



**SCREENING CHAPTER 28
CONSUMER PROTECTION AND HEALTH**

AGENDA ITEM IV : LIABILITY FOR DEFECTIVE PRODUCTS

**Country Session: The Republic of TURKEY
6-7 July 2006**



LEGAL BASIS

- **LAW NO. 4077 ON CONSUMER PROTECTION AMENDED BY LAW NO. 4822 (OG No: 25048, 14 March 2003)**

Came into force on 14 June 2003

- **BY-LAW ON LIABILITIES FOR DAMAGES RESULTED FROM DEFECTIVE GOOD (OG No: 25137, 13 June 2003)**

Came into force on 14 June 2003

(Transposed Directive 85/374/EEC on Liability for Defective Products)



COMPETENT AUTHORITY

THE MINISTRY OF INDUSTRY AND TRADE

DG FOR PROTECTION OF CONSUMER AND COMPETITION



LAW ON CONSUMER PROTECTION (ARTICLE 4)

Defective good:

- Good causing death and/or injury and/or harm to other goods used shall be deemed as defective good.
- Consumer is entitled to ask for compensation from the manufacturer /producer in the event that the defective good causes death and/or injury and/or harm to other goods used.



BY-LAW ON LIABILITIES FOR DAMAGES RESULTED FROM DEFECTIVE GOOD

OBJECTIVE:

**To set rules and procedures for the liabilities of manufacturer/
producer for damages resulted from defective goods**

DEFINITIONS:

- **Good**
- **Manufacturer/Producer**
- **Injured person**



BY-LAW ON LIABILITIES FOR DAMAGES RESULTED FROM DEFECTIVE GOODS

DEFECT (Article 5)

A good is defective when it does not provide the safety which a person is entitled to expect by taking into account;

- The presentation of a good,**
- The use to which it could reasonably be expected that the good would be put,**
- The time when the good was put into circulation and**
- Other respective conditions.**



BY-LAW ON LIABILITIES FOR DAMAGES RESULTED FROM DEFECTIVE GOOD

DAMAGE (Article 6/1)

- Death of a person
- Injury of a person
- Damage in goods,

LIABILITY WITHOUT FAULT (Article 6/1)

The manufacturer/producer shall be liable to compensate the damage irrespective of the fault.

BURDEN OF PROOF (Article 6/2)

Burden of proof is on the injured person.



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SHARING THE LIABILITY (Article 6/3)

If more than one person is liable for the damage caused by defective good, they shall be liable jointly and severally.

REDUCING THE LIABILITY (Article 6/3)

The damage is caused either by the fault of the consumer or a third person who is under the responsibility of the consumer.



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EXEMPTION OF PRODUCERS FROM LIABILITY (Article 7)

- **The good is not put into circulation.**
- **The good is neither manufactured for sale nor manufactured in the course of business.**
- **The defect which caused the damage did not exist at the time when the good was put into circulation.**
- **The defect is caused by the technical regulation of the good.**



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EXEMPTION OF PRODUCERS FROM LIABILITY (Article 7)

- **The scientific and technological knowledge at the time when the goods was put into circulation, was not sufficient to enable the existence of the defect.**
- **The manufacturer/producer of one of the components shall not be liable for the defect of the final goods encountered upon the instructions of manufacturer/producer or due to its design.**



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CLAUSE OF NON-LIABILITY (Article 8)

Any term in a contract or in a separate document indicating that the consumer has waived from the rights laid down in this by-law; or that the liabilities of the manufacturer/producer have been limited or excluded shall be regarded as null.



BY-LAW ON LIABILITIES FOR DAMAGES RESULTED FROM DEFECTIVE GOOD

EXPIRATION OF LIABILITY (Article 9,10)

- **3 years for request of recovery of the damages caused by defective good, from the day on which the injured person can be aware or becomes aware of the damage, the defect and the producer.**
- **10 years for invalidity of the rights, from the date on which the goods was put into circulation.**



THANK YOU FOR YOUR ATTENTION