

NEW EUROPEAN PRODUCT LIABILITY DIRECTIVE: RULES UPDATED FOR THE TECHNOLOGICAL AGE

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Abstract

The increasing digitalisation of the global economy has led to a significant expansion in production, which has in turn increased the number of individuals affected by product liability. The resulting damages have necessitated the development of new strategies within the field of product liability. In order to implement these innovations in the European Union, a directive must be created that can respond to the problems that have occurred and may occur in the future. The objective of this study is to gain a deeper understanding of product liability in the digital age. To achieve this, the new directive will be compared to the previous directive, with a particular focus on the implications of the digital age for product liability. The aim of this comparison is to gain insight into the intentions of the legislator, which will inform the interpretation of the new directive. To this end, a series of legal arrangements were instigated in order to overcome the difficulties posed by the innovations introduced by digitalisation, particularly within the European Parliament. Furthermore, various legal sources, including ELI, have provided recommendations to support this process. The digital age has been advanced in legal terms as a result of this initiative. Finally, the European Parliament has approved the draft legislation, and it is now important to consider the legal implications of the articles in the directive and the potential challenges that may arise. In accordance with the principle of maximum harmonisation, this directive, which will have a direct impact on the laws of member states, should be evaluated in terms of its potential implications and the practical steps that can be taken today. It is essential to grasp the essence of the directive and its implications.

Keywords: product liability, digital era, digital products, technological developments, online platforms.

1. Introduction

The European product liability regime has emerged in response to the legal regulations on product liability in the United States. Given the size of the American market and its production capabilities, the necessity for legal regulations on products has become apparent, given the increasing likelihood of damage to such products. These regulations have served as a model for numerous legal systems. The European Union has adopted similar regulations in order to expand the market and to encourage market actors. The PLD was adopted in 1985 following the debate on a first draft

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published in 1976.¹ The 1985/EEC directive on product liability, which was established in 1985 as a revolutionary directive, has resulted in the harmonisation of legislation in the European region. The European Directive of 25 July 1985 concerning liability for defective products is the oldest and still most powerful example of European harmonization in the field of tort law.² In the wake of this significant advancement, numerous other countries have endeavored to align their domestic legislation with the directive. This has served as a noteworthy precedent for these countries. As we approach the present era, it has become necessary to modify the product concept in light of the changes brought about by the digital age. The most significant factor driving this evolution is the rapid digitalization and the emergence of autonomous devices in our lives. Consequently, in light of the necessity for revision, the legislator was compelled to update the 1985 directive, which is now almost 40 years old, by incorporating new elements. The proposal on product liability aims for a complete overhaul of the existing Product Liability Directive 85/374/EEC with the goal to ‘make it ready’ for digital products.³

The definitions set out in the 1985/374 EEC directive, which were created at a time when technological developments were less advanced, are no longer sufficient to address the challenges of today. It is therefore necessary to create new definitions that reflect the current state of technology. As the primary objective of the legislator is to protect the legal order, it is essential that the definitions are kept up to date to benefit the injured party. Furthermore, in accordance with the EU's objectives, it is necessary to establish regulations that are balanced in order to ensure that producers can continue their production, while also protecting them for the growth of the market. Consequently, it has become inevitable to create new regulations due to the needs.

As it has become increasingly challenging to be a source of solutions to new developments, legal authorities have initiated research to identify potential solutions to this problem. As a result of these studies, the European Union's own bodies have commenced research and continue to investigate in order to develop a directive that can address reliable and current issues in order to harmonise all countries. In light of these findings, the European Commission has formed a committee with the goal of facilitating adjustments to technological advancements. The objective was to identify strategies to address the multifaceted challenges posed to society by the products of both old and new technologies.

In May 2018, the European Commission entrusted a designated Expert Group (EG) to advise on the applicability of the Product Liability Directive (PLD) to traditional products, new technologies and new societal challenges (Product Liability Directive Formation) and to provide principles for possible adaptations of applicable laws related to new technologies (New Technologies Formation).⁴

¹ Bernhard A. KOCH, Jean-Sébastien BORGHETTI, Piotr MACHNIKOWSKI, Pascal PICHONNAZ, Teresa RODRÍGUEZ DE LAS HERAS BALLELL, Christian TWIGG-FLESNER, Christiane WENDEHORST: Response of the European Law Institute to the Public Consultation on Civil Liability – Adapting Liability Rules to the Digital Age and Artificial Intelligence, *Journal of European Tort Law* 13, no. 1 (2022): 25-63. <https://doi.org/10.1515/jetl-2022-0002>

² Cees C.van Dam: *European tort law* (Second edition). Oxford University Press, 2013.

