

Casusation and Criminal Responsibility

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Abstract : “Post hoc ergo propter hoc” means after it, therefore because of it. In other words: If event Y followed event X, then event Y must have been caused by event X. The question of causation has long been a central theme in philosophical thought, and many different theories have been put forward. However, causality is an essentially contested concept (ECC), as it has no universally accepted definition and is used differently in everyday, scientific, and legal thinking. In the field of law, the question of causality arises mainly in the context of establishing legal liability: in criminal law and in the rules of civil law on liability for damages arising either from breach of contract or from tort. In the study some philosophical theories of causality will be presented and how these theories correlate with legal causality. It’s quite interesting when philosophical abstractions meet the pragmatic demands of jurisprudence. In Hungarian criminal judicial practice the principle of equivalence of conditions is the generally accepted and applicable standard of causation, where all necessary conditions are considered equivalent and thus a cause. The idea is that without the trigger, the subsequent outcome would not have occurred; all the conditions that led to the subsequent outcome are equivalent. In the case where the trigger that led to the result is accompanied by an additional intervening cause, including an accidental one, independent of the perpetrator, the causal link is not broken, but at most the causal link becomes looser. The importance of the intervening causes in the outcome should be given due weight in the imposition of the sentence. According to court practice if the conduct of the offender sets in motion the causal process which led to the result, it does not exclude his criminal liability and does not interrupt the causal process if other factors, such as the victim's illness, may have contributed to it. The concausa does not break the chain of causation, i.e. the existence of a causal link establish the criminal liability of the offender. Courts also adjudicates that if an act is a cause of the result if the act cannot be omitted without the result being omitted. This essentially assumes a hypothetical elimination procedure, i.e. the act must be omitted in thought and then examined to see whether the result would still occur or whether it would be omitted. On the substantive side, the essential condition for establishing the offence is that the result must be demonstrably connected with the activity committed. The provision on the assessment of the facts beyond reasonable doubt must also apply to the causal link: that is to say, the uncertainty of the causal link between the conduct and the result of the offence precludes the perpetrator from being held liable for the result. Sometimes, however, the courts do not specify in the reasons for their judgments what standard of causation they apply, i.e. on what basis they establish the existence of (legal) causation.

Keywords : causation, Hungarian criminal law, responsibility, philosophy of law

Conference Title : ICFSL 2025 : International Conference on Forensic Science and Law

Conference Location : Honolulu, United States

Conference Dates : May 11-12, 2025