984, 48 et seq.
- Fitting, K., Europäische Normen und Harmonisierungsvorhaben der Europäischen Gemeinschaften (EG), in: Europäische Normung in CEN und CENELEC, DIN-Normungskunde, Heft 8, Berlin/Köln 1976, 83 et seq.

- Fix, M., Transferring Regulatory Authority to the States, in: *The Urban Institute. The Reagan Regulatory Strategy*, Washington, D.C. 1984, 153 et seq.
- Forwood, N./Clough, M., The Single European Act and Free Movement. Legal Implications of the Provisions for the Completion of the Internal Market, *ELR* 11 (1986), 383 et seq.
- Fox, E.M., Urea Formaldehyde Foam Insulation, *American J. of Law and Medicine* 11 (1985), 81 et seq.
- Frietsch, E., EG-Richtlinie über Produkthaftung und deren Umsetzung in das deutsche Recht, *DIN-Mitt.* 66 (1987), 135 et seq.
- Funck-Brentano, L., Freier Warenverkehr und nationale Handelshemmnisse bei Lebensmitteln. Vom Cassis aus Dijon bis zum Bier - oder die Schwierigkeit, einen europäischen Raum ohne Grenzen zu schaffen, *RIW* 1987, 379 et seq.
- Garvey, T., The Enforcement of Product Safety Laws and Standards in the Community, in: *Proceedings of the European Conference on Inter-Administrative Cooperation*, Montpellier, 28-30 May 1984, 39 et seq.
- Gasde, F., Das Gesetz über technische Arbeitsmittel (GtA) als Modell einer liberalen Regelung, wie sich der Staat unter Verweisung auf Technische Regelwerke entlasten kann, in: *Technische Regelwerke - ein Beitrag zur Staatsentlastung*, Schriften des Gemeinschaftsausschusses der Technik, Nr. 4, Düsseldorf 1972, 16-17.
- German, C./Marano, P., La normalisation clé d'un nouvel essor, rapport au Ministre de la Recherche et de l'Industrie, Paris 1982.
- Ghestin, J., *Conformité et Garanties dans la Vente*, Paris 1983.
- Glaesner, H.J., L'Acte Unique Européen, *RMC* 1986, 307 et seq.
- Glaesner, H.J., Die Einheitliche Europäische Akte, *EuR* 21 (1986), 119 et seq.
- Gormley, L.W., Cassis de Dijon and the Communication from the Commission, *ELR* 6 (1981), 454 et seq.

- Gormley, L.W., Prohibiting Registrations on Trade within the EEC. The Theory and Application of Articles 30-36 of the EEC Treaty, Amsterdam/New York/Oxford 1985.
- Grabitz, E., Die Harmonisierung baurechtlicher Vorschriften durch die Europäischen Gemeinschaften, Berlin 1980.
- Grabitz, E./Borchardt, K.-D./Klippstein, Th., Verbraucherschutz als Rechtsproblem des Gemeinsamen Marktes, Integration 6 (1983), 55 et seq.
- Gröner, H., Umweltschutzbedingte Produktnormen als nicht-tarifäres Handelshemmnis, in: Gutzler, H. (Ed.), Umweltpoliti und Wettbewerb, Baden-Baden 1981, 143 et seq.
- Gürtler, H., Standard-Unfallhergänge im Hausbereich. Bedingungsgefüge - Ablauf - Folgen, in: Unfall-Risiken der Privatsphäre. Epidemiologie - Prävention, VI. Internationales GfS-Sommer Symposium, 3.-5. Juni 1985, Wuppertal 1986, 83 et seq.
- Gulmann, C., The Single European Act - Some Remarks from a Danish Perspective, CMLR 24 (1987), 31 et seq.
- Gusym Ch., Wertungen und Interessen in der technischen Normung, UPR 1986, 241 et seq.
- Gutowski, A. (Ed.), Der neue Protektionismus, Hamburg 1984.
- Haberland, N., Gerätesicherheitsgesetz - Vollzug in einem Bundesland, s.i.s. 1984, 366 et seq.
- Hahn, B., Die neue Verordnung über die Sicherheit medizinisch-technischer Geräte, NJW 1986, 752 et seq.
- Hamilton, R.W., The Role of Nongovernmental Standards in the Development of Mandatory Federal Standards Affecting Safety of Health, Texas L. Rev. 56 (1978), 1329 et seq.
- Hartl, M. Die neue Medizingeräteverordnung, VersR 1986, 1050 et seq.
- Hartley, T.C., Consumer Safety and the Harmonization of Technical Standards: the Low Voltage Directive, ELR (1982), 55 et seq.



- Hartley, T.C., *The Foundation of European Community Law. An Introduction of the Constitutional and Administrative Law of the European Community*, Oxford 1981.
- Hartlieb, B./Krieg, K.G., *Europäische Normung ja - aber wie?*, DIN-Mitt. 66 (1977), 125 et seq.
- Hasenpflug, H., *Nicht-tarifäre Handelshemmnisse. Formen, Wirkungen und wirtschaftspolitische Beurteilung*, Hamburg 1977.
- Heiden, E.J./Pittaway, A.R., *Rebuttal to CPSC's Data System*, J. of Product Liability 6 (1983), 217 et seq.
- Heiden, E.J./Pittaway, A.R./O'Connor, R.S., *Utility of the U.S. Consumer Product Safety Commission's Injury Data System as a Basis for Product Hazard Assessment*, J. of Product Liability 5 (1982), 295 et seq.
- Held, H., *Medizingeräteverordnung - Sicherheit verbessert*, BARBl. 3/1985, 15 et seq.
- Heller, Th./Pelkmans, J. *The Federal Economy: Law and Economic Integration and the Positive State: The U.S.A. and Europe Compared in an Economic Perspective*, in: Cappelletti, M./Seccombe, M./Weiler, J. (eds.), *Integration Through Law. Europe and the American Federal Experience*, vol. 1, book 1, Berlin/New York 1986, 245 et seq.
- Héloire, M.-Ch., *Gemeinschaftspolitik in bezug auf die Verbraucher: die Konditionen eines neuen Impulses*, Europäische Zeitschrift für Verbraucherrecht 1987, 1 et seq.
- Hemenway, D., *Industry-wide Voluntary Product Standards*, Cambridge, Mass. 1975.
- Henssler, H., *Einige Aspekte des Abbaus technischer Handelshemmnisse im Kraftfahrzeugsektor*, in: Götz, V./Rauschnig, D./Zieger, G. (Ed.), *Umweltschutz und internationale Wirtschaft*, Köln/Berlin/Bonn/München 1972, 173 et seq.
- Henter, A./Milarch, R./Hermanns, D., *Schwere Unfälle in Heim und Freizeit. Eine statistische Analyse im Bereich einer privaten Unfallversicherung*, Dortmund 1978.

- Hepple, B.A./Matthews, M.H., *Tort, Cases and Materials*, 3rd ed., London 1985.
- Hilf, M., *Die Organisationsstruktur der Europäischen Gemeinschaften*, Berlin/Heidelberg/New York 1982.
- Hirsch, V., *Marché intérieur: une nouvelle grâce à l'acte unique*, RMC 1987, 1 f.
- Hoffmann, M.E., *The Consumer Product Safety Commission: In Search of a Regulatory Pattern*, *Columbia J. of Law and Social Problems* 12 (1976), 393 et seq.
- Hoffmann, S.D./Hoffmann, M.E., *Use of Standards in Products Liability Litigation*, *Drake L. Rev.* 30 (1980-81), 283 et seq.
- Holley, St. C., *The Relationship between Federal Standard and Ligation in the Control of Automobile Design*, *New York University L. Rev.* 57 (1982), 804 et seq.
- Hollmann, H.H., *Die EG-Produkthaftungs-Richtlinie*. DB 1985, 238 et seq., 2439 et seq.
- House of Lords, *Select Committee on the European Communities, Consumer Policy (Session 1985-86, 15th Report, HL 92)*, London 1986.
- Hrebek, R./Läufer, Th., *Die Einheitliche Europäische Akte. Das Luxemburger Reformpaket: eine neue Etappe im Integrationsprozeß*, *Europa-Archiv* 1986, 173 et seq.
- v.Hülsen, H.-V., *Rechtsvergleichendes zur Rückrufflicht*, in: *Veröffentlichungen der Referate des 21. Verkehrsgerichtstages*, Goslar 1983, 223 et seq.
- Hunscha, A., *Die starre Verweisung aus der Sicht der Wissenschaft*, in: *Verweisung auf technische Normen in Rechtsvorschriften, DIN-Normungskunde*, Bd. 17, Berlin/Köln 1982, 75 et seq.
- Jaqué, J.-P., *L'Acte unique européen*, *RTDE* 22 (1986), 575 et seq.
- Janssen, M., *Unfallverhütungsvorschriften und Normen. Erfahrungen aus der Zusammenarbeit*, *DIN-Mitt.* 65 (1986), 157 et seq.