³ Gerhard WAGNER: Liability Rules for the Digital Age - Aiming for the Brussels Effect (January 8, 2023). <http://dx.doi.org/10.2139/ssrn.4320285>

⁴ Andrea BERTOLINI, Francesca EPISCOPO: The Expert Group's Report on Liability for Artificial Intelligence and Other Emerging Digital Technologies: A Critical Assessment, *European Journal of Risk Regulation* 12, no. 3 (2021): 644–59. <https://doi.org/10.1017/err.2021.30>.

Academic and legal organisations that seek to inform the work of the European Commission and facilitate the production of a more effective directive through constructive debate have commenced the publication of their findings. One such organisation has taken the initiative to publish a guideline with the intention of contributing to the work on the directive. This directive emphasises the current problems and solutions, thereby providing a valuable indicator for future directive-making. It is notable that the ELI organization has made a particular contribution to this field through its findings and recommendations. It should be observed that these organisations acted in conjunction with the European Commission, with the intention of contributing to the ongoing process by presenting their statements at similar points in time.

“The European Law Institute (ELI) has already made a general contribution to the discussions on a reform of the PLD through its Innovation Paper: Guiding Principles for Updating the Product Liability Directive for the Digital Age (2021, hereinafter the ELI Innovation Paper).”⁵

“On the official side, the European Commission has submitted regular five-year reports to the EU Council and the European Parliament on the application of the Directive, carried out a formal evaluation of the Directive based on an extensive study that it had commissioned, and organized public consultations. Furthermore, it has formed an expert group for the domain of liability and new technologies and published a report on product safety and liability for defective products in the context of artificial intelligence, the Internet of Things, and robotics.”⁶

The European Commission is nearing the end of its work on this directive, which is now ready for publication. The support of this work has been instrumental in enabling the Commission to reach this point.

“Finally, the Commission has launched proceedings for revising the rules on product liability, in the direction that is suitable for the development of the circular and digital economy, and on 28 September 2022 adopted and published its Proposal for a Directive on liability for defective products.”⁷

It is also important to consider that with the objective of achieving the maximum harmonisation that has been set forth by the European Union, member countries will be required to adapt their legal systems directly. This will facilitate the prompt resolution of any issues or disputes that arise in one member state in another.

The fact that the European Union introduces articles on product liability as a directive as opposed to regulation also demonstrates the perspective of the legal systems of the countries involved.

The objective of this study is to identify and analyse the key issues surrounding product liability in the context of technological advancement. To this end, we have conducted a comprehensive examination of the concept of product liability, examining the evolution of this concept in light of technological developments. Our analysis draws upon insights from various European organisations and studies. The objective of this analysis is to examine the differences between the current directive and the previous directive in order to gain a better understanding of the diversity that occurs in product liability. This will be achieved by analysing the work of various working groups.

⁵ Gerhard WAGNER: Liability Rules for the Digital Age: Aiming for the Brussels Effect, *Journal of European Tort Law* 13, no. 3 (2022): 191-243. <https://doi.org/10.1515/jetl-2022-0012>

⁶ Marija Karanikic MIRIC: Product Liability Reform in the EU., *EU and Comparative Law Issues and Challenges Series*, vol. 7, no. 1, 2023, pp. 383-413. <https://heinonline.org/HOL/P?h=hein.journals/euclmlihs7&i=395>.

⁷ *IBID.*

2. A Perspective on the Digital Age from the ELI

The work that has contributed to the new product liability directive and aims to solve current problems is a useful resource for understanding the new directive. In particular, the definitions of concepts such as digital product, digital service, online market, data have broadened the perspective of product liability and once again demonstrated the importance of these concepts.

The ELI definition is intended to maintain a balance between the interests of producers and consumers, in order to compensate for the damage caused by the evolving concept of products and the product in question, and to ensure the protection of products, given the significant role that digital products play in our lives.

Firstly, it is necessary to address the current issues in the guiding principle issued in 2021.

