

Onrechtmatige daad stappenplan

1. Vaststellen onrechtmatige gedraging (art. 6:162 lid 2 BW)
 - Is er sprake van een handeling of nalaten? Ja/nee
 - Is er sprake van een inbreuk op een recht? Ja/nee

Of

- Leverde zij strijd op met een wettelijke plicht? Ja/nee

Of

- Was zij in strijd met hetgeen volgens ongeschreven recht in het maatschappelijk verkeer betaamt? Ja/nee
- Is er een rechtvaardigingsgrond? Ja/nee

Ga door naar stap 2

2. Vaststellen toerekenbaarheid (art. 6:162 lid 1 en 3 BW)
 - Is er een verband tussen de daad en de dader? Ja/nee
 - Is het de schuld van de dader (kun je het hem verwijten)? Ja/nee
 - Geen schuld door lichamelijke of geestelijke stoornis (art. 6:165 BW)? Ja/nee

Of

- Wordt het maatschappelijk zo aanvaard dat de dader aansprakelijk is (ook al is het niet echt zijn schuld)? Ja/nee

Ga door naar stap 3

3. Vaststellen schade (art. 6:162 lid 1 BW)
 - Is er schade? Ja/nee

Ga door naar stap 4

4. Vaststellen causaal verband (art. 6:162 lid 1 BW)
 - Is de schade het gevolg van de handeling, csqn? Ja/nee

Oorzaak en gevolg (causaal verband)

Wat is het verschil tussen oorzaak en gevolg?

Conditio sine qua non

De voorwaarde zonder welke het gevolg niet ingetreden zou zijn. In hoeverre is de schade toe te rekenen aan de veroorzaker? Daar moet een causaal verband tussen zijn.

Een causaal verband is de relatie aan tussen oorzaak en gevolg. Om dit goed te begrijpen moeten we eerst kijken naar wat een oorzaak is en wat een gevolg.

Ga door naar stap 5

5. Vaststellen relativiteit (art. 6:163 BW)
 - Wat is het doel van de geschonden norm?
 - Beschermst de geschonden norm het geschonden belang/ (degene die) de schade (heeft geleden)? Ja/nee

Gefeliciteerd! Voldaan aan alle 5 de voorwaarden → het is een onrechtmatige daad. Je kunt nu schadevergoedingen gaan vorderen!

Onrechtmatige Daad Dl16 Pratijsreeks

Emilie Sanchez



Onrechtmatige Daad DI16 Pratijsreeks:

Brinkman's cumulatieve catalogus van boeken ,2002 Voorts een alfabetische lijst van Nederlandsche boeken in België uitgegeven **Brinkman's catalogus van boeken en tijdschriften** ,2001 With 1901 1910 1956 1960 Repertorium is bound Brinkman's Titel catalogus van de gedurende 1901 1910 1956 1960 Title varies slightly **Onrechtmatige daad en andere niet-contractuele verbintenissen - 3de, herziene uitgave** prof. mr. J.A. Pontier,2014-12-16 In dit boek wordt aandacht besteed aan het Nederlandse IPR met betrekking tot onrechtmatige daden en andere niet contractuele verbintenissen Aan de orde komt de vraag naar de internationale bevoegdheid van de Nederlandse rechter om kennis te nemen van geschillen inzake onrechtmatige daad en andere niet contractuele verbintenissen en om in kort geding voorlopige en bewarende maatregelen te treffen alsmede de vraag naar het toepasselijke recht op deze geschillen Niet alleen wordt aandacht besteed aan de onrechtmatige daad in algemene zin maar ook wordt ingegaan op bijzondere onrechtmatige daden zoals de aanvaring de ongeoorloofde mededinging het persdelict de grensoverschrijdende milieuverontreiniging en de octrooi en merkinbreuken alsmede de andere niet contractuele verbintenissen zoals de ongerechtvaardigde verrijking de zaakwaarneming en de precontractuele aansprakelijkheid Bijzondere onrechtmatige daden die onderwerp zijn van andere delen van de Praktijkreeks IPR zoals het verkeersongeval en de productaansprakelijkheid komen alleen kort aan de orde Het internationaal privaatrecht op deze rechtsgebieden ontwikkelt zich voortdurend zowel door ontwikkelingen in de regelgeving als door rechtspraak Wijzigingen in de regelgeving inzake de rechtsmacht van de Nederlandse rechter betreffen de herschikking van de EEX Verordening in de zogenoemde EEX Verordening II of de Brussel Ibis Verordening en een enkele bepaling van afdeling 1 van het Wetboek van Burgerlijke Rechtsvordering Inmiddels heeft met betrekking tot de EEX Verordening II een wijziging plaatsgevonden in verband met onder meer de totstandkoming van de Overeenkomst betreffende een eengemaakt octrooigerecht Ook is recentelijk Boek 10 BW Internationaal privaatrecht in werking getreden dat naast de Rome II Verordening mede betrekking heeft op de vraag naar het toepasselijke recht in internationale gevallen Daarnaast is sprake van belangrijke ontwikkelingen in de rechtspraak van met name het Hof van Justitie van de EU inzake de EEX Verordening II welke verordening vanaf 10 januari 2015 van toepassing is **Onrechtmatige daad** Jannetje Adriana Pontier,2001 Onrechtmatige daad G. H. A. Schut,1979

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