- Jeiter, W., Das neue Gerätesicherheitsgesetz (Gesetz über technische Arbeitsmittel), München 1980.
- Joerges, Ch., Die neue Konzeption zur technischen Harmonisierung und die Interessen der Verbraucher: Überlegungen zu den Notwendigkeiten und Schwierigkeiten einer Europäisierung der Produktsicherheitspolitik, EUI-Colloquium, DOC. IUE 159/86 (COL 72).
- Joerges, Ch./Hiller, E./Holzscheck, K./Micklitz, H.-W. Vertriebspraktiken im Automobilersatzteilsektor, Frankfurt/Bern/New York 1985.
- Johnson, L.L., Cost-Benefit Analysis and Voluntary Safety Standards for Consumer Products, Santa Monica, Cal. 1982.
- Kafoglis, M.Z., Matchbook Safety, in: Miller III. J.C./Yandle, B. (eds.), Benefit-Cost Analysis of Social Regulation, Washington, D.C. 1979, 75 et seq.
- Kaiser, J.H., Grenzen der EG-Zuständigkeit, EuR 1980, 97 et seq.
- Kalwa, W., GS - Geprüfte Sicherheit: Seit 10 Jahren erfolgreich, BA rBl. 11/1987, 11 et seq.
- Karloff, M., Richtlinie und Umsetzungspraxis. Eine Bestandsaufnahme der Freizügigkeitsrichtlinie, RabelsZ (1984), 649 et seq.
- Karpen, U., Die Verweisung als Mittel der Gesetzgebungstechnik, Köln 1970.
- Karpen, U., Die Verweisungstechnik im System horizontaler und vertikaler Gewaltenteilung, in: Rödiger, J. (Ed.), Studien zu einer Theorie der Gesetzgebung, Berlin/Heidelberg/New York 1976, 221 et seq.
- Katz, R.N. (ed.), Protecting the Consumer Interest. Private Initiative and Public Response, Mass. 1976.
- Kelman, St., Regulation by the Numbers. A Report on the Consumer Product Safety Commission, Public Interest 36 (1974), 82 et seq.
- Kern, K.D., Amtliche statistische Unterlagen zum Unfallvorkommen im Privatleben, in: Unfall-Risiken der Privatsphäre. Epidemiologie - Diagnose - Prävention, VI

- Internationales GfS-Sommer-Symposium, 3.-5.6., Wuppertal 1986, 71 et seq.
- Kiehl, P., Der Beitrag der europäischen Normung zur Harmonisierung im Bauwesen in Europa - Stand und Zukunftsaussichten, DIN-Mitt. 66 (1987), 467 et seq.
- Klayman, E., Standard Setting under the Consumer Product Safety Amendments of 1981 - A Shift in Regulatory Philosophy, *George Washington L. Rev.* 1982, 96 et seq.
- Kögler, G./Krämer, L., Brauchen wir ein Gesetz über den Rückruf gefährlicher Produkte?, *ZRP* 1982, 320 et seq.
- Köhne, A.-L., Die besonderen Aspekte der Teilnahme der Verbrauchervertreter an den europäischen und nationalen Normungsarbeiten - Erfahrungen auf nationaler Ebene, *DIN-Mitt.* 66 (1987), 527 et seq.
- Kommers, D./Waelbroeck, M., Legal Integration and the Free Movement of Goods: the American and European Experience, in: Cappelletti, M./Seccombe, M./Weiler, (eds.), *Integration through Law, Europe and the American Federal Experience*, vol. 1, book 3, Berlin/New York 1986, 165 et seq.
- Kommission der Europäischen Gemeinschaften, *Zehn Jahre Verbraucherpolitik der Gemeinschaft. Ein Beitrag zum Europa der Bürger*, Luxemburg 1985.
- Krämer, L., *EWG-Verbraucherrecht*, Baden-Baden 1985.
- Krämer, L., Product Recalls in the European Community, *BEUC, Legal News* 2/(1982), 2 et seq.
- Krämer, L., Verbraucherpolitik, in: Groeben, H./Thiesing/Ehlermann, C.-D. (Ed.), *Kommentar zum EWG-Vertrag*, Bd. 2, 3. Aufl., Baden-Baden 1983, 1631 et seq.
- Krämer, L., Zum Rückruf von Produkten in der Europäischen Gemeinschaft, *DAR* 1982, 37 et seq.
- Kretschmer, F., Die EG-Richtlinie zur Produzentenhaftung und die deutsche Industrie, *PHI* 1986, 34 et seq.
- Krieg, K.G., Gedanken zur Übernahme Internationaler Normen in das Deutsche Normenwerk, *DIN-Mitt.* 56 (1977), 719-720.

- Krislov, S./Ehlermann, C.-D./Weiler, J., The Potential Organs and the Decision-Making Process in the United States and the European Community, in: Cappelletti, M./Secombe, M./Weiler, J.(eds.), *Integration Through Law, Europe und the American Federal Experience*, vol. 1, book 2, Berlin/New York 1986, 3 et seq.
- Kropholler, J., *Europäisches Zivilprozeßrecht*, 2. Aufl., München 1987.
- Kullmann, H.J., *Gerätesicherheitsgesetz*, in: Kullmann, H.J. Pfister, B., *Produzentenhaftung*, Bd. II, Ziet seq. 7870.
- Kullmann, H.J./Pfister, B., *Produzentenhaftung. Ergänzbare Handbuch zur gesamten Produkthaftungspflicht*, 2 Bde., Berlin 1980.
- Kypke, U., *Gesellschaftliche Orientierung der überbetrieblichen technischen Normung unter besonderer Berücksichtigung verbraucherpolitischer Ziele*, Diss. Duisburg 1983.
- Kypke, U., *Technische Normung und Verbraucherinteresse. Strukturelle, konzeptionelle und steuerungspolitische Probleme technischer Regelwerke*, Köln 1982.
- LaMaccia, J.T., *The Consumer Product Safety Act: Risk Classifications and Product Liability*, Indiana L. Rev. 8 (1985), 846 et seq.
- Lammantina, L.J., *The Consumer Product Safety Act*, J. of Product Liability 4 (1981), 275 et seq.
- Lamy Commercial, *Concurrence-Distribution-Consommation*, Paris 1985.
- Langeheine, B., *Kommentar zu den Artt. 100 bis 102 EWGV*, in: Grabitz, E. (Ed.), *Kommentar zum EWG-Vertrag*, München 1986.
- Langeheine, B., *Rechtliche und institutionelle Probleme einer abgestuften Integration in der Europäischen Gemeinschaft*, in: Grabitz, E. (Ed.), *Abgestufte Integration. Eine Alternative zum herkömmlichen Integrationskonzept?*, Kehl/Straßburg 1984, 47 et seq.
- Laurent, J., *Bilaterale Abmachungen im Zusammenhang mit der Anerkennung Deutscher und Französischer Normen* -