According to the Guiding Principle 3, “with the possibility of digital monitoring of product performance facilitated via the internet, as well as updates to digital elements, the static approach of the PLD needs to become more dynamic, eg, by abandoning the focus on when a product is ‘put into circulation’ as a central aspect of the PLD whenever digital elements are involved.”⁸

In light of the introduction of digital products into everyday life, ELI aims to highlight the challenges posed to the traditional concept of product placement under the old directive. The difficulty in defining the moment of product release is further compounded by the fast-paced, online market.

In light of the rapid advancements in technology and the evolving dynamics of product liability, ELI drew attention to the inadequacy of the previous directive in addressing the challenges posed by these developments. Furthermore, the increasing prevalence of digitalisation has brought with it a corresponding expansion in product liability concerns. In the previous directive, it was highlighted that there may be a discrepancy regarding the point at which the producer's liability arises, particularly in the context of digital services and products, which have become an integral part of our lives. As the market expands, it becomes increasingly challenging to ascertain the point at which a digital product is made available to the public and to identify the individuals within the producer chain.

ELI articulated the followings in Guiding Principle 4: “The definition of ‘product’ in the PLD should be updated to cover (i) the combination of goods with digital elements and (ii) digital content and digital services supplied as ‘digital products’. Furthermore, individuals also acquire digital content or digital services separately from any tangible items, eg, in the form of apps installed on tablets or smart phones. These extensions will also ensure that the PLD will apply to the Internet of Things (IoT), ie, instances where multiple products are connected and interact with one another (eg, by exchanging data which then determines how each product operates).”⁹

The concept of a digital product has been broadened considerably, thus affording the consumer a wider range of options for compensation for damage caused by the product. In the previous directive, services were not included in product liability; however, it is of great importance that

⁸ Christian TWIGG-FLESNER: Guiding Principles for Updating the Product Liability Directive for the Digital Age (Pilot ELI Innovation Paper) (January 20, 2021), European Law Institute (January 2021), Available at SSRN: <https://ssrn.com/abstract=3770796>

⁹ Ibid.

digital services are also included in product liability. With the expansion of the definition, digital products that interact with each other are also part of the responsibility.

The introduction of the concept of digital services and content into that of the digital product represents a significant innovation in comparison to the definition of product as set forth in the previous directive. Consequently, any damages resulting from information and recommendations published in a newspaper or on a digital platform are also encompassed by the scope of product liability. Furthermore, the concept of updating has undergone a transformation, potentially giving rise to instances where the manufacturer's right of avoidance may be invoked. A user who declines to accept the manufacturer's updates to a digital product will be unable to benefit from product liability, as the updates are designed to address any issues with the product.

The Guiding Principle 5 states as follows: “The PLD is based on a linear one-directional distribution system along a chain of contracts. However, many goods with digital elements no longer fit this model, not least because in many instances, the supply of a physical item is connected with the supply of digital content or a digital service. Similarly, digital content and digital service as a product are often not supplied one-directionally, eg, because of the need to update the digital content or digital service, or because data flows from consumer to the producer or operator of the digital content/digital service.”¹⁰

The updating feature of digital products means that the product is no longer included in the market in a singular form; as a result, the original manufacturer and other actors are unable to simply put the product onto the market. The product must be updated, and interactive products must be adapted, in order to remain aligned with the evolving digital landscape and to meet the demands of the new directive.

“There are many different business models for online platforms, with some limiting their role to that of a passive intermediary, with others having varying degrees of a more active involvement in facilitating and performing transactions via their platforms. Some platforms take over significant aspects of the supply, eg, where an online marketplace offers warehousing, order processing and distribution on behalf of a business, often located outside the final recipient’s country and, indeed, the EU. The definition of producer in the PLD should be extended further to include online platforms taking an active role in the distribution of products, adopting the definition of ‘fulfilment service provider’ used in the Market Surveillance Regulation.”¹¹

In particular, during the global pandemic, the online market, which has experienced significant growth, is expanding rapidly. The integration of online markets and platforms into our lives has led to the emergence of a global market concept. Consequently, the definition of those responsible for damages should be expanded. Furthermore, numerous types of sales, such as food ordering through online platforms, have become prevalent, necessitating the inclusion of the concept of service providers within the scope of product liability.

The primary objective of legal studies is to enhance competition within the European Union, thereby safeguarding and expanding the market. It is also beneficial to acknowledge that product liability is a field of study that has emerged in conjunction with product safety and consumer protection legislation. Interdisciplinary developments have a cascading effect, necessitating a comprehensive examination of situations from a broad perspective.

