

Convention of 2 October 1973 on the Law Applicable to Products Liability - Summary

This Convention is concerned exclusively with the law applicable to products liability when the person claimed to be liable did not transfer the product, or the right to use the product to the person sustaining damage. The issues of international jurisdiction and recognition and enforcement of foreign decisions are excluded from the scope of the 1973 Convention. The Convention contains 22 articles of which the most important are articles 4-7 since they state the rules on the law applicable to products liability as well as article 1-3 regulating the scope of the Convention. In this respect, Article 4 and 5 provide that either the State of the place of injury or the State of the habitual residence of the person directly suffering damage shall be applied if it contains one of two or more designated contacts. Under Article 6, if there is no such a combination of contacts as envisaged in articles 4 and 5, then the claimant may opt to base his claim on the internal law of either the State of the place of injury or the State of the principal place of business of the person claimed to be liable. Article 7 limits the application of articles 4-6 by providing that a defendant shall not be held liable under an unforeseeable law, while article 9 regulates the possibility to take into account the rules on safety and conduct prevailing in the State where the product was introduced into the market. This provision also includes the analogous rules in the State whose law is applicable under articles 4-6. Article 8 contains the list of the issues governed by the applicable law. Article 10 introduces the public policy clause. Article 11 provides the rule on universal application which means that the Convention applies even if the applicable law is that of non-Contracting State. In other words, Convention has to be applied without any reciprocity. Article 12-14 are concerned with the problem of non-unified legal systems. Article 15 regulates the coordination with other international treaties. Article 16 lists the permitted reservations to the Convention, while articles 17-22 contain final provisions.