

Causation in Criminal Law

Abstract

This thesis deals with the concept of causation in criminal law and the consequences of its articulation both for doctrine and practice. Causation is not only a part of the objective aspect of a criminal offence but contributes profoundly to the mechanism of determining the scope of criminal liability. Despite causation featuring an indispensable and traditional paradigm to Czech criminal law, it has received little attention in contemporary literature, which can be considered extremely problematic for one of the fundamental features conditioning criminal liability. So as to address this issue, this thesis has delineated the aim to analyse causation in criminal law and to identify its problems in contemporary scholarship.

The aim of this thesis predetermines its structure. The first chapter discusses the concept of causation in criminal law, its external relation to other aspects of a crime and its internal structure. The second chapter presents a selection of doctrinal issues discussed vividly by historical scholarship, especially in the period of the First Czechoslovak Republic, which may have their relevance for contemporary discourse. The third chapter introduces the basis of causation in contemporary criminal law, i.e. *conditio sine qua non*, and its specific issues – the theory of equivalence (*aequum valere*), the concept of factual causation or alternatives to *conditio sine qua non*. The fourth chapter analyses the individual correctives limiting the scope of *conditio sine qua non* – the principle of isolation, the principle of gradation, *nullum crimen sine culpa* and *novus actus interveniens*. The fifth chapter focuses on one of the application problems that the above-described structure of causation has to face – that is, criminal liability for offences committed by omission as a result of a failure of the perpetrator to comply with *lege artis* standards. The sixth chapter builds on the analysis undertaken in the earlier chapters with conceptual considerations on the nature of causation in contemporary criminal law.

The aforesaid analysis leads to the conclusion that causation not only features a topic where certain lack of discussion in academia contributes to unclear development; but also presents a topic that faces a non-negligible number of problems and uncertainties. This is already indicated by the first fact, which is relatively minor – albeit certainly undesirable from the point of view of the purity of legal language – legal theory does not have a unified *terminus technicus* for causation in Czech language. With regards to further and systematic issues, it has been found that considerable ambiguities are introduced not only by *novus actus interveniens*, but also by the ways of looking at *conditio sine qua non* itself as a means of factual causation. Another set of challenges is posed to the doctrine by the coinage of the object of loss of chance by Czech criminal courts, and also by the current construction of the attempt of a crime and also by crimes which only endanger objects protected by criminal law.

Keywords

causation, *conditio sine qua non*, *novus actus interveniens*