¹⁰ Ibid.

¹¹ Ibid.

Guiding Principle 6: “The notion of ‘defect’ which triggers the producer’s liability should be reconsidered to reflect the particular features of digital products and digital elements.”¹²

The concept of damage should also be examined in the context of digital developments. Once the concept of a digital product is internalised, product liability arises as a result of damage caused by errors in the product. One of the key issues here is the issue of product updating. Consumers who do not make updates will not be able to go to the manufacturer on behalf of product liability.

As can be observed in the revised product liability concept, the most significant modification concerns digitalisation.

The primary importance of the ELI lies in its capacity to delineate the emerging legal issues and suggest potential resolutions. This authoritative guidance, compiled by a distinguished group of legal scholars and experts, has proved invaluable in comprehending the advantages and disadvantages of the newly introduced directive. It is, therefore, crucial to increase the availability of such legal materials, as this will facilitate a more expeditious resolution of legal matters. Furthermore, the fact that these sources are in the nature of a recommendation, rather than a process of adaptation in the laws of the country, facilitates the formation of legal resources, enabling a more expedient response to current problems and a more timely discussion of the appropriateness of the current problems.

3. Considerations on the implications of the digital age from the perspective of the old and new the directives

The definitions set out in the 1985/374 EEC directive are no longer sufficient to address the challenges of today. It is therefore necessary to create new definitions that reflect the current state of technology. As the primary objective of the legislator is to protect the legal order, it is essential that the definitions are kept up to date to benefit the injured party. Furthermore, in accordance with the EU's objectives, it is necessary to establish regulations that are balanced in order to ensure that producers can continue their production, while also protecting them for the growth of the market. Consequently, it has become inevitable to create new regulations due to the needs.

It is beneficial to begin with the product, which is the primary element of the concept of product liability.

3.1. Product

In 1985, the definition of product in the new directive was formed by the addition of the definition of product in the PLD. The most significant aspect of this revised definition is the concept of product, which has been considerably expanded by the inclusion of the terms digital product and service. It is also important to note that not all digital services are subject to the liability of the product. In order for a product to fall within the scope of liability, it must be engaged in a commercial activity.

¹² Ibid.

The definition of product also includes electricity, digital manufacturing files and software. Digital manufacturing files are defined as "digital manufacturing file" means a digital version or a digital template of a movable."¹³

It can be observed that no new regulation has been created *de novo* in accordance with the EU directive studies. Instead, the new directive appears to be an enhanced version of the existing directive. In particular, the incorporation of concepts that were not previously regulated in the previous directive has led to an expansion of the scope of protection provided by the law for both the producer and the injured party. In the current era, where digitalisation is becoming increasingly prevalent, the incorporation of digitalisation within the scope of the product represents a highly innovative and positive advancement.

As can be observed, the digital market and its associated concepts, which are currently experiencing exponential growth and have already reached a significant number of consumers, have been given particular emphasis in this context, with a view to avoiding potential legal disputes.

Furthermore, the concepts of digital products and data, which are also included in the articles of the ELI, were defined and constituted the primary source of the directive.

Recital (17) "While this Directive should not apply to services as such, it is necessary to extend no-fault liability to integrated or inter-connected digital services ('related services') as they determine the safety of the product just as much as physical or digital components." However: "software is a product for the purposes of applying no-fault liability, irrespective of the mode of its supply or usage, and therefore irrespective of whether the software is stored on a device, accessed through a communication network or cloud technologies, or supplied through a software-as-a-service model." (Rec. 13)¹⁴

The scope of the digital service, which represents an important departure from the old directive and offers a notable advantage, assumes particular significance here. The service concept, which differs from that of the product, is a source of product liability. Therefore, it is necessary to handle this concept differently. While the service concept is within the scope of the broader concept of product liability, it must fulfil numerous requirements. One of the crucial requirements is that the service must be integrated or interconnected with the product. The legislature has not deviated from its original principle and has accepted the service as a part of the product, which is also the main subject. Consequently, services such as software, which are inseparable from the product and cannot be discussed in the absence of one or the other, are encompassed by the purview of product liability. It is possible that damage may occur as a consequence of a software error in the product, which would give rise to the manufacturer's liability. In essence, the fundamental principle of product liability, namely the responsibility of the manufacturer in the event of a product's fault, remains unchanged. However, the digital age has brought about innovations that necessitate a broader interpretation of the law. Moreover, the liability of digital service providers is conditioned by their commercial activities, and they have sought to restrict their liability as extensively as possible.

