

# Introduction

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A conference in honour of Bénédict Winiger was held in September 2022 at the University of Geneva on the topic ‘The Principles of European Tort Law – Where are the gaps and how to fill them?’.<sup>1</sup> Winiger was professor at the University of Geneva from 1998 to 2020, and has been an honorary professor at the Faculty of Law since 2020. His areas of research include Roman law, European private law, and the history and philosophy of law, with a clear focus on tort law and the history of codification. He is the author of numerous publications on European tort law<sup>2</sup> and the initiator and lead editor of the Digest of European Tort Law, which is available in three volumes to date.<sup>3</sup> A fourth volume, again under the leadership of Bénédict Winiger, will be published soon.<sup>4</sup> Since 2000, Winiger has been an active Swiss member of the European Group on Tort Law (EGTL).

The Principles of European Tort Law (PETL) were drafted by the EGTL,<sup>5</sup> an international group of researchers founded in 1992. In 2005, the Principles were officially presented, accompanied by a short commentary.<sup>6</sup> The PETL are based on extensive comparative research from which they derive common principles and propose rules for numerous key issues of European tort law.<sup>7</sup>

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<sup>1</sup> <<https://www.unige.ch/droit/actus/archives/2022/benedict-winiger/>>.

<sup>2</sup> See, as an example, the volume that emerged from another conference in Geneva: *Bénédict Winiger* (ed), *La responsabilité civile européenne de demain, Projets de révision nationaux et principes européens*, *Europäisches Haftungsrecht morgen, Nationale Revisionsentwürfe und europäische Haftungsprinzipien* (2008).

<sup>3</sup> *B Winiger/H Koziol/BA Koch/R Zimmermann* (eds), *Digest of European Tort Law, Volume 1: Essential Cases on Natural Causation* (2007); *B Winiger/H Koziol/BA Koch/R Zimmermann* (eds), *Digest of European Tort Law, Volume 2: Essential Cases on Damage* (2011); *B Winiger/E Karner/K Oliphant* (eds), *Digest of European Tort Law, Volume 3: Essential Cases on Misconduct* (2018).

<sup>4</sup> *Digest of European Tort Law, Volume 4: Limits of Liability* (forthcoming).

<sup>5</sup> See <<http://www.egtl.org/>>.

<sup>6</sup> *European Group on Tort Law* (EGTL), *Principles of European Tort Law, Text and Commentary* (2005), with a translation of the text of the PETL in numerous languages (<<http://www.egtl.org/petl.htm>>). The book itself has in the meantime been published in three other language versions (Spanish, Chinese and French).

<sup>7</sup> For more details, see eg *T Kadner Graziano*, *The Principles of European Tort Law – a brief introduction and analysis*, in: *idem, Comparative Tort Law* (2018) 46; see on the Group’s work, eg *J Spier* in: *EGTL, Principles of European Tort Law, Text and Commentary* (2005) 12ff; *H Koziol*, Die “Principles of European Tort Law” der “European Group on Tort Law”, *Zeitschrift für Europäisches Privatrecht (ZEuP)* 2004, 234; *BA Koch*, The “European Group on Tort Law” and Its “Principles of European Tort Law”, *American Journal of Comparative Law* 53 (2005) 189.

The EGTL was founded by Jaap Spier, then at the University of Tilburg. Subsequently, the Group's activities were supported by the European Centre of Tort and Insurance Law (ECTIL) and the Institute for European Tort Law (ETL) of the Austrian Academy of Sciences and the University of Graz,<sup>8</sup> both operating out of the same offices in Vienna. Since 2002, ECTIL and ETL have organised an Annual Conference on European Tort Law to highlight current developments in national and transnational tort law in Europe, with the resulting reports published in the Yearbook of European Tort Law.<sup>9</sup>

Much time has passed since the PETL were presented in 2005. During this time, the PETL have served as a source of inspiration for courts and, occasionally, legislators.<sup>10</sup> In the mid-1990s, similar principles had already been published in the field of contract law. While the Principles of European Contract Law, initiated by Ole Lando, and the Principles of International Commercial Contracts, prepared by UNIDROIT, have been repeatedly supplemented and updated since their first publication,<sup>11</sup> the interested public has been waiting since 2005 for a supplemented and completed version of the PETL. The EGTL has in the meantime published a series of studies in preparation for such an update.<sup>12</sup>

The conference in honour of Bénédict Winiger in Geneva provided an opportunity to bring together the founders of the EGTL, current members of the group and experienced and committed young European tort lawyers for discussions on the future of European tort law. The aim was to stimulate the discussion on a new edition of the PETL and provide new ideas and impulses. The papers, a number of which will be published in this volume as well as in Volume 1/2024 of the Journal of European Tort Law (JETL), were presented by speakers who are not members of the Group (with the exception of the introductory paper by Miquel Martín-Casals). The task of the speakers was to critically examine individual provisions of the PETL.

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<sup>8</sup> <<https://www.oeaw.ac.at/etl/>>.

<sup>9</sup> Most recently: *E Karner/BC Steininger* (eds), European Tort Law 2021 (2022).

<sup>10</sup> See *M Martín-Casals*, member of the EGTL, in this volume.

<sup>11</sup> *O Lando/H Beale/A Prüm/E Clive/R Zimmermann* (eds), The Principles of European Contract Law, Parts I – III (2019); black-letter text available also eg at <[https://www.trans-lex.org/400200/\\_/pecl/](https://www.trans-lex.org/400200/_/pecl/)>; International Institute for the Unification of Private Law (UNIDROIT), Principles of International Commercial Contracts (4th edn 2016), available at: <<https://www.unidroit.org/instruments/commercial-contracts/unidroit-principles-2016/>>.

<sup>12</sup> *I Gilead/MD Green/BA Koch* (eds), Proportional Liability – Analytical and Comparative Perspectives (2013); *P Machnikowski* (ed), European Product Liability: An Analysis of the State of the Art in the Era of New Technologies (2016); *K Oliphant* (ed), The Liability of Public Authorities in a Comparative Perspective (2016); *M Martín-Casals* (ed), The Borderlines of Tort Law: Interactions With Contract Law (2019); *I Gilead/B Askeland* (eds), Prescription in Tort Law: Analytical and Comparative Perspectives (2020).

Their presentations were followed by comments from one of the founders or current members of the EGTL (Helmut Koziol, Jaap Spier, Eugenia Dacoronia, Jean-Sébastien Borghetti and Ernst Karner), followed by a plenary discussion. The organisers of the Geneva conference thank the editors of the JETL for the opportunity to make the contributions available to a larger audience.

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