

Netherlands

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Civil litigation system

1 What is the structure of the civil court system?

A claimant wishing to commence civil proceedings against the defendant will start at the district court, unless the claim amounts to less than €5,000. The claimant and defendant are entitled to appeal to two courts after a final decision by the district court: the Court of Appeal and the Supreme Court. The Supreme Court is the highest instance. A decision of the Supreme Court is final and the court proceedings regarding that particular dispute end with a decision of the Supreme Court. The Supreme Court does not re-examine the facts of the case.

2 What is the role of the judge in civil proceedings and what is the role of the jury?

The role of a judge in the Netherlands civil law system is passive. The judge determines his or her decision on the information and facts that are presented by the parties. The judge will render a decision based on the Netherlands Civil Code (Dutch Civil Code, DCC) and other laws as well as international conventions. A judge may consult case law to see what other judges decided in comparable cases. The judge may use this case law as a guideline or deviate and give a different decision. The Dutch court system is adversarial.

Judges are appointed for life. In practice judges usually retire at the age of 70. The Dutch court system has no jury, nor any other form of lay participation.

3 What are the basic pleadings filed with the court to institute, prosecute and defend the product liability action and what is the sequence and timing for filing them?

The basis pleadings filed with the court to institute, prosecute and defend product liability actions are described in the following overview.

First the claimant files a writ of summons, usually six weeks after introduction of the case to the court. Extensions are possible. The defendant then issues a statement of defence in a time frame decided by the court, approximately three months. This is followed by a hearing (*comparitie van partijen*). The court has a discretionary authority to pass over the hearing.

Subsequent to the hearing the court can choose from the following paths:

- interlocutory decision (an instruction to either party to prove specific aspects);
- final decision; or
- statement of reply (plaintiff is granted six weeks, extension possible), followed by

- statement of rejoinder (defendant);
- counsel's pleadings (only upon request of either of the parties); and
- decision (interlocutory or final).

4 What is the basic trial structure?

For the role of the judge and the structure of the legal proceedings in the Netherlands court system, see question 2.

Court proceedings in the Netherlands mainly consist of the exchange of written statements between the parties. The Dutch court system does not have a trial as is customary in other jurisdictions. The respective lawyers (*advocaten*) write the various statements such as the writ of summons, statement of defence, rejoinder, statement of reply and advise their clients on all legal and court-procedural elements of the legal proceedings.

The court will usually schedule a hearing after the defendant has submitted his or her statement of defence. The purpose of this hearing is for the court to obtain further (factual) information to assess a possible settlement of the dispute between the parties, and (sometimes) to allow the lawyers to plead their clients' cases.

5 Are there class, group or other collective action mechanisms available to product liability claimants? Can such actions be brought by representative bodies?

Claimants whose individual claim may not be substantial enough to justify expensive legal proceedings might benefit from a class action. Such a group of claimants may emerge when media attention is focused on the mass-damage. Individual claimants must consolidate their individual claims. Under Dutch law this consolidation is governed by article 220 DCCP. Groups of claimants may instigate legal proceedings by means of the following collective action mechanisms.

The most important collective action mechanism for claimants is article 3:305a of the DCC. Sub 1 states that a foundation or association with full legal capacity may institute an action intended to protect similar interests of a group of persons to the extent that its articles of association feature such interests.

A class action by foreign organisations is available. Article 3:305c of the DCC states that an organisation with its registered office outside the Netherlands (placed on the list referred to in article 4(3) of Directive 98/27/EC) may institute an action for the protection of similar interests of a group of persons with their habitual residence in the country where the organisation is established, where the object of the organisation is to represent such collective interest.

All aforementioned organisations must attempt to reach amicable settlement before a class action can be brought (article 3:305a sub 2 of the DCC).

The effect of a class action is limited because under Dutch law it is not possible to obtain financial compensation in a collective action. This is only possible under the Class Action Final Settlement Act (1 August 2005). A class action is usually brought to obtain declaratory or injunctive relief. Under Dutch law it is not possible to determine the individual financial damage in a class action because personal factors determine the scope of the individual damage. A declaratory judgment that the producer is liable for damages is therefore not possible. After obtaining a collective declaratory judgment on issues of law, facts or both, the individual claimant seeking financial compensation has to file an individual claim. Individual claimants can then negotiate regarding their compensation or initiate further proceedings before a district court. In such proceedings the individual merely has to prove the extent of the damages suffered. Furthermore, a group of claimants can grant power of attorney to one party to file the claims on their behalf.