¹³ Proposal for a Directive of the European Parliament and of the Council on liability for defective products COM/2022/495 final

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0495>

¹⁴ Position of the European Parliament adopted at first reading on 12 March 2024 with a view to the adoption of Directive (EU) 2024/... of the European Parliament and of the Council on liability for defective products and repealing Council Directive 85/374/EEC; https://www.europarl.europa.eu/doceo/document/TA-9-2024-0132_EN.html

3.2. *Defect*

“A product shall be considered defective when it does not provide the safety which the public at large is entitled to expect, taking all circumstances into account. A product shall not be considered defective for the sole reason that a better product, including updates or upgrades to a product, is already or subsequently placed on the market or put into service.”¹⁵

The concept of defect is analogous to the previous directive. In addition to product safety standards, the necessity to comply with cybersecurity is also introduced. It can be inferred from this that cybersecurity has been introduced as an audit standard, and digital products and services that do not comply with it will be considered faulty. The sole distinction between the previous directive and the new digital standard is the addition of the latter.

As the concept of defect is derived from that of product, the concept of defect has also evolved in parallel with the evolution of the concept of product. Consequently, the concept of defect encompasses damages resulting from digital reflections caused by digitalisation. It is crucial to examine the alterations in the concepts of updating and predictability as they relate to the previous directive in the context of digitalisation. In the previous directive, the adequacy of a product at the time of its release to the market did not permit the manufacturer to be held liable for updates after that time. However, with the advent of the new directive, the ability of the manufacturer to avoid product liability has also undergone a transformation, with the capacity to update the software of digital products becoming a significant factor.

A comparable approach is that digital products should be updated and that digital products should comply with product safety standards. This is also stated in the articles of the ELI.

3.3. *Damage*

In the definition of the concept of damage, although the initial conditions are the same as in the old directive, with the recently added article "(c) loss or corruption of data that is not used exclusively for professional purposes,"¹⁶ it is understood that product liability will arise when the concept of data also causes damage.

Data means “data as defined in Article 2, point (1), of Regulation (EU) 2022/868 of the European Parliament and of the Council;”¹⁷ The concept of data has been defined separately, and the concepts of digital life have begun to enter the law. As a result of this significant innovation, the concept of product liability has developed considerably.

The incorporation of the concept of data into the domain of product liability is designed to align with other directives, with a reference being made to the other directive for its definition. It is incorrect to view product liability as a single directive in isolation. The most significant indication

¹⁵ Proposal for a Directive of the European Parliament and of the Council on liability for defective products COM/2022/495 final; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0495>

¹⁶ Ibid.

¹⁷ Ibid.

of this is demonstrated above. While the scope of product liability is expanded, certain limitations are also introduced to ensure a balanced approach.

Furthermore, it should be noted that in the new directive, there is no financial recourse limit in the damage section. The absence of a limit is a notable improvement for the injured party. In our view, the fact that damages caused by a defective product below the determined financial limit were not considered represented a limitation that the manufacturer could exploit to its own advantage in bad faith. With the disappearance of this limitation, the control of the manufacturer has become stricter.

3.4. Responsible persons

The introduction of the new directive has led to an expansion of the definition of responsible legal subjects. Consequently, individuals who provide online platforms or perform the specific work of any product liability subject will now also be held liable for damage caused by the use of online platforms. “Paragraph 5 shall also apply to any provider of an online platform that allows consumers to conclude distance contracts with traders and that is not a manufacturer, importer or distributor , provided that the conditions of Article 6(3) set out in Regulation (EU).../... of the European Parliament and of the Council on a Single Market for Digital Services (Digital Services Act) are fulfilled.”¹⁸

The responsibility of online platforms is a significant development. The market for online platforms is expanding, and the convenience it offers to consumers is a key factor in their preference for online platforms over physical ones.

In addition, the responsibility of service providers is now more clearly defined. In addition to the 1985 PLD, a one-month time limit has been introduced for distributors to inform consumers of the identity of the manufacturer upon request. Consequently, the introduction of this time limit will facilitate the injured party's ability to claim their rights. Furthermore, it is evident that the legislator's objective of maintaining equilibrium between the producer and its derivatives and the injured party has been achieved in a positive manner. The time limit has enhanced the injured party's prospects of obtaining compensation for their damages through an effective remedy. Conversely, the legislator did not impose a short time limit, and the distributor, who is required to provide information, has a long time in legal terms. In our opinion, the balance has been achieved in a favourable manner.

