

Thierry Vansweevelt and Britt Weyts, Handboek Buitencontractueel Aansprakelijkheidsrecht, Antwerpen/Oxford: Intersentia 2009, xxxii + 935 pp., ISBN: 978-94-000-0000-1.

This is a proper handbook on Belgian tort law with more than 900 pages chocked full with detailed information on the law as it stands and ample reflection on how could and should develop. The book is divided into 7 parts. An index helps to quickly locate the main subjects.

Part I is concerned with the relevance and position of tort law in Belgian law. The authors first present a bird's eye view of the perceived goals of tort law (compensation, prevention, distribution and regulation), the criticism on its practical operation, and an outlook on alternatives. Then, the relationship between criminal law and tort law is dealt with. The reason for this is simply that under Belgian law, compensation for criminal offences is not necessarily a prerogative of the civil law courts. Therefore, the victim may seek compensation before the criminal court which causes issues of *res judicata* and concurrence of limitation periods.

Finally, the boundaries between contractual and extra-contractual liability are explored. This is a considerable bone of contention among Belgian scholars. The Belgian Court of Cassation has ruled in a number of cases on whether tort law rules may be applied between parties to a contract. Obviously, allowing the use of tort law in such cases could amount to an unintended deviation from the contractual distribution of burdens between the contracting parties. Therefore, the Court seems to hold that the consequences of non-performance of the contract are to be decided exclusively according to the standards of contract law. However, other cases – decided by various chambers of the Court – seem to be less stringent concerning concurrent application of tort and contract rules; in some instances, construction of the contract seemed to be the decisive factor.

Part II deals with the conditions of liability for wrongful acts – including the objective element of wrongfulness, the subjective element of fault, grounds of justification et cetera. In this Part, the reader finds a number of chapters on both general principles and specific areas – such as tortious abuse of rights and state liability. A specific chapter on different forms of 'qualified fault' – i.e., gross negligence, intent, inexcusable fault, et cetera – shows the interaction between social security law, workers' compensation schemes and tort liability under Belgian law.

Part III then focuses on vicarious liability. Napoleonic Codes tend to have somewhat ambiguous rules on vicarious liability of parents for the acts committed by their children, teachers for pupils and employers for their employees. After the French *Blieck* decision (CdC 29 march 1991), which held that the first sentence of article 1384 Code Civil held a general principle of vicarious liability,¹ the Belgian courts were called to interpret the Belgian equivalent article 1384 (1). In 1997, the Belgian Court of Cassation chose a more restrictive interpretation and essentially concluded that there is no general principle of vicarious liability beyond the specific categories.² Also in this part, special attention is given to the rules on liability of public authorities for their employees. Furthermore, an excellent chapter on volunteers reviews the 2005 Volunteers Act, which introduced a statutory liability regime concerning volunteers.

In Part IV, (quasi-)strict liability for objects is discussed: defective tangible objects, products liability, animals and collapse of buildings.

In Part V, the authors focus on damage. First, they devote a considerable chapter to the concept of damage (what is it? Under what conditions does the law acknowledge diminution of value, injury and infringement as damage?). Different types of damage are also discussed. Then, general issues of compensatory damages are dealt with and specific attention is given to quantum in case of death and personal injury and property damage. Calculation of pure economic loss is less emphasized by the authors. Subsequently, various aspects of causation are dealt with in-depth: *condicio sine qua non*, equivalence theory, proof of causation, plurality of causes (and joint and several liability) and the limits of imputation under the causation doctrine.

Part VII is the final part of the book. Roughly speaking, it deals with contractual exclusion and limitation of liability. Moreover, it also deals with the mirror image: the contractual extension of tortious liability. Thus, it strongly relates to issues of concurrence of contractual and delictual liability.

I can be brief about the merits of this book: it is simply outstanding both in depth, breadth and size (both literally and figuratively!). Though a next edition of the book might benefit from

¹ Cass. Ass. plén., 29 March 1991 (*Association des centres éducatifs du Limousin v. Blieck*); see Walter van Gerven, Jeremy Lever, Pierre Larouche (eds.), *Common law of Europe casebooks - Tort Law*, Oxford: Hart Publishing 2000, p. 517.

² Cass. 19 June 1997; see Thierry Vansweevelt and Britt Weyts, *Handboek Buitencontractueel Aansprakelijkheidsrecht*, Antwerpen/Oxford: Intersentia 2009, p. 329.

some additional chapters on specific duties of care in various branches of society, the current edition is an excellent display of scholarly achievement in itself. For a comparative tort lawyer, this book offers not merely a comprehensive review of Belgian law as it stands but also extensive insights in the current state of affairs in Belgian tort doctrine. Admittedly, not many comparatists will be able to read Dutch. They don't know what they are missing out on!

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