- Darstellung aus französischer Sicht, DIN-Mitt. 63 (1984), 117 et seq.
- Lauwaars, R.H., Auxiliary Organs and Agencies in the E.E.C., CMLR 17 (1979), 367 et seq.
- Lauwaars, R.H., The Model Directive on Technical Harmonization, EUI-Colloquim Papers, DOC IUE 169/86 (COL 82).
- Lave, L.B., The Strategy of Social Regulation: Decision Frameworks for Policy, Washington, D.C. 1981.
- Leber, R., Harmonisierung elektrotechnischer Normen, in: Europäische Normung im CEN und CENELEC, DIN-Normungskunde, Heft 8, Berlin/Köln 1976, 55 et seq.
- Leber, R./Oehms, K.-H./Winckler, R./Orth, K.-L., Normung auf dem Gebiet der Elektrotechnik, Elektronische Zeitschrift 104 (1983), 825 et seq.
- Lecrenier, S., Les Articles 30 et suivants CEE et les Procédures de Contrôle prévues par la Directive 83/189/CEE, RMC 1985, 6 et seq.
- Lehmann, K., Kommission Sicherheitstechnik im DNA, Arbeitsschutz 1972, 311 et seq.
- Lehmann, K., Sicherheitsnormung - Auftrag vom Maschinenschutzgesetz, Arbeitsschutz 1975, 330 f.
- Lenard, Th.M., Lawn Mower Safety, in: Miller III, J.C./Yandle, B. (eds.), Benefit-Cost-Analyses of Social Regulation, Washington, D.C. 1979, 61 et seq.
- Lindemann, G./Reihlen, H./Seyfert, H.-J., Bauvorschriften im Wandel. Technische Bestimmungen - Baunormen und EG-Richtlinien, DIN-Mitt. 63 (1984), 179 et seq.
- Lindemeyer, B., Die Anforderungen des § 3 Gerätesicherheitsgesetzes an die Beschaffenheit technischer Arbeitsmittel. Probleme seiner rechtlichen Handhabung in der Praxis und Abwehr nicht sachgerechter Anforderungen, in: Brendl, E., Produkt- und Produzentenhaftung. Handbuch für die betriebliche Praxis, Gruppe 11, 167 et seq.

- Linnemann, P., The Effects of Consumer Safety Standards: The 1973 Mattress Flammability Standard, *J. of Law and Economic* 23 (1980), 461 et seq.
- Lodge, J., The Single European Act: Towards a New Euro-Dynamism?, *JCMSt* 24 (1986), 203 et seq.
- Loose, P., Sicherheitstechnische Prüfung von Gebrauchsgütern durch die Stiftung Warentest, in: *Unfall-Risiken der Privatsphäre. Epidemiologie - Diagnose - Prävention*, VI. Internationales GfS-Sommer-Symposium, 3.-5.6.1985, Wuppertal 1986, 361 et seq.
- Lorenz, D., Liberale Handelspolitik versus Protektionismus - Das Schutzargument im Lichte neuer Entwicklungen der Außenhandelstheorie, in: *Neuer Protektionismus in der Weltwirtschaft und EG-Handelspolitik, Jahreskolloquium 1984 des Arbeitskreises Europäische Integration*, Baden-Baden 1985, 9 et seq.
- Lorenz, W., Europäische Rechtsangleichung auf dem Gebiet der Produzentenhaftung. Zur Richtlinie des Rates der Europäischen Gemeinschaften vom 25. Juli 1985, *ZHR* 151 (1987), 1 et seq.
- Lower, A.K./Averyt, A./Greenberg, D., *On the Safe Track: Death and Injuries Before and After the CPSC. A Consumer Federation Report*, Washington, D.C. 1983.
- Lowrance, W.W., *Of Acceptable Risk. Science and the Determination of Safety*, Los Altos, Cal. 1976.
- Ludwig, N., Sicherheitsgerechtes Gestalten technischer Erzeugnisse, *DIN-Mitt.* 49 (1970), 424.
- Lukes, R., *Überbetriebliche technische Normung in den Rechtsordnungen ausgewählter EWG- und EFTA-Staaten*, Köln/Bonn/München 1979.
- Lukes, R., *Vom Arbeitnehmerschutz zum Verbraucherschutz - Überlegungen zum Maschinenschutzgesetz*, *RdA* 1969, 220 et seq.
- Lukes, R., Die Zulässigkeit nationaler Rechtsvorschriften für technische Gegenstände und Stoffe nach Gemeinschaftsrecht, in: *Recht und Technik. Rechtliche Regelungen für Anlagen, Geräte und Stoffe im deutschen und im*

- europäischen Recht, Studienreihe des Bundesministers für Wirtschaft, Nr. 53, Bonn 1985, 194 et seq.
- Macmillian, J., Qu'est-ce que la Normalisation?, RMC 1985, 93 et seq.
- Madden, M.S., Consumer Product Safety Act, Section 15 and Substantial Product Hazards, Catholic University L. Rev. 30 (1981), 195 et seq.
- Marano, P., L'avenir de la normalisation: une mission élargie des moyens accrus, Enjeux No. 31, 12/(1982), 40 et seq.
- Marano, P., Quelle normalisation pour de nouveaux enjeux, Enjeux No. 31, 12/1982, 42 et seq.
- Marburger, P., Die gleitende Verweisung aus der Sicht der Wissenschaft, in: Verweisung auf technische Normen in Rechtsvorschriften, DIN-Normungskunde Bd. 17, Berlin/Köln 1982, 27 et seq.
- Marburger, P., Die haftungs- und versicherungsrechtliche Bedeutung technischer Regelung, VersR 1983, 597 et seq.
- Marburger, P., Die Regeln der Technik im Recht, Köln/Berlin-Bonn/München 1979.
- Marburger, P., Rechtliche Bedeutung sicherheitstechnischer Normen, in: Risiko - Schnittstelle zwischen Recht und Technik, VDE-Studienreihe 2, Berlin/Offenbach 1982, 119 et seq.
- Masclat, J.-C., Les articles 30, 36 et 100 du Traité C.E.E. à la lumière de l'arrêt "Cassis de Dijon", RTDE 1980, 611 et seq.
- Masclat, J.-C., La libre circulation des marchandises dans les Communautés européennes. Perspectives législatives et réalités jurisprudentielles, RTDM 22 (1986), 243 et seq.
- Mashaw, J. L./Rose-Ackerman, S., Federalism and Regulation, in: The Urban Institute, The Reagan Regulatory Strategy, Washington, D.C. 1984, 111 et seq.
- Mattera, A., L'arrêt "Cassis de Dijon": une nouvelle approche pour la réalisation et le bon fonctionnement du marché intérieur, RMC 1980, 505 et seq.



- Mattera, A., Les nouvelles formes du protectionisme économique et les articles 30 et suivants du Traité C.E.E., RMC 1983, 252 et seq.
- Mattera, A., Protectionism Inside the European Community. Decisions of the European Court, J. of World Trade Law 18 (1984), 283 et seq.
- Matthies, H., Kommentar zu den Art. 30 bis 37 EWGV, in: Grabitz, E. (Ed.), Kommentar zum EWG-Vertrag, München 1986.
- Mayer, L.N./Nicosia, F.M., Consumer Information: Sources, Audiences, and Social Effect, in: Katz, R.N. (ed.), Protecting the Consumer Interest, Cambridge, Mass. 1976, 41 et seq.
- Meier, G., Einheitliche Europäische Akte und freier EG-Warenverkehr, NJW 1987, 537 et seq.
- Merrill, R.A., CPSC Regulation of Cancer Risks in Consumer Products: 1972-81, Virginia L. Rev. 67 (1981), 1261 et seq.
- Mertens, A., Ein aktuelles Problem: Heim- und Freizeitunfälle, s.i.s. 1986, 246 et seq.
- Mertens, A., Das Gesetz über technische Arbeitsmittel und die Normen, Vorschriften und Regeln, DIN-Mitt. 53 (1974), 327 et seq.
- Mertens, A., Heim- und Freizeitunfälle: Aufklärung intensivieren, BARbBl. 5/(1986), 32 et seq.
- Mertens, A., Neues Richtlinienkonzept, EG auf neuem Kurs, s.i.s. 1985, 613 et seq.
- Mertens, H.J., Kommentar zu § 823 BGB, in: Münchener Kommentar zum Bürgerlichen Gesetzbuch, Bd. 3: Schuldrecht, Besonderer Teil, 2. Teilband, 2. Aufl., München 1986.
- Meyer, Die starre Verweisung aus der Sicht der Wirtschaft, in: Verweisung auf technische Normen in Rechtsvorschriften, DIN-Normungskunde Bd. 17, Berlin/Köln 1982, 88-89.
- Meyer, T.R., Gerätesicherheitsgesetz, Berlin 1979.