The key issue is the identification and definition of the relevant actors in the digital market, given its expanding and complex nature. This is an area of considerable growth, with the digital market being one of the most preferred markets of the present day. Furthermore, the importance of the digital platform and marketplace, and the role of online distributors in facilitating access for injured parties, was highlighted by ELI. This is in the context of expanding liability. The issue of the balance between the consumer and the manufacturer is also becoming increasingly pertinent in the context of expanding liability.

¹⁸ Eur-lex. (2022). Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on liability for defective products COM/2022/495 final; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0495>

4. Conclusion

The concept of the product, which will continue to exist in line with the needs as long as human existence exists, sheds light on how the damaged person will follow a path due to the errors that may occur when entering the market. The person who buys the product must be treated equally with other people who buy the product in accordance with the standards. Furthermore, as a consequence of the trust that consumers place in the producer, the latter is obliged to comply with certain obligations of care when producing and selling the product. These obligations of care are the safety standards determined according to the conditions of the period and it is guaranteed by the law that the manufacturer cannot be held responsible for a mistake that the technical knowledge and teaching of the period does not know. The rationale behind this guarantee is the concept of foreseeability, which is enshrined in the legal system. The law does not permit the imposition of liability on a person for an unforeseeable danger.

The issue of product liability has shown that it has always been an important legal dispute. With the subsequent production revolutions and mass production, the problems related to product liability have increased in legal terms. In light of these mounting concerns, countries across the globe have sought to reinforce their legal frameworks to address potential disputes. The rationale behind discussing mass production is that when we examine the dates of legal regulations in various countries, we find that the majority of these laws were enacted after the advent of the Industrial Revolution and the subsequent rise in factorization. Furthermore, the fact that countries have enacted legal regulations on these dates as a result of the growing market and accelerated consumption due to digitalization today is clear evidence of this. The increased reach of products to a larger consumer base inevitably leads to an increased potential for defective products. Consequently, when such damage occurs, it must be meticulously examined, particularly since the injured party must be safeguarded, while the balance between the manufacturer must be reasonable.

The evolution of legislation has consistently reflected the evolving needs of society. In the contemporary context, the most pressing issue is the legal framework governing the rapidly evolving digital marketplace. This encompasses a diverse array of market, service, and product offerings that are increasingly omnipresent in our lives. Ensuring a balance between the various stakeholders in this dynamic environment is crucial.

In light of these developments, a new directive has been introduced to address the evolving needs of the digital age. This directive, which has been in the works for several years, has now been finalized. The regulation was enacted to clarify the compensation of the injured party and the manner in which insurance companies should proceed. Furthermore, the liability limits of responsible parties, such as manufacturers and distributors, were defined, and their defense rights were extended. It is of great importance to achieve a balance between the parties involved, as both have a significant role to play in terms of sustainability, in line with the European Union's aim of protecting the consumer and expanding its market.

From a legal perspective, product liability is a legal liability that has certain conditions and cannot be used without meeting these conditions. Product liability, which emerged mainly as a perfect liability, is characterized as holding the manufacturer responsible in every way as a result of the defective product. It is the most severe type of liability that can be imposed on the manufacturer and is intended to protect the purchaser who needs legal protection. The concepts of product, damage and causal fault, which are the elements used to determine liability, have been important factors in determining the liability of the manufacturer. The legislator sought to balance

the heavy responsibility given to the producer by imposing conditions of liability and giving the possibility of defense. After all, without the market, people will not be able to meet their needs, and the growth of the market is a necessity for the increasing world population and should be encouraged wherever possible. The burden of proof is placed on the injured party in order to achieve a balance of interests, since the injured party may seek redress from third parties such as sellers, distributors, etc. other than the producer.

From this perspective, it is evident that the law plays a pivotal role in the continued functioning of society, as it is responsible for defining the parameters of legal disputes and future disputes, as well as maintaining a balance between the parties. In the contemporary era, the advent of digital change and autonomous products has become a pervasive aspect of our daily lives. In light of this, it becomes evident that the law, as a construct of human ingenuity, must evolve and adapt in tandem with the ever-changing landscape of humanity.