The Class Action Final Settlement Act is incorporated in article 7:907 of the DCC. The legal procedure to obtain court approval is stated in the articles 1013 - 1018 DCCP.

The legal entity representing the claimants may agree with the defendant on a collective settlement. Article 7:907, section 1 of the DCC states that the Amsterdam Court of Appeal (*Gerechthof Amsterdam*) has the right to declare such a collective settlement binding for the claimants participating in the class action. Article 7:908, sub 2 of the DCC states that a collective settlement has no effect on individual claimants who, within a limited time frame set by the court, notify the Amsterdam Court of Appeal that they do not intend to be bound to the settlement (opt-out).

6 How long does it typically take a product liability action to get to the trial stage of the proceedings and what is the duration of such a trial?

Multiple factors make it difficult to estimate how long a product liability case will take. For example, if evidence is to be given by witnesses or by experts, this will cause considerable delay.

In question 2 an overview is presented from the basic pleadings filed and the duration of the several stages of the proceedings up to the final decision in the first instance.

A final decision can be given within the following time frames:

- first instance: approximately one-and-a-half to two years from introduction of the writ to the final decision; and
- appeal: approximately one-and-a-half to two years from introduction of the appeal writ to the final decision.

It is important to note that these periods are rough estimates only. In the simplest of matters it may be that proceedings can be followed through in less than one year. At the same time, more complicated matters may take up to four, five or more years before a judgment in first instance is handed down.

Evidentiary issues and damages

7 What is the nature and extent of pre-trial preservation and disclosure of documents and other evidence? Are there any avenues for pre-trial discovery?

The Netherlands legal system has no formal pre-trial discovery. However, there are a few other instruments to help parties before commencement of the proceedings on their merits. These are

the provisional hearing of witnesses (*voorlopig getuigenverhoor*, articles 186 - 193 DCCP), provisional expert advice (*voorlopig deskundigenbericht*, articles 202 - 207 DCCP), a claim to inspect and copy records (article 843a DCCP) and a claim to receive a copy, extract and inspect lost evidence (article 843b DCCP).

8 How is evidence presented in the courtroom and how is the evidence cross-examined by opposing party?

The claimant has the obligation to substantiate his or her claim with evidence, usually documentary. The claimant must present all available evidence in the writ of summons, either in the writ of summons itself or as an exhibit attached to it. The court system in the Netherlands is based on the principles that evidence can be provided by all legal means available and that both sides of the argument should be heard (*audi alteram partem*). Proceedings mainly consist of the exchange of written statements.

The defendant may cross-examine the evidence of the claimant and should present all his or her evidence in the statement of defence. Each party can call witnesses and experts in incidental proceedings subject to the court's approval. The court in first instance or in appeal can order a party to submit further evidence in respect of specific facts or circumstances.

If witnesses are heard a cross-examination of the opposing witnesses is possible. The court supervises the cross-examination.

9 Does the court have the authority to appoint experts? May the parties influence the appointment and may they present the evidence of self-selected experts?

Based on article 194 of the Dutch Code of Civil Procedure, (DCCP), the court has the authority to appoint experts. Before court proceedings are underway, each party may request the court to allow expert advice on a specific issue. The judge may consult parties about which persons qualify as expert. Parties have the opportunity to influence the appointment of the expert by issuing objections. However, the judge is not obliged to follow objections raised by the parties (article 194, sub 2 of the DCCP).

Each party is free to submit opinions from its own experts. In the event the opinions of the experts of each of the parties are conflicting, the court usually appoints its own expert.

10 What types of compensatory damages are available to product liability claimants and what limitations apply?

The general rule in the Dutch legal system is that damages claimants can recover relate to the actual proven damage.

The following types of compensatory damages regarding product liability are available:

- damages related to death;
- damages related to personal injury;
- mental injury;
- property damage;
- damage to the defective product; and
- non-material damages.

Articles 6:185 to 6:192 of the DCC states a specific regime of strict liability regarding claimants who are private persons. This applies to damage due to a defective product that caused death or personal injuries, or damage caused by the product to another object (property damage) that is usually intended for private use or consumption, and that has indeed been used or consumed by

the person suffering the loss, principally for private purposes, with an excess or deductible of €500 (article 6:190 of the DCC).

