

Doctoral dissertation abstract

“Objective attribution of an effect in traffic accidents”,

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The dissertation “Objective attribution of an effect in traffic accidents” presents and analyses criminal liability of traffic accident perpetrators from the perspective of the theory of objective attribution of an effect as well as studies examples of factual circumstances and practical problems arising from the application of this concept by law enforcement bodies and judicial authorities.

Nowadays, traffic has unarguably become a ubiquitous element of our everyday life and its intensification sadly leads to an increasing number of accidents. Due to very frequent severe consequences for the life and health of the aggrieved party, especially in cases pursuant to Article 177 § 2 of Polish Criminal Code, the proceedings are emotionally charged. This adds to pressure on judges and gravity of their judgement. Hence, apart from an obvious duty to analyse each case thoroughly, it is essential to clearly define the liability criteria for causing a traffic accident.

For years, both legal doctrine and judicial decisions in criminal law have been predominantly based on *sine qua non* causation – verified by causal equivalence and relevance theories. The principle of objective attribution of an effect, in turn, stresses normative criteria in determining liability in offences with criminal consequences and hence, the emphasis has been shifted from analysing causal connections to the theory of perpetration. This concept is well-established in Polish criminal law doctrine and approved by the Supreme Court. While issues arising from the principle of objective attribution of an effect are the subject of an increasing number of publications, the concept has not so far been discussed in relation to traffic accidents. Cases of this nature, however, can fully show the complexity of the principle of objective attribution of an effect.

Therefore, the main objective of this dissertation is to present and analyse grounds for liability in traffic accidents in the light of the principle of objective attribution of an effect and illustrate the discussed theoretical issues with the examples of cases pursuant to Article 177 § 1 and § 2 of Polish Criminal Code. The scope of the analysis results from liability criteria in

the principle of objective attribution of an effect and hence issues connected to satisfying objective elements of criminal offences have been covered.

Chapter I introduces the notion of objective attribution of an effect and its prerequisites, specifies the objectives of the dissertation and outlines its assumptions, as well as describes the research conducted by the author. The chapter further discusses the issues arising from applying objective attribution of an effect in offences pursuant to Article 177 § 1 and § 2 of Polish Criminal Code in the Supreme Court. By analysing judicial decisions, the author shows how the theory has been applied and how its theoretical doctrines have recently evolved in practice. This section focuses on difficulties encountered by practitioners in dealing with normative criteria in establishing liability. The analysis also justifies the need for creating statutory negative criteria for imputation.

Chapter II, entitled “Criminal result as a prerequisite for liability in traffic accidents”, is devoted to the analysis of consequences meeting the criteria for constituting a crime pursuant to Article 177 § 1 and § 2 of Polish Criminal Code and to causal connections between potential perpetrator’s actions and criminally relevant consequences. The author analyses judicial protection in offences pursuant to Article 177 § 1 and § 2 of Polish Criminal Code and discusses the victim of the offence, and in particular, issues connected to the beginning and end of human life and current meanings of the word “human”. Furthermore, the author considers implications of adequate specification of a criminal result in determining liability and issues arising from causal connections between traffic participants’ behaviour and criminally relevant consequences – causation theories used in criminal law doctrine have been analysed and their usefulness in determining ontological connections has been exemplified with factual cases.

Chapter III covers normative aspects of objective attribution of an effect. The author focuses predominantly on issues connected to determining whether behaviour contradicts an adjusted sanctioned norm. This part also discusses breaching road safety rules as the grounds for imputation in criminal offences pursuant to Article 177 § 1 and § 2 of Polish Criminal Code and the special nature of road safety rules as a code of conduct. A separate part of this chapter is devoted to “traffic safety” as the indicator of “location” of the crime pursuant to Article 177 § 1 and 2 of Polish Criminal Code. Traffic accidents during car races have been discussed in this respect, since the problem whether road safety rules apply to public roads on which a car race takes place arouses controversy in criminal law theory and judicial decisions and is enormously significant in determining liability for causing injuries of other participants of the race or of the third party. In this scope it was essential to

analyse provisions of International Sporting Code and FIA Regulations for rally championships.

Chapter III also considers negative criteria for unlawfulness, including doctrinal views on the legal aspect of jurisprudence. The author analyses the nature of justification described in Article 53 Item 2 of Law on Road Traffic, including issues connected to liability of an emergency vehicle's driver for offences pursuant to Article 177 of Polish Criminal Code. The concept has been illustrated with factual cases of road accidents involving ambulances.

Chapter IV is devoted to the normative aspect of objective imputation, particularly to normative connections between a traffic participant's behaviour which contradicts a sanctioned norm and a result defined in Article 177 § 1 or § 2 of Polish Criminal Code. This section discusses a hypothetical causal connection involving alternative lawful behaviour, as well as issues connected to determining normative connections in practice. The author considers the usefulness of an increased-risk-of-harm principle in establishing the normative connection and the possibility of its application in Polish criminal law. In this respect, the compatibility of such grounds for liability with principles *nullum crimen sine lege stricte*, concerning an unambiguously defined tortious act, and *in dubio pro reo*. Potential practical problems with establishing normative connections have been discussed separately and illustrated with factual cases.

The last chapter analyses issues connected to concurrent causes in traffic accidents. As negative criteria for imputation have not been defined in Polish statutory law, the fact that unlawful behaviour of a perpetrator may not be the only violation of legal interest which led to the result analysed in causal connection cannot be legally confirmed. Therefore, the existing grounds for establishing liability of the party contributing to an offence pursuant to Article 177 § 1 and 2 of Polish Criminal Code have been identified and assessed.

The chapter further discusses the issues connected to liability of an agent inadvertently instigating and facilitating an offence pursuant to Article 177 § 1 and 2 of Polish Criminal Code. The contrasting views in legal doctrine and judicial decisions described in the chapter can be seen against a wider background of existing perceptions of an agent inadvertently instigating or aiding a party in breaching safety rules.

The dissertation closes with the summary of issues considered by the author and the assessment of application and usefulness of the principle of objective attribution of an effect in determining liability for offences pursuant to Article 177 § 1 and § 2 of Polish Criminal Code. The author finishes with conclusions *de lege ferenda* drawn from previous chapters and further with general suggestions.