

INDEX

- additional damages, 104, 143–144
 aggravated damages, 13, 25, 96–104,
 106–107, 115, 123–126, 131,
 133–145, 161, 163, 166, 172,
 183, 188
 attributed, 144–145, 163–164, 166,
 188
 definition of, 137
 legislative reform, 143–144
 object of, 142–143
 alien, 52–53
 assembly and association, freedom of,
 50, 69, 182
 attribution theory, 13–14, 69, 77–78,
 80, 83, 94, 119, 144–166,
 176–179, 183–188
 directors, 14, 151–156, 158, 166,
 187
 arguments against, 154–156
 arguments in favor, 151–155
 evaluation of, 158–163
 case against, 159–163
 case in favour, 158–159
 general rules of attribution, 148
 importation of, 163–166
 managers, 14, 156–158, 166, 187
 primary rules of attribution, 148
 shareholders or members, 14,
 157–158
 special rule of attribution, 148
 autonomous interpretation, 31–32, 34

 bereavement damages, 96, 127, 133,
 181
 breach of contract, 52, 94, 96, 99,
 106–107, 127–130, 134, 138,
 161, 170

 breach of statutory duty, 97–98, 105,
 133

 Concession Theory, 89–90
 conspiracy, 106, 130, 133
 contextual interpretation, 31
 copyright infringement, 104–105, 132,
 134, 143–144
 corporate liability under tort law,
 146–150
 direct liability, 148–150
 indirect liability, 146–147
 corporate personality theories, 89–95,
 177
 corporate rights, 34–54, 182–183
 freedom of assembly and
 association, 50, 69, 182
 freedom of expression, 38, 46–47,
 49–50, 68, 57, 71, 78, 111, 115,
 182–183
 freedom of thought, conscience and
 religion, 9, 49–50
 liberty and security, 41, 48, 52, 56,
 58, 82, 182
 of petition, 34–35, 37–38, 51, 57
 prohibition of discrimination,
 50–51, 53
 prohibition of expulsion of
 nationals, 52
 prohibition of slavery and forced
 labour, 41
 prohibition of torture, 40–41, 48, 53,
 58, 82, 182
 to an effective remedy, 50–51, 68, 71,
 165, 182
 to correspondence, 43–46, 121,
 183

- corporate rights (*cont.*)
 to fair trial, 42, 48, 53, 63–67, 70–76,
 79, 82, 163, 165, 184–185
 to family life, 42–43, 45, 50, 71, 170
 to home, 43–46, 183
 to life, 40–41, 48, 53, 58, 82, 182
 to marry, 50
 to private life, 13, 43–50, 183
- corporations, 15–19
 as a legal person, 10, 16, 88–89, 92,
 175
 attributes of, 3, 16–19, 25, 70, 94,
 131, 181–182, 187
 corporate personality theories,
 89–95, 177
 definition of, 15–16
 separate legal personality of, 12, 15,
 17–18, 20, 25, 109, 173, 181, 185
 separation of ownership and control,
 19
 structure of, 19
 versus partnerships, 15–19, 109
- correspondence, 43–46, 121, 183
- Council of Europe, 5, 7, 12, 26, 29–30,
 34–36, 40, 55, 59, 65–66, 69,
 75–76, 88, 169–170, 178, 182
- criminal law, 5, 9–11, 18, 42, 53, 55,
 88–89, 94, 97, 101, 116,
 124–126, 150, 159
- damages
 additional, 104, 143–144
 aggravated, 13, 25, 96–104, 106–107,
 115, 123–126, 131, 133–145,
 161, 163, 166, 172, 183, 188
 definition of, 23–25
 exemplary, 24, 75, 139–140, 165. *See also*
damages, punitive
 general, 4, 21, 74, 79, 99, 102,
 112–113, 115, 145, 176
 punitive, 24, 63, 75–76, 82, 140, 172,
 185. *See also damages, exemplary*
- deceit, 98–99, 104, 129–130, 133
- defamation, 9–10, 24, 46–49, 100–101,
 105–106, 108–119, 126–127,
 129, 132, 134–136, 161,
 173–176, 178–179, 181,
 185–186
- goodwill, 3, 49, 105–106, 119, 180,
 186
- prerequisites, 108
- reputation, 9, 22, 46–49, 70, 72, 76,
 82, 98, 100–101, 104–106,
 108–119, 123, 125–126,
 129–130, 135, 153, 160,
 164–165, 170, 173–178,
 181–186, 188
- dignity, 22, 40, 117, 119, 135, 143, 145,
 166, 171, 175, 188
- directors
 arguments against attribution,
 154–156
 corporate directorship, 155–156
 multiple directors, 154, 156, 187
 variation of responsibilities,
 154–156
 arguments in favour of attribution,
 151–154, 156
 core duties, 152–154
 statutory prerequisite, 151
 cross directorship, 154
 executive, 155, 177–178
 non-executive, 154
- discrimination, prohibition of, 50–51,
 53
- disruption in management team, 72,
 77, 149, 178, 186
- Draft Common Frame of Reference
 (DCFR), 20–21
- economic torts, 106–107, 132, 134,
 188
- effective remedy, 50–51, 68, 71, 165,
 182
- effectiveness principle, 32, 34, 38, 66,
 69, 163, 186, 188
- European Company (*Societas*
Europaea), 17–19
- European Economic Interest Grouping
 (EEIG), 17–19, 151, 157
- evolutive interpretation, 32, 34
- exemplary damages, 24, 75, 139–140,
 165. *See also punitive damages*
- expression, freedom of, 38, 46–47,
 49–50, 68, 57, 71, 78, 111, 115,
 182–183