Damages for death (strict liability)

Article 6:108 of the DCC states that certain persons such as the registered partner, the children and the spouse of the deceased can only claim damages for death. The damages comprise, for example, the amount of maintenance to which they are entitled by law in the event the deceased was the provider of the claimants.

Damages for personal injury (strict liability)

This type of injury is recoverable under article 6:107 of the DCC. This includes, for example, hospital costs. Under Dutch law, the general rule is that only the injured person is compensated for damages arising from personal injuries.

Mental injury (sometimes strict liability)

Mental injuries relate to non-physical injuries. For example, the emotional damages of a person who was involved in a car accident and suffered, besides physical injuries, non-physical injuries as a result of that accident. This type of damages may only be claimed if it is based on tort.

Property damage

Property damage can be divided into damage to private property and property damage to other material objects. Article 6:190 of the DCC limits the private property damage that can be claimed under article 6:185 of the DCC. It is required that the defective product was intended for private use. Besides that, the defective product must be used in domestic circumstances. The injured party must prove the domestic use of the damaged object.

Unless the property belongs to a private person, property damage cannot be based on article 6:185 of the DCC. This means that a product liability case for property damage to companies should be based on a claim under contract or in tort.

Damage to the defective product

The damage to the defective product is excluded from article 6:185 of the DCC. This type of damage refers to the usefulness or unsuitability of the product, but also to the damage within the product. Damage resulting from this, such as reduction in value, repair cost and financial loss can be claimed based on contractual liability or in tort.

Non-material damage

This type of damage can be claimed in tort, pursuant to article 6:106 of the DCC. The person suffering the loss has the right for damages to be fairly assessed. The damages should largely relate to damage to the claimant's honour, reputation or right to privacy (article 6:106, sub 1b of the DCC). Generally, relatively modest amounts are awarded for non-material damages in the Netherlands. Reasonable costs made to avoid or limit damages (costs of mitigation) can also be claimed based on 6:96 of the DCC. Punitive damages are not available in the Netherlands.

The level of damages recoverable for death or personal injury is not limited under the provisions of the Netherlands Product Liability Act and there are no set limits on recovery under national provisions. However, based on article 6:109 of the DCC, the court may reduce a legal obligation to pay damages if a full award of damages would lead to clearly unacceptable results in the given circumstances, including the nature of the liability, the existing legal relationship between the parties and the financial

capacity of both parties. The courts are free to decide independently on the level of damages to be paid to the injured person. This makes it difficult to estimate what level of damages can be expected. This depends on several factors such as the individual circumstances of the case. The courts decide on a case-by-case basis what level of damages is reasonable. The authority of the court to reduce a legal obligation to pay damages is applied very restrictively.

11 Are punitive, exemplary, moral or other non-compensatory damages available to product liability claimants?

In the Netherlands punitive, exemplary, moral or other non-compensatory damages are not recoverable.

Litigation funding, fees and costs

12 Is public funding such as legal aid available? If so, may potential defendants make submissions or otherwise contest the grant of such aid?

In the Netherlands legal aid is available based on the Acts on Legal Aid. Potential defendants may not challenge the granting of such aid.

13 Is third-party litigation funding permissible?

In the Netherlands third-party litigation funding is permissible. There are no limitations or restrictions on this type of funding. In the Netherlands no formal arrangement exists regarding the funding of collective actions. At this moment most collective actions are financed by means of contributions from the individual claimants.

14 Are contingency or conditional fee arrangements permissible?

Based on the Rules of Conduct 1992, lawyers are allowed to some extent to agree on arrangements that comprise contingency and conditional fees (article 25, sub 3 of the Rules of Conduct). However, lawyers are not allowed to agree on no-cure-no-pay conditions (article 25, sub 2 of the Rules of Conduct).

15 Can the successful party recover its legal fees and expenses from the unsuccessful party?

The successful party can to some extent recover legal fees based on fixed tariffs, which usually do not exceed one-third of the actual legal costs.

Sources of product liability laws

16 Is there a product liability statute that governs products litigation?

A claim regarding product liability in the Netherlands may be based on three grounds, which can be assessed by the claimant simultaneously: the Netherlands Product Liability Act (statutory liability), contractual liability and tort based liability.

Article 6:185 of the DCC imposes a strict liability on the producer. This only applies to claimants suffering damages related to death or personal injury (article 6:190, sub 1a of the DCC) or property damage intended for private use (article 6:190, sub 1b of the DCC). In contractual relationships between companies or persons acting as professionals, liability in principle can be limited or excluded by contract or standard terms and conditions.