- Micklitz, H.-W., Perspectives of a European Directive on Safety of Technical Consumer Goods, Report to the ECRSA Conference on "Product Safety in the European Community", Amsterdam 1984.
- Micklitz, H.-W., Perspectives on a European Directive on Safety of Technical Consumer Goods, CMLR 23 (1986), 617 et seq.
- Micklitz, H.-W., Produktsicherheit und technische Normung in der Europäischen Gemeinschaft, in: Tonner, K./Paetow, H. (Ed.), Wirtschaftsregulierung in der Krise. Jahrbuch für Sozialökonomie und Gesellschaftstheorie, Opladen 1986, 109 et seq.
- Micklitz, H.-W., Der Schutz des Verbrauchers vor ungerechtfertigten Handwerker- und Kundendienstforderungen, ZERP-DP 5/1985.
- Micklitz, H.-W., Technische Normen, Produzentenhaftung und EWG-Vertrag, NJW 1983, 483 et seq.
- Micklitz, H.-W., Three Instances of Negotiation Procedures in the Federal Republic of Germany, JCP 1984, 211 et seq. (deutsch: Verhandlungsmodelle im Verbraucherschutz, MD VZ-NRW 1984, 67 et seq.).
- Middleton, R.W., The GATT Standards Code, J. of World Trade Law 14 (1980), 201 et seq.
- Milas, R., La signification juridique de l'institution d'un système communautaire d'échange rapide d'informations sur les dangers découlants de l'utilisation de produits de consommation, RMC 1984, 71 et seq.
- Millarg, E., Anmerkung zum Urteil in der Rs. 120/78, EuR 1979, 420 et seq.
- Miller III, J.C./Yandle, B.(eds.), Benefit-Cost Analyses of Social Regulation, Washington, D.C. 1979.
- Moller, O., Binnenmarkt und Umweltschutz. Artikel 100a der Einheitlichen Europäischen Akte, Europa-Archiv 42 (1987), 497 et seq.
- Moench, Ch., Reinheitsgebot für Bier. Zum Urteil des EuGH vom 12. 3.1987, NJW 1987, 1133, NJW 1987, 1109 et seq.

- Moench, Ch., Der Schutz des freien Warenverkehrs im Gemeinsamen Markt. Zur Auslegung der Artt. 30, 34, 36 EWGV in der Rechtsprechung des EuGH, NJW 1982, 2689 et seq.
- Mohr, C., CEN-Generalversammlung 1985, DIN-Mitt. 65 (1986), 47-48.
- Mohr, C., Kurzinformation über Organisation, Arbeitsweise und Arbeitsergebnisse von CEN/CENELEC, in: DIN-Normungskunde, Heft 15, Harmonisierung technischer Regeln in Europa, Berlin/Köln 1980, 9 et seq.
- Müller, G., Berufsgenossenschaften und DIN, DIN-Mitt. 65 (1986), 150 et seq.
- Müller, J./Vogelsang, J., Staatliche Regulierung, Baden-Baden 1979.
- Nader, R., Unsafe at Any Speed, New York 1965.
- National Commission on Product Safety, Final Report Presented to the President and Congress, Washington, D.C. 1970.
- New Roads for Harmonization of Legislation?, CMLR 17 (1980), 463 et seq.
- Nicklisch, F., Funktion und Bedeutung technischer Standards in der Rechtsordnung, BB 1983, 261 et seq.
- Noam, E., The Choice of Governmental Level of Regulation, Kyklos 35 (1982), 278 et seq.
- Nöthlichs, M., Sicherheitsvorschriften für medizinisch-technische Geräte. Kommentar, Berlin 1985.
- Note, The Consumer Product Safety Commission: An Agency Manual, George Washington L. Rev. 43 (1975), 1079 et seq.
- Nunnenkamp, P., Technische Handelshemmnisse - Formen, Effekte und Harmonisierungsbestrebungen, Außenwirtschaft 38 (1983), 373 et seq.
- Nusbaumer, J., The GATT Standards Code in Operation, J. of World Trade Law 18 (1984), 542 et seq.
- OECD, Consumer Policy and International Trade, Paris 1986.

- OECD, Costs and Benefits of Protection, Paris 1985.
- OECD, Data Collection Systems Related to Injuries Involving Consumer Products. Report by the Committee on Consumer Policy, Paris 1978.
- OECD, Development and Implementation of Product Safety Measures, Paris 1986.
- OECD, Product Safety. Risk Management and Cost-Benefit-Analysis, Paris 1983.
- OECD, Recall Procedures for Unsafe Products Sold to the Public. Report to the Committee on Consumer Policy, Paris 1981.
- OECD, Safety of Consumer Products. Policy and Legislation in OECD Member Countries, Paris 1980.
- OECD, Severity Weighting of Data on Accidents Involving Consumer Products, Paris 1979.
- Oi, W.Y., The Economics of Product Safety, *Bell J. of Economics* 4 (1973), 3 et seq.
- Oldenbourg, A., Die unmittelbare Wirkung von EG-Richtlinien im innerstaatlichen Bereich, München 1984.
- Oliver, L., Free Movement of Goods in the EEC under Articles 30 to 36 of the Rome Treaty, London 1982.
- Oliver, P., Measure of Equivalent Effect: A Reappraisal, *CMLR* 19 (1982), 217 et seq.
- Opela, M.P., The Anatomy of Private Standards-Making Process: the Operating Procedures of the USA Standards Institute, *Oklahoma L. Rev.* 22 (1969), 45 et seq.
- Orth, K.-L., Die Niederspannungsrichtlinie der EG. *DIN-Mitt.* 63 (1984), 376 et seq.
- Orth, K.-L., Übernahme von Harmonisierungsdokumenten (HD) und Europäischen Normen (EN) in das Deutsche Normen- und Vorschriftenwerk, *DIN-Mitt.* 60 (1981), 120-121.
- Ortlepp, B.Ch., Das Vertragsverletzungsverfahren als Instrument zur Sicherung der Legalität im Europäischen Gemeinschaftsrecht, Baden-Baden 1987.

