

## 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 *Luetticke 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)

**Note:** These revision charts are useful for a general overview of how you should approach problem questions. However, these are not intended to give you a full understanding on the matter. You should always read the textbook and relevant authorities to ensure you do your best in a problem question. Any references made to R Schutze, European Union Law (2<sup>nd</sup> edn) CUP 2018 will henceforth be referenced as ‘Textbook’.