Even if a claimant has a right of action under article 6:185-6:192 of the DCC, he or she may equally lodge a claim under

contract against the supplier or in tort against another party who is responsible for bringing the product to the market. Formally liability for a claim based on contract or in tort is fault-based. However, if a defect (and subsequently caused damage) is proven, this will usually suffice to establish liability. Therefore, product liability cases may be based on the contractual relationship between the consumer and the producer or supplier or on an unlawful act (tort) on the part of the producer or supplier.

The seller is not liable for the damage referred to in articles 6:185 to 6:192 of the DCC unless:

- the supplier was aware (or ought to have been aware) of any defects;
- the supplier warranted the product to be free from specific defects; or
- it relates to damage to circumstances for which pursuant to articles 6:185 to 6:192 of the DCC there is no right to compensation.

If a consumer (not acting in a professional capacity) and a supplier have a contractual relation, the liability of the supplier towards the consumer cannot be excluded (article 7:6, sub 1 of the DCC) besides the exonerations mentioned in article 6:185 of the DCC (see questions 27, 28 and 29).

17 What other theories of liability are available to product liability claimants?

As mentioned in question 16, the most important section for product liability in the DCC is article 6:185 to 6:192 of the DCC. However, property damage and pecuniary damage suffered by others besides private persons have to be based on tort and contract.

18 Is there a consumer protection statute that provides remedies, imposes duties or otherwise affects product liability litigants?

For a brief outline of the consumer protection statute, see question 16. The producer has an obligation to recall unsafe products, which are put in circulation. This recall obligation is based on the Dutch Commodities Act or on product specific legislation (eg, the General Food Law). Besides that, the producer has the obligation to warn the user explicitly about the unsafe products. See question 25 for more detailed information.

19 Can criminal sanctions be imposed for the sale or distribution of products determined to be defective?

If a person places a defective product into circulation that may be harmful to consumers, this may constitute a breach of the Economic Offences Act. It may also qualify as a criminal offence under the Dutch Criminal Code. The person who placed the defective product into circulation, and knew about this, risks a fine, or, if it is a business, also a ban from doing business for a certain period of time. Under the Dutch Criminal Code, the person who placed the defective product into circulation may be prosecuted based on a criminal offence. The imposed fines under the Dutch Criminal Offences Act are more severe than those under the Economic Offences Act.

20 Are any novel theories available or emerging for product liability claimants?

See question 31.

21 What breaches of duties or other theories can be used to establish product defect?

The most important element of article 6:186 of the DCC is the safety criterion: the safety a user may reasonably expect from the product.

A product is defective when it does not provide the safety that a person is entitled to expect, taking all circumstances into account. These circumstances include the product's presentation, the date when it was put into circulation, and its reasonably expected use. The mere fact that a 'better' product is put into circulation shall not render the prior product defective.

The producer furthermore has to take into account that the product is not always used in accordance with its purpose. Besides that, the producer has to take into account that the consumer will not take all prescribed precautionary measures. This is in accordance with established legal precedent (warm-water *kruik* case). For example, the producer of medicine has to take in account that the user exceeds the prescribed dosage. Within reasonable limits, the producer has to anticipate wrongful use.

The court evaluates the severity of the sustained injury, the frequency and the existence of alternatives.

22 By what standards may a product be deemed defective and who bears the burden of proof? May that burden be shifted to the opposing party? On what standard must defect be proven?

Under Dutch law the standards to determine whether a product is defective, are stated in article 6:186 of the DCC.

A product is defective when it does not provide the safety that a person is entitled to expect, taking all circumstances into account, including:

- the presentation of the product;
- the use to which it could reasonably be expected that the product would be put; and
- the time when the product was put into circulation.

Literature and jurisprudence also qualify products with manufacturing defects, design defects and inadequate instructions or warnings (failure to warn) as defective products.

Article 150 of the Court Civil Proceedings states that the claimant bears the burden of proof of the defect and the corresponding damage. The court may however decide to shift the burden of proof to the defendant. For example, as mentioned in question 18 a producer has the obligation to warn the user. If in a tort-based case, the producer fails to warn the public about an unsafe product, the court can decide that not the claimant has to prove the producer failed to (adequately) warn, but that the producer has to prove he warned the user adequately about the unsafe product he or she put into circulation (see also question 24).