- Ossenbühl, F., Die verfassungsrechtliche Zulässigkeit der Verweisung als Mittel der Gesetzgebungstechnik, DVBl. 1967, 401 et seq.
- Page, S.A.B., The Revival of Protectionism and its Consequences for Europe, JCMSt 20 (1981), 17 et seq.
- Paschen, H./Bechmann, G./Wingert B., Funktionen und Leistungsfähigkeit des Technology Assessment im Rahmen der Technologiepolitik, in: Kruedener, J./Schubert, K. (Ed.), Technikfolgen und sozialer Wandel, Zur Steuerbarkeit der Technik, Köln 1981, 57 et seq.
- Pauli, A., Die EG-Produkthaftpflicht-Richtlinie und ihre Umsetzung in der BR Deutschland, PHI 1986, 153 et seq.
- Pauli, A., EG-weites Informationssystem über gefährliche Konsumgüter, PHI 1984, 130 et seq.
- Pauli, A., Die Produktbeobachtungspflichten in der verbraucherpolitischen Auseinandersetzung, PHI 1985, 134 et seq., 180 et seq.
- Peine, F.-J., Gesetz über technische Arbeitsmittel (Gerätesicherheitsgesetz), Kommentar, Köln/Berlin/Bonn/München 1986.
- Pelkmanns, J., The Assignment of Public Functions in Economic Integration, JCMSt 21 (1982), 97 et seq.
- Pelkmanns, J., Market Integration in the European Community, Den Haag/Boston/Lancaster 1984.
- Pelkmanns, J., The New Approach to Technical Harmonization and Standardization, JCMSt 25 (1987), 249 et seq.
- Pelkmanns, J., Opheffing van technische Handelsbelemmeringen. Pilot-Studie in opdracht van het Verbond van Nederlandse Ondernemingen, Den Haag 1985.
- Pelkmanns, J./Vollebergh, M. The Traditional Approach to Technical Harmonization: Accomplishments and Deficiencies, in: Pelkmans, J./Vanhenkelen, M. (eds.), Coming to Grips with the Internal Market, Maastricht 1986, 9 et seq.

- Perschuk, M., *Revolt against Regulation. The Rise and Pause of the Consumer Movement*, Berkeley/Los Angeles/London 1982.
- Pescatore, P., *Die Einheitliche Europäische Akte. Eine ernste Gefahr für den Gemeinsamen Markt*, EuR 21 (1986), 153 et seq.
- Pfundt, K., *Bedeutung und Charakteristik von Heim- und Freizeunfällen. Ergebnisse von 90.000 Haushaltsbefragungen*, Köln 1985.
- Pfundt, K., *Zur Methodik einer Risiko-Analyse im Bereich von Heim und Freizeit*, in: *Unfall-Risiken der Privatsphäre. Epidemiologie - Diagnose - Prävention. VI. Internationales GfS-Sommer-Symposium*, 3.-5.6. 1985, Wuppertal 1986, 99 et seq.
- Pierce, R.J., *Encouraging Safety: The Tort Limits of Tort Law and Government Regulation*, *Vanderbilt, L. Rev.* 33 (1980), 1281 et seq.
- Pipkorn, J., *Kommentar zu den Artt. 101 und 102 EWGV*, in: v.d. Groeben, H./v. Boeckh, H./Thiesing J./Ehlermann, C.-D. (Eds.), *Kommentar zu EWG-Vertrag*, 3. Aufl., Baden-Baden 1983.
- Pizzio, J.-P., *La loi du 21 juillet 1983 et le droit communautaire. Rapport de recherche rédigé par Mlle. Foucher sous la direction de J.-P. Pizzio*, Dijon 1986.
- Pizzio, J.-P., *La loi du 21 juillet 1983 sur la sécurité des consommateurs*, *Dalloz* 1984, 13 et seq., 19 et seq.
- Pokorny, F., *Die Auswirkungen des Normenvertrages zwischen der Bundesrepublik Deutschland und dem DIN auf die deutsche Wirtschaft*, *DIN-Mitt.* 56 (1977), 336 et seq.
- Pokorny, F., *Erleichterte Problemlösungen an den Schnittstellen von Technik und Gesellschaft durch den Normenvertrag*, *DIN-Mitt.* 55 (1976), 402 et seq.
- Rabe, H.-J., *Freier Warenverkehr für Lebensmittel nach dem Bier Urteil des EuGH*, *EuR* 1987, 253 et seq.
- Rabe, H.-J., *Garantien und Sicherungen des freien Warenverkehrs im Lichte der neuesten Rechtsprechung des EuGH - Cassis de Dijon und die Folgerechtsprechung*, in:

- Schwarze, J. (Ed.), *Das Wirtschaftsrecht des Gemeinsamen Marktes in der aktuellen Rechtsentwicklung*, Baden-Baden 1983, 41 et seq.
- Ramsay, J.D.C., *Rationales for Intervention in the Consumer Marketplace*. Office of Fair Trading, London 1984.
- Rasera, M., *L'A.F.N.O.R. et la liason administration-industries*, *Semaine Juridique, Cahier de Droit de l'Entreprise C I* 1980, 28 et seq.
- Rehbinder, E./Stewart, R., *Environmental Protection Policy*, in: Cappelletti, M./Seccombe, M./Weiler, J. (eds.), *Integration Through Law. Europe and the American Experience*, vol. 2, Berlin/New York 1985.
- Reich, N., *Förderung und Schutz diffuser Interessen durch die Europäischen Gemeinschaften*, Baden-Baden 1987.
- Reich, N., *Parallelimporte von Arzneimitteln nach dem Recht der Europäischen Gemeinschaft*, *NJW* 1984, 2000 et seq.
- Reich, N., *Product Safety and Product Liability. An Analysis of the EEC Council Directive of 25 July 1985 on the Approximation of the Laws, Regulations and Administrative Provisions of the Member States Concerning Liability for Defective Products*, *J. of Consumer Policy* 9, (1986), 133 et seq.
- Reich, N., *Rechtliche Grundlagen zur Schaffung eines Konsumentenschutzrechts innerhalb der Europäischen Gemeinschaften*, in: *Europäisches Rechtsdenken in Geschichte und Gegenwart*, FS für Helmut Coing zum 70. Geburtstag, Bd. 2, München 1982, 441 et seq.
- Reich, N., *Staatliche Regulierung zwischen Marktversagen und Politikversagen*, Heidelberg 1984.
- Reich, N./Micklitz, H.-W., *Verbraucherschutzrecht in den EWG-Staaten. Eine vergleichende Analyse*. New York/Cincinnati-/Toronto/London/Melbourne 1981.
- Reihlen, H., *Die Auswirkungen des Normenvertrages zwischen der Bundesrepublik Deutschland und dem DIN auf das DIN*, *DIN-Mitt.* 56 (1977), 339 et seq.
- Reihlen, H., *Europäische Normung - eine Bilanz und eine Vorschau*, *DIN-Mitt.*, 63 (1984), 4 et seq.

- Reihlen, H., Kosten der Normung - Nutzen der Normung, DIN-Mitt. 56 (1977), 387 et seq.
- Rengeling, H.-W., Rechtsgrundsätze beim Verwaltungsvollzug des Europäischen Gemeinschaftsrechts, Köln/Berlin/Bonn/München 1977.
- Repussard, J., La certification en France, Enjeux No. 43, (1/1984), 51.
- Ress, G., Luftreinhaltung als Problem des Verhältnisses zwischen europäischem Gemeinschaftsrecht und nationalem Recht. Überlegungen zu einem Alleingang der Bundesrepublik Deutschland bei der Einführung des Katalysatorautos und des bleifreien Benzins, FS Hundertfünfzig Jahre Landgericht Saarbrücken, Köln 1985, 355 et seq.
- Rittstieg, A., Die Konkretisierung technischer Standards im Anlagerecht, Köln/Berlin/Bonn/München 1982.
- Rögge, K., Binnenmarktrealisierung 1982 auf der Grundlage der Einheitlichen Europäischen Akte, WRP 1986, 459 et seq.
- Röhling, E., Überbetriebliche technische Normen als nichttarifäre Handelshemmnisse im Gemeinsamen Markt, Köln/Berlin-/Bonn/München 1972.
- Rogmans, W.H.J., Ernst en omvang van Ongevallen in den privésector, Veiligheids Instituut, Amsterdam 1982.
- Rogmans, W.H.J., Surveillance of Home and Leisure Accidents in the Netherlands, in: European Symposium on Product Safety in the European Community, Amsterdam 1985, 73 et seq.
- Ronze, B., (Inspecteur Général des Finances). Note sur un recensement eventuel des données relatives aux accidents de la consommation, 2.7.1981, Paris 1981.
- Rose-Ackermann, S., Does Federalism Matter? Political Choice in a Federal Republic, J. of Political Economy 89 (1981), 152 et seq.
- Rosenberg, E.S., Emerging Issues in Standards and Industry Self-Regulation, in: Katz, R.N. (ed.), Protecting the Consumer Interest. Private Initiative and Public Response, Cambridge, Mass. 1976, 141 et seq.



