

ARTICLE 268 AND 340 TFEU: REMEDIAL POWERS – LIABILITY ACTIONS

- The European Treaties acknowledge an action for damages for losses incurred whereby the Union legislature or executive has acted illegally.

Contractual Liability
(Paragraph 1 Art 340 TFEU)
Governed by national law

Non-contractual Liability
(Paragraph 2 Art 340 TFEU)
Governed by European law

- Case 4/69 *Lütticke v Commission* [1971] ECR 325 established the independence of liability actions (para 6; see Textbook, 375).

The Requirements

“Can be brought against any Union action or inaction that is claimed to have caused damage.” (Textbook, 376)

Wrongful Act
Needs to be an official act, i.e. act attributable to the Union.

Damages
Since damages will be rewarded in monetary value, the losses need to be quantifiable

Causation
The act must have caused the applicant to bear loss(es)

Time limit: Within a five-year period (Art 46 Statute of the Court; Textbook, 376)