23 Who may be found liable for injuries and damages caused by defective products?

Under Dutch law, in product liability cases that are based on article 6:185 of the DCC the producer is liable for injuries and damages. The 'producer' in this context means the manufacturer of a finished product, the producer of raw material, or the producer of a component part and any person who, by putting his or her name, trade mark or other distinguishing feature on the product presents himself or herself as the producer (article 6:187, sub 2 of the DCC).

Without prejudice to the liability of the producer under article 6:185 of the DCC, article 6:187, sub 3 designates any person

to a producer who imports a product into the European Economic Area for sale, hire, leasing or for any form of distribution in the course of his or her commercial activities. This person shall equally be responsible for damages as a producer.

If the product liability case is based on contract, the other (contractual) party is liable for the injuries and damages. Finally, if a product liability case is based on tort, every party (manufacturer, importer, distributor, seller, etc) who put the defective product into circulation is liable for the injuries and damages of an injured party.

24 What is the standard by which causation between defect and injury or damages must be established? Who bears the burden and may the burden be shifted to the opposing party?

Causation is stated in article 6:98 of the DCC. This article states that reparation of damage can only be claimed for damage that is sufficiently related to the event giving rise to the liability of the defendant that, having regard to the nature of the liability and of the damage, can be attributed to him or her as a result of such event.

Under Dutch law causation is necessary for establishing liability. A distinction is made between establishing liability (*conditio sine qua non*) and the extent of liability. In this respect the consequences have to be established that can be attributed to the defendant as a result of the behaviour that caused the damage.

Article 6:98 of the DCC states the criterion for all legal obligations to repair damages. Its purpose is to answer legal questions based on objective factors such as the nature of the liability, the nature of the damage, the extent of objective foreseeability and so on. The injured person has to prove the causation between the situation that caused the damage and the damage itself. If behaviour that qualifies as tort or contractual liability results in damage, the causation between the behaviour and the damage is in principle established. The defendant has the obligation to produce *prima facie* evidence that the damage would also have originated without the defect in the defendants' product.

Regarding product liability, article 6:188 of the DCC states that the injured person is required to prove the damage, the defect and the causal relationship between defect and damage (CSQN). The *res ipsa loquitur* doctrine applies to the defect in the product when it is determined that the defect existed despite the fact that the product was used in accordance with its purpose by the user. The *res ipsa loquitur* doctrine means that the producer has the obligation to furnish facts and the burden of proof that the defect did not exist at the time the product was put into circulation (Supreme Court, 24 December 1993, NJ 1994, 214; *Pepsi Cola*).

Article 150 Court Civil Proceedings (DCCP) states that in general the party claiming the damage bears the burden of proof. In some circumstances the courts have moderated the burden of proof on the claimant or shifted it to the defendant.

In general tort-based liability cases must be based on fault. This means that the claimant must provide evidence that the producer was at fault. There are however circumstances in which the burden of proof is shifted to the defendant.

25 What post-sale duties may be imposed on potentially responsible parties and how might liability be imposed upon their breach?

See question 18. The producer has the obligation to recall defective products immediately out of circulation. This follows from, among others, the Commodities Act Decree by which producers and suppliers are not allowed to supply any products that are

dangerous due to a defect. The producer furthermore has the obligation to warn users immediately and sufficiently about any dangers. In the event a hazardous product is put into circulation, the supplier, the producer, or both, must immediately inform the Food and Consumer Product Safety Board that has a discretionary authority to make a recall in the event the supplier and producer fail to make a suitable recall.

Limitations and defences

26 What are the applicable limitation periods?

A right of action to claim the performance of a contractual obligation to give or to do something is prescribed on the expiry of five years from the beginning of the day following the one on which the claim became due. The following exceptions are noteworthy:

A right of action for damages by the injured person against the producer pursuant to article 6:185, sub 1 of the DCC is prescribed by the expiry of three years from the beginning of the day following that on which the injured person became or should have become aware of the damage, the defect and the identity of the producer (article 6:191, sub 1 of the DCC). The rights to damages of the injured person to the producer are extinguished after ten years from the beginning of the day following that on which the producer put the product that caused the damage into circulation (article 6:191, sub 2 of the DCC). The same applies to the right of a third person who is also liable for the damage, with respect to his or her right of recourse against the producer.