- Roth, W.-H., Freier Warenverkehr und staatliche Regelungsgewalt in einem Gemeinsamen Markt. Europäische Probleme und amerikanische Erfahrungen, München 1977.
- Sälzer, H.J., Arbeitsausschuß Sicherheitstechnische Grundsätze (ASG) im DNA, Arbeitsschutz 1972, 313 et seq.
- Scalia, A./Goodman, F., Procedure of the Consumer Product Safety Act, University of California at Los Angeles L. Rev. 20 (1973), 899 et seq.
- Schäfer, H.-B./Ott, C., Lehrbuch der ökonomischen Analyse des Zivilrechts, Berlin 1986.
- Scharpf, F.W., Die Politikverflechtungs-Fälle: Europäische Integration und deutscher Förderalismus im Vergleich, PVS 26 (1985), 323 et seq.
- Scharrer, H.E., Abgestufte Integration - Eine Alternative zum herkömmlichen Integrationskonzept?, Integration 4 (1981), 123 et seq.
- Scharrer, H.E., Abgestufte Integration - Eine Einführung, in: Grabitz, E. (Ed.), Abgestufte Integration. Eine Alternative zum herkömmlichen Integrationskonzept?, Kehl/Straßburg 1984, 1 et seq.
- Scharrer, H.E., Die Einheitliche Europäische Akte: Der Binnenmarkt, Integration 9 (1986), 108 et seq.
- Schatz, H., Verbraucherinteressen im politischen Entscheidungsprozeß, Frankfurt/New York 1984.
- Schindler, P., Delegation von Zuständigkeiten in der Europäischen Gemeinschaft, Baden-Baden 1972.
- Schlechtriem, P., Angleichung der Produkthaftung in der EG. Zur Richtlinie des Rates der Europäischen Gemeinschaften vom 25.7.1985, VersR 1986, 1033 et seq.
- Schloesser, P., Europäische Gemeinschaft und Europäische Normung, in: Europäische Normung in CEN und CENELEC, DIN-Normungskunde, Heft 8, Berlin/Köln 1976, 21 et seq.
- Schmatz, H./Nöthlichs, M. Gerätesicherungsgesetz, Kommentar und Textsammlung. Sonderausgabe aus dem Handbuch Sicherheitstechnik, Berlin

- Schmidt-Salzer, J., Die EG-Richtlinie Produkthaftung, BB 1986, 1103 et seq.
- Schmidt-Salzer, J., Entscheidungssammlung Produkthaftung, 4 Bde., Berlin 1975/1979, München 1982.
- Schmidt-Salzer, J., Kommentar EG-Richtlinie Produkthaftung, Bd. 1: Deutschland, Heidelberg 1986.
- Schmitt von Sydow, H., Kommentar zu den Artt. 155-163 EWGV, in: v.d. Groeben, H./v. Boeck, H./Thiesing, H./Ehlermann, C.D. (Ed.), Kommentar zum EWG-Vertrag, 3. Aufl., Baden-Baden 1983.
- Schmitt von Sydow, H., Organe der erweiterten Europäischen Gemeinschaften - Die Kommission, Baden-Baden 1980.
- Schnapauff, K.-D., Gleitende Verweisung aus der Sicht der Verwaltung, in: Verweisung auf technische Normen in Rechtsvorschriften, DIN-Normungskunde, Bd. 17, Berlin/Köln 1982, 40 et seq.
- Schroeder, C., La qualification des produits, Thèse, Paris 1984.
- Schuchardt, W., Außertechnische Zielsetzungen und Wertbezüge in der Entwicklung des deutschen technischen Regelwerks, Technikgeschichte 46 (1979), 227 et seq.
- Schultz, S., Der neue Protektionismus - Merkmale, Erscheinungsformen und Wirkungen im industriellen Bereich, in: Neuer Protektionismus in der Weltwirtschaft und EG-Handelspolitik, Jahreskolloquium 1984 des Arbeitskreises Europäische Integration, Baden-Baden 1985, 35 et seq.
- Schulz, K.-P., Aufbau und Arbeitsweise internationaler Normungsorganisationen, DIN-Mitt. 63 (1984), 365 et seq.
- Schulz, K.-P., Frankreich plant Neuordnung des Normenwesens, DIN-Mitt. 62 (1983), 327 et seq.
- Schwartz, T.M., The Consumer Safety Commission: A Flawed Product of the Consumer Decade, George Washington L. Rev. 51 (1982), 32 et seq.
- Schwartz, T.M./Adler, R.S., Product Recalls: A Remedy in Need of Repair, Case Western Reserve L. Rev. 34 (1984), 401 et seq.

- Schwartz, D., GS-geprüfte Geräte - Entlastung der Fachkraft für Arbeitssicherheit?, *Sicherheitsingenieur* 11/1983, 26 et seq.
- Schwierz, M., *Die Privatisierung des Staates am Beispiel der Verweisungen auf die Regelwerke privater Regelgeber im Technischen Sicherheitsrecht*, Frankfurt/Bern/New York 1986.
- Sedemund, J., Cassis de Dijon und das neue Harmonisierungskonzept der Kommission, in: Schwarze J., (Ed.), *Der Gemeinsame Markt, Bestand und Zukunft in wirtschaftlicher Perspektive*, Baden-Baden 1987, 37 et seq.
- Sedemund, J./Montag, F., *Europäisches Gemeinschaftsrecht*, NJW 1987, 546 et seq.
- Seidel, M., Die Bedeutung des Art. 100a der Einheitlichen Europäischen Akte für die zukünftige Entwicklung des Gemeinschaftsrechts, Vortrag auf der CLA/CCMA Konferenz über die Einheitliche Europäische Akte und die Zukunft der Rechtsangleichung in der EWG, Brüssel, 18.11.1986.
- Seidel, M., Die Beseitigung der technischen Handelshemmnisse, in: *Angleichung des Rechts der Wirtschaft in Europa*, Köln Schriften zum Europarecht, Bd. 11, Köln/Berlin/Bonn/München 1971, 733 et seq.
- Seidel, M., Die Problematik der Angleichung der Sicherheitsvorschriften für Betriebsmittel in der EWG, NJW 1969, 957 et seq.
- Seidel, M., Die sogenannte Cassis de Dijon-Rechtsprechung des Europäischen Gerichtshofs und der Schutz von Herkunftsangaben in der Europäischen Gemeinschaft, GRUR International 1984, 80 et seq.
- Seidel, M., Grundsätzliche Regelungsprobleme bei der Verwirklichung des Gemeinsamen Marktes, in: Magiera, S. (Ed.), *Entwicklungsperspektiven der Europäischen Gemeinschaft*, Berlin 1985, 169 et seq.
- Seidel, M., Künftige Ausgestaltung der Rechtsetzung für technische Gegenstände und Stoffe in der Gemeinschaft - Europarechtliche Perspektiven, in: *Recht und Technik*.