INDEX

191

- fair trial, 42, 48, 53, 63–67, 70–76, 79, 82, 163, 165, 184–185
- family life, 42–43, 45, 50, 71, 170
- Fiction Theory, 89–91, 94, 177
- freedom of assembly and association, 50, 69, 182
- freedom of expression, 46–47, 49–50, 68, 57, 71, 78, 111, 115, 182–183
- freedom of thought, conscience and religion, 9, 49–50
- general damages, 4, 21, 74, 79, 99, 102, 112–113, 115, 145, 176. *See also* damages, general
- general tortious liabilities, 96–101, 133–134
- breach of statutory duty, 97–98, 105, 133
- deceit, 98–99, 104, 129–130, 133
- malicious falsehood, 98, 100–101, 129, 132, 134, 138
- misrepresentation, 98–100, 104, 106, 129–130, 133–134
- fraudulent (deceit), 98–99, 104, 129–130, 133
- negligent, 98–99, 133
- innocent, 99
- negligence, 10, 96–100, 129–130, 132–134, 138, 147
- public nuisance, 97, 97, 129, 132–133, 139
- special liability regimes, 97–98
- goodwill, 3, 49, 105–106, 119, 180, 186
- Grant Theory, 89–90
- harassment, 119, 124–125, 130, 132, 135, 178
- home, 43–46, 183
- inducement of breach of contract, 106–107, 134
- intellectual property torts
- infringement of copyrights, patents and trademarks, 104–105, 134, 143–144
- passing off, 105–106, 119, 132, 134
- intentional infliction of physical or emotional harm, 124, 132, 135
- intimidation, 107, 134, 139, 178
- just satisfaction, 4–5, 13, 39, 51, 54–61, 56, 62–66, 68, 70–71, 73, 80–81, 88, 162, 164–165, 184
- liberty, 6, 22, 24, 40–41, 52, 123, 125, 129, 169–170, 182
- liberty and security, 41, 48, 52–53, 57–59, 82, 182
- life, 40–41, 48, 53, 58, 82, 182
- Limited Liability Partnerships, 16–17, 19, 151, 157
- Limited Partnerships, 17
- living instrument doctrine, 32, 44, 60
- loss of opportunities, 79, 82
- loss of amenities of life, 98, 127–129
- malicious falsehood, 98, 100–101, 129, 132, 134, 138
- malicious use of process, 125–126, 136
- malicious issue of civil proceedings, 126, 136
- malicious prosecution and analogous actions, 125–126, 129–130, 136
- managers, attribution of
- non-pecuniary harm to, 14, 156–158, 166, 187
- marry, 50
- mental distress, 22, 64, 67, 70–72, 77–78, 80, 96–100, 102, 105, 107, 117, 123–125, 127–131, 133–145, 148, 150–151, 153–154, 157–158, 160–161, 164, 172, 177–178, 181, 183–184, 186–187
- misrepresentation, 98–100, 104, 106, 129–130, 133–134
- fraudulent (deceit), 98–99, 104, 129–130, 133
- negligent, 98–99, 133
- innocent, 99
- misuse of private information and related actions, 119–123, 130, 132, 135
- multiple directors, 154, 156, 187
- negligence, 10, 96–100, 129–130, 132–134, 138, 147

- pain and suffering, 6, 8, 61, 93, 98, 123, 125, 127–129, 132–136, 176
- partnerships, 15–19, 109
- passing off, 105–106, 119, 132, 134
- patents, 104–105, 133
- personal identity, 47
- personal integrity, 47–48, 160, 183, 188
- petition, right of, 34–35, 37–38, 51, 57
- physical inconvenience and discomfort, 21, 96–99, 102, 123, 125, 127, 129, 133–136, 181
- Principles of European Tort Law (PETL), 20–22, 39, 41
- private information and related actions, misuse of, 119–123, 130, 132, 135
- private life, 13, 43–50, 183
- private limited companies, 15, 17, 19, 151, 157
- private nuisance, 97, 102–103, 119, 129–130, 132, 134, 139, 147
- prohibition of discrimination, 50–51, 53
- prohibition of expulsion of nationals, 52
- prohibition of slavery and forced labour, 41
- prohibition of torture, 40–41, 48, 53, 58, 82, 182
- psychological integrity, 47–48
- public limited companies, 16, 151, 155, 157
- public nuisance, 97, 129, 132–133, 139
- punitive damages, 24, 63, 75–76, 82, 140, 172, 185. *See also* exemplary damages
- purposive interpretation, 31
- Real Entity Theory, 90–91, 177
- Religious freedom, 9, 49–50, 94
- right not to be tried or punished twice, 53
- separate legal personality, 12, 15, 17–18, 20, 25, 109, 173, 181, 185
- statutory duty, breach of, 97–98, 105, 133
- textual interpretation, 31
- thought, conscience and religion, freedom of, 9, 49–50
- torts affecting land, 101–103, 134
- torts to specific interests, 101–126, 134–136
- torture, prohibition of, 40–41, 48, 58, 82, 182
- trademark infringement, 104–105, 134
- trespass to goods, 103, 130, 133, 138
- trespass to land, 101–102, 119, 130, 132, 134
- trespasses to the person, 123–124, 135
- unlawful interference with economic interests, 107, 134, 138
- wrongful interference with goods, 103, 132, 134
- wrongs to the person not amounting to trespasses, 123–125, 132, 135