Article 7:23, sub 1 of the DCC states that rights of action based on facts that would justify the claim that the product delivered does not conform to the contract are prescribed by expiry of two years from the notification given pursuant to article 7:23, sub 1 of the DCC. This right of action relates to the product itself and is applicable to a consumer purchase.

A right of action to compensate for damage or to pay a stipulated penalty is prescribed on the expiry of five years after the commencement of the day following the day on which the injured party became aware of both the damage (discovery) and of the person or legal entity liable. In any event an action cannot be brought after a lapse of 20 years following the event that caused the damage (article 3:310, sub 1 of the DCC).

In cases in which the damage results from air, water or soil pollution or from the realisation of a danger as defined in article 6:175 of the DCC, the limitation period is extended to 30 years (article 3:310, sub 2 of the DCC).

27 Is it a defence to a product liability action that the product defect was not discoverable within the limitations of science and technology at the time of distribution? If so, who bears the burden of proof and by what standard is the defence determined?

Article 6:185, sub 1e of the DCC states that the producer shall not be liable for the damage caused by a defect in his or her product if the state of scientific and technical knowledge at the time when he put the product into circulation was not such as to enable the existence of the defect to be discovered.

The burden of proof rests with the producer.

28 Is it a defence that the product complied with mandatory (or voluntary) standards or requirements with respect to the alleged defect?

Based on article 6:185, sub d of the DCC a producer is not liable if the defect is due to compliance of the product with mandatory regulations.

29 What other defences may be available to a product liability defendant?

Defences, other than mentioned in questions 27 and 28, are:

- the producer did not put the product into circulation;
- that having regard to the circumstances, it is probable that the defect that caused the damage did not exist at the time the product was put into circulation or that the defect came into being afterwards;
- that the product was neither manufactured by the producer for sale or any form of distribution for economic purposes nor manufactured or distributed by the producer in the course of the producer's profession or business;
- in the case of a producer of raw material or the manufacturer of a component, the defect is not attributable to the raw material itself but attributable to the design of the product in which the raw material or component is comprised or to the instructions given by the producer of the product.

It is important to note is that in all actions, compensation may be limited or even excluded in the event of contributory fault or negligence on the part of the user. Article 6:101 of the DCC states that in the event that circumstances that can be imputed to the injured person and these have contributed to the damage, the obligation to compensate the damage may be reduced by dividing the damage between the person suffering the loss and the producer who must repair the damage in proportion to the degree in which the circumstances that can be attributed to each of them have contributed to the damage.

Jurisdiction analysis

30 Can you characterise the maturity of product liability law in terms of its legal development and utilisation to redress perceived wrongs?

In the Netherlands the introduction of the Class Action Final Settlement Act (1 August 2005) enabled the Court to declare a collective settlement binding. The increasing importance of product liability issues as a result of, for example, stricter government measures has the effect of increasing court proceedings. To avoid endless court proceedings, the court's right to declare a collective settlement binding reflects the continuously evolving character of Dutch product liability law.

Update and trends

In the Netherlands there is a trend towards customised court-annexed alternative dispute resolutions (ADR) regarding substantial mass-damages. ADR results in a collective settlement that is declared binding by the court. Several recent legislative developments have emerged, such as a recommendation from a Department of Justice Committee regarding a special procedure for certain kinds of mass claims and the Consumer Protection Act (20 November 2006), which enables a Consumer Protection Authority to apply for approval for collective settlements. In general, the Dutch law system is aiming at improving the environment of negotiations and facilitating the closure of such collective settlements. The aim of the claimants and the defendant is first to reach an amicable settlement and, if this is not possible, to continue legal proceedings before the court.

31 Have there been any recent seminal events or cases that have particularly shaped product liability law?

After the introduction of the Class Action Final Settlement Act (1 August 2005) the *DES* case shaped the product liability law. In the *DES* case the Court of Appeal in Amsterdam awarded for the first time the collective request of claimants to order a collective settlement between the claimants and the defendant binding.

32 Please describe the level of 'consumerism' in your country and consumers' knowledge of, and propensity to use, product liability litigation to redress perceived wrongs?

The level of consumerism, meaning the frequency and magnitude of product liability cases and related class actions, is increasing. However, the claim culture is not comparable with the United States, for example. There is, however, a clear trend towards more product liability cases, stimulated also by an increase in the number of recalls, but the effect is limited because courts do not award excessive amounts in damages.

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