- Rechtliche Regelungen für Anlagen, Geräte und Stoffe im deutschen und im europäischen Recht, Studienreihe des Bundesministers für Wirtschaft, Nr. 53, Bonn 1985, 211 et seq.
- Seidel, M., Regeln der Technik und europäisches Gemeinschaftsrecht, NJW 1981, 1120 et seq.
- Silberer, G./Raffée, H., Warentest und Konsument, Frankfurt/New York 1984.
- Skordas, A., Umweltschutz und freier Warenverkehr im EWG-Vertrag und GATT, Steinbach 1986.
- Slot, P., Technical and Administrative Obstacles to Trade in the EEC, Leyden 1975.
- Snijders, G.M.F., Produktveiligheid en aansprakelijkheid. Veiligheidseisen, preventieve veiligheidskeuringen en de aansprakelijkheid voor door gebrekkige produkten veroorzakte schaden in de Bondsrepubliek en in Nederland, December 1987.
- Staats, J.-F., Zur Problematik bundesrechtlicher Verweisung auf Regeln privatrechtlicher Verbände, ZRP 1978, 59 et seq.
- Stanton, K.H., Breach of Statutory Duty in Tort, London 1986.
- Starkowski, R., Die Angleichung technischer Rechtsvorschriften und industrieller Normen in der Europäischen Wirtschaftsgemeinschaft, Berlin 1973.
- Statler, St.M., CPCS: Only a Beginning, Trial 1980, 77 et seq.
- Statler, St.M., Reporting Guidelines Under Section 15 of the Consumer Product Safety Act. J. of Product Liability 7 (1984), 89 et seq.
- Steindorff, E., Gemeinsamer Markt als Binnenmarkt, ZHR 50 (1986), 687 et seq.
- Steindorff, E., Probleme des Art. 30 EWG-Vertrag, ZHR 148 (1984), 338 et seq.
- Steindorff, E., Umweltschutz in Gemeinschaftshand?, RIW 1984, 767 et seq.
- Stichting Consument en Veiligheid, Report of 1984 Data Home Accident Surveillance, Amsterdam 1985.

- Stiftung Verbraucherinstitut/DIN-Verbraucherrat (Eds.), Leit faden für Verbrauchervertreter bei der Normung, Berlin 1981.
- Storm, P.M., Rechtsangleichung durch die EG-Produkthaftungs Richtlinie?, PHI 1986, 112 et seq.
- Strecker, A., Bilaterale Abmachung im Zusammenhang mit der Anerkennung Deutscher und Französischer Normen - Darstellung aus der Sicht des Bundesministeriums für Wirtschaft (BMW), DIN-Mitt. 63 (1984), 123-124.
- Strecker, A., Rechtsfragen bei der Verknüpfung von Rechtsnormen mit technischen Normen, in: Technische Normung und Recht, DIN-Normungskunde, Bd. 14, Berlin/Köln 1979, 43 et seq.
- Strecker, A., Starre Verweisung auf Normen in Rechtsetzung und Verwaltung, in: Verweisung auf technische Normen in Rechtsvorschriften, DIN-Normungskunde, Bd. 17, Berlin/Köln 1982, 79 et seq.
- Streit, M.E., Reassessing Consumer Safety Regulation, in: Giersch, H. (ed.), New Opportunities for Entrepreneurship, Tübingen 1984, 190 et seq.
- Stuyck, J., Free Movement of Goods and Consumer Protection, in: Woodroffe, G. (ed.), Consumer Law in the EEC, London 1984, 77 et seq.
- Stuyck, J., Product Differentiation in Terms of Packaging, Presentation, Advertising, Trade Marks, etc. An Assessment of the Legal Situation Regarding Pharmaceuticals and Certain Other Consumer Goods, Antwerpen/Boston/London/Frankfurt 1983.
- Stuyck, J., Withdrawal and Recall of Dangerous Products in the EEC, in: Commission of the European Communities Proceedings of the European Symposium on Product Safety in the European Community, Brussels, 17-18 May 1984, 35 et seq.
- Sugarman, S.D., Doing Away with Tort Law, California L. Rev. 73 (1985), 558 et seq.

- Sweeney, R.E., Technical Analysis of the Technical Barriers to Trade Agreement, Law and Policy in International Business 12 (1980), 179 et seq.
- Taschner, H.C., Die EG-Richtlinie zur Produzentenhaftung und die deutsche Industrie. Eine Erwiderung, PHI 1986, 54 et seq.
- Taschner, H.C., Kommentar zu Art. 100 EWGV, in: Groeben, H./v. Boeck, H./Thiesing, J./Ehlermann, C.-D. (Eds.), Kommentar zum EWG-Vertrag, 3. Aufl., Baden-Baden 1983.
- Taschner, H.C., Die künftige Produzentenhaftung in Deutschland, NJW 1986, 611 et seq.
- Taschner, H.C., Produkthaftung. Richtlinie des Rates vom 25. Juli zur Angleichung der Rechts- und Verwaltungsvorschriften der Mitgliedsstaaten über die Haftung für fehlerhafte Produkte (85/374/EWG) mit Erläuterungen, München 1986.
- Trench, D., Towards a Middle System of Law, London 1981.
- Theobald, R., Medizingeräteverordnung soll helfen, medizinisch technische Geräte und deren Anwendung sicherer zu machen, DIN-Mitt. 65 (1986), 252 et seq.
- Timmermans, Ch.W.A., Der freie Warenverkehr, in: EG-Kommission (Ed.), Dreißig Jahre Gemeinschaftsrecht, Luxemburg 1981, 259 et seq.
- Tittes, E., Sicherheitstechnische Probleme beim Heimwerken, in: Unfall-Risiken der Privatsphäre. Epidemiologie - Diagnose - Prävention, VI. Internationales GfS-Sommer-Symposium, 3.-5.6.1985, Wuppertal 1986, 301 et seq.
- Tronnier, H.-K., Standardization and Harmonization Efforts in Europe. The role of CENELEC and the Experience with the Low Voltage Directive, in: Pelkmans, J./Vanhenkelen, M. (eds.), Coming to Grips with the Internal Market, Maastricht, 1986, 35 et seq.
- Veelken, W., Maßnahmen gleicher Wirkung wie mengenmäßige Beschränkungen, EuR 1977, 311 et seq.
- Venables, T., Prospect for Integration of Consumer Law and Policy in the European Community, in: Bourgoigne, Th.

- (ed.), *European Consumer Law. Prospects for Integration of Consumer Law and Policy within the European Community*, Louvain-la-Neuve 1982, 141 et seq.
- Verhalen, R.D., *The NEISS*, in: *Commission of the EC, Proceedings of the European Symposium on Product Safety in the EC*, Amsterdam 1985, 61 et seq.
- Verloren van Themaat, P., *La libre circulation des marchandises après l'arrêt Cassis de Dijon*. *Cahiers du Droit Européene* 1982, 123 et seq.
- Vieweg, K., *Verbraucherschutz durch technische Normen und vergleichende Warentests*, *NJW* 1987, 2726-2727.
- Viney, G., *La responsabilité de fabricants et distributeurs*, *Economica* 1975.
- Viscusi, W.K., *Consumer Behaviour and the Safety Effects of Product Safety Regulation*, *J. of Law and Economics* 28 (1985), 527 et seq.
- Viscusi, W.K., *Regulating Consumer Product Safety*, Washington D.C./London 1984.
- Viscusi, W.K., *Risk by Choice. Regulating Health and Safety in the Workplace*, Cambridge, Mass./London 1983.
- Vogel, H.J., *Technische Normung im Spannungsfeld zwischen Rechtsordnung und technischem Fortschritt*, *DIN-Mitt.* 58 (1979), 451 et seq.
- Volkman, D., *Aktivitäten in der EG auf dem Gebiet der Zertifizierung und Qualitätssicherung*, *DIN-Mitt.* 66 (1987), 419 et seq.
- Volkman, D., *Bedeutung von Prüfzeichen für die Produktqualität*, *DIN-Mitt.* 65 (1986), 171-172.
- Volkman, D., *Grundsätze für die Zertifizierungsarbeit*, *DIN-Mitt.* 64 (1985), 171 et seq.
- Volkman, D., *Struktur eines Zertifizierungssystems*, *DIN-Mitt.* 63 (1984), 548 et seq.
- Volkman, D., *Zehn Jahre Deutsche Gesellschaft für Warenkennzeichnung GmbH - Zehn Jahre DIN-Prüf- und Überwachungszeichen*, *DIN-Mitt.* 61 (1982), 821-822.

