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**Harmonious Interpretation of National Civil Law
According to EU Directives**

Materials



Patricia Sarah Stöbener, LL.M. (King's College London)

Walter Hallstein-Institut für Europäisches Verfassungsrecht
Humboldt-Universität zu Berlin
Email: Patricia.Stoebener@rewi.hu-berlin.de

Art. 234 EC-Treaty

Preliminary Ruling Procedure

- (1) The Court of Justice shall have jurisdiction to give preliminary rulings concerning:
 - (a) the interpretation of this Treaty;
 - (b) the validity and **interpretation of acts of the institutions** of the Community and of the ECB;
 - (c) the interpretation of the statutes of bodies established by an act of the Council, where those statutes so provide.
- (2) Where such a **question is raised before any court** or tribunal of a Member State, that court or tribunal may, if it considers that a decision on the question is necessary to enable it to give judgment, **request the Court of Justice to give a ruling thereon.** (...)

Art. 249 EC-Treaty

Legal instruments

...

(2) A **regulation** shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

(3) A **directive** shall be **binding**, as to the result to be achieved, **upon each Member State** to which it is addressed, but shall leave to the national authorities the choice of form and methods.

Art. 3 of the Directive 1999/44 on sales of consumer goods

Rights of the consumer:

1. The seller shall be liable to the consumer for any lack of conformity which exists at the time the goods were delivered.
2. In the case of a lack of conformity, the consumer shall be entitled to have the goods brought into conformity **free of charge** by repair or replacement, in accordance with paragraph 3, or to have an appropriate reduction made in the price or the contract rescinded with regard to those goods, in accordance with paragraphs 5 and 6.
3. In the first place, the consumer may require the seller to repair the goods or he may require the seller to replace them, in either case **free of charge**, unless this is impossible or disproportionate. (...)
4. The terms “**free of charge**” in paragraphs 2 and 3 refer to the necessary costs incurred to bring the goods into conformity, particularly the cost of postage, labour and materials.

BGB – German Civil Code

§ 439 (4) of the BGB (German Civil Code): Subsequent performance:

Where a seller delivers goods free from defects for the purposes of subsequent performance, he may require the purchaser to return the defective goods pursuant to §§ 346 to 348.

§ 346 of the BGB: Effects of termination of the contract:

(1) If one party to a contract has reserved the right to terminate the contract or if he has a statutory right of termination, then, if termination occurs, any performance received shall be returned, and the benefits derived from such performance shall be surrendered.

(2) The debtor shall pay compensation for value, in lieu of restitution or surrender, where:

(1) restitution or surrender is excluded by virtue of the nature of what has been obtained; ...