- Vollendung des Binnenmarktes. Weißbuch der Kommission an den Europäischen Rat, Juni 1985, Luxemburg 1985.
- Wägenbaur, R., Kommentar zu den Artt. 30 bis 36 EWGV, in: v.d. Groeben, H./v. Boeck, H./Thiesing, J./Ehlermann, C.-D., (Eds.), Kommentar zum EWG-Vertrag, 3. Aufl., Baden-Baden 1983.
- Wägenbaur, R., Woher kommt, wohin führt Cassis? Eine Fallstudie, in: Lüke, G./Ress, R./Will, M.R. (Eds.), Rechtsvergleichung, Europarecht, Staatsintegration, Gedächtnisschrift für L.-J. Constantinesco, Köln/Berlin/Bonn/München 1983, 899 et seq.
- Waelbroek, M., The Emergent Doctrine of Community Pre-emption Consent and Re-delegation, in: Sandalow, T./Stein, E. (eds.), Courts and Free Markets: Perspectives from the United States and Europe, vol. 2, Oxford/New York 1982, 548 et seq.
- Waksberg, J., CPSC's Hazard Data System: Response to Critique, J. of Product Liability 6 (1983), 201 et seq.
- Warner, A., Das elektrotechnische Prüfwesen im Rahmen der deutsch-französischen Zusammenarbeit, in: AFAST, Zusammenarbeit zwischen deutschen und französischen Prüf- und Normungsinstituten, Kolloquium am 4. und 5. Juni 1984 in Straßburg, Bulletin Nr. 10, Bonn 1984, 33 et seq.
- Warner, A., Nationale und internationale Prüfstellen- und Zertifizierungsaktivitäten auf dem Gebiet der Elektrotechnik, DIN-Mitt. 62 (1983), 85 et seq.
- Weatherill, S./Woodroffe, G.F., Consumer Safety in the United Kingdom. Report for the European Communities, Contract No. 85-B 6673-11-005-11-C.
- Weber, A., Schutznormen und Wirtschaftsintegration, Baden-Baden 1982.
- Weber, K.-H./Rohs, U., Produzentenhaftung im französischen Recht, PHI 1984, 36 et seq.
- Weber, R.H., Wirtschaftsregulierung in wettbewerbspolitischen Ausnahmebereichen, Baden-Baden 1986.



- Weiler, J., Community, Member States and European Integration: Is the Law Relevant?, JCMSt 31 (1982), 39 et seq.
- Weiler, J., The Community System. The Dual Character of Supranationalism, Yearbook of European Law 1 (1981), 267 et seq.
- Weiler, J., The European Community System. Legal Structure and Political Process, Ph.D. Thesis, EUI Florence 1982.
- Weiler, J., Supranational Law and the Supranational System: Legal Structure and Political Process in the European Community, Ph.D. Dissertation (European University Institute, Florence) 1982.
- Weinstein, A.S./Twerski, A.D./Pieller, H.R./Donaker, W.H., Product Liability and the Reasonably Safe Product: A Guide for Management, Design and Marketing, New York/Chichester/Brisbane/Toronto 1978.
- Welch, D., From Euro Beer to Newcastle Brown. A Review of European Community Action to Dismantle Divergent Food Laws, JCMSt 22 (1983), 47 et seq.
- Whittaker, S., The EEC Directive on Product Liability, Yearbook of European Law 5 (1985), 233 et seq.
- Wilke, 12 Jahre Gesetz über technische Arbeitsmittel, in: BAU (Ed.), Sicherheit '80. Heim - Freizeit - Schule, Dortmund 1980, 48 et seq.
- Winckler, R., Bilaterale Abmachungen im Zusammenhang mit der Anerkennung Deutscher und Französischer Normen - Darstellung aus der Sicht der deutschen Industrie, DIN-Mitt. 63 (1984), 120 et seq.
- Winckler, R., Europäische Normung in CENELEC, DIN-Mitt. 62 (1983), 79 et seq.
- Winckler, R., Harmonisierung technischer Regeln in Europa auf dem Gebiet der Konsumgütersicherheit und des Verbraucherschutzes aus der Sicht der Industrie, in: DIN-Normungskunde, Heft 15, Harmonisierung technischer Regeln in Europa, Berlin/Köln 1980, 85 et seq.
- Winckler, R./Cassassolles, J./Verdiani, D., Kommentar zur Niederspannungs-Richtlinie der Europäischen Gemeinschaften vom 19. Februar 1973, Berlin 1974.

- Winckler, R., Normungs- und Harmonisierungsbestrebungen der Europäischen Gemeinschaft, in: DIN-Normungskunde,-Heft 14, Technische Normung und Recht, Berlin/Köln 1978, 59 et seq.
- Winckler, R., Rechtsvorschriften für Anlagen, Geräte und Stoffe - Bestandsaufnahme und kritische Würdigung. Materialien und Geräte unter besonderer Berücksichtigung des Gerätesicherheitsgesetzes, der 2. DurchführungsVO zum EnWG und der Niederspannungsrichtlinie, in: Recht und Technik. Rechtliche Regelungen für Anlagen, Geräte und Stoffe im deutschen und im europäischen Recht, Studienreihe des Bundesministers für Wirtschaft, Nr. 53, Bonn 1985, 26 et seq.
- Winckler, R., Zum Begriff Stand der Technik, DB 1983, 2125 et seq. Wolf, R., Der Stand der Technik. Geschichte, Strukturelemente und Funktion der Verrechtlichung technischer Risiken am Beispiel des Immissionsschutzes, Opladen 1986.
- Zachmann, K., Das Ausschußverfahren zur Anpassung der EG-Richtlinie an den technischen Fortschritt, DIN-Mitt. 56 (1977), 293 et seq.
- Zick, C.D./Mayer, R.N./Snow, L.A., Does the Consumer Product Safety Commission Make a Difference? An Assessment of Its First Decade, JCP 9 (1986), 25 et seq.
- Zimmermann, N., DIN 31000/VDE 1000 - Wichtige Orientierung, BArBl. 6/1979, 44 et seq.
- Zimmermann, N., Gerätesicherheit - Neuordnung der Aufgabengebiete aller GS-Prüfstellen, Amtl. Mitteilungen der Bundesanstalt für Arbeitsschutz 1/1987, 10-11.
- Zimmermann, N., Das Gerätesicherheitsgesetz, in: Brendl, E., Produkt- und Produzentenhaftung. Handbuch für die betriebliche Praxis, Bd. III, Gruppe 11, S. 123 et seq.
- Zimmermann, N., Normen mit sicherheitstechnischer Festlegung, Arbeitsschutz 1977, 347 et seq.
- Zimmermann, N., Sicherheitsnormen für medizinisch-technische Geräte - die Vorschriften der neuen Medizingeräteverordnung, DIN-Mitt. 64 (1985), 337 et seq.

- Zimmermann, N., Sicherheitsnormen für technische Arbeitsmittel. Das neue Gerätesicherheitsgesetz und seine Durchführungsverordnungen, DIN-Mitt. 60 (1981), 102 et seq.
- Zimmermann, N., Das Sicherheitszeichen Geprüfte Sicherheit, Sicherheitsingenieur 6/84, 14 et seq.
- Zipfel, W., Zu den Gründen und rechtlichen Folgen des Bier-Urteils des EuGH, NJW 1987, 2113 et seq.
- Zollers, F.E., The Power of the CPSC to Levy Penalties, American Business Law J. 22 (1985), 551 et seq.
- Zuleeg, M., Vorbehaltene Kompetenzen der Mitgliedstaaten der Europäischen Gemeinschaft auf dem Gebiet des Umweltschutzes, NVwZ 1987, 280 et seq.
- de Zwaan, J.W., The Single European Act: Conclusion of a Unique Document, CMLR 23 (1986), 747 et seq.





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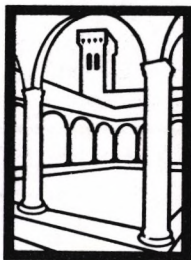
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