Summary of the PhD thesis "Conditions of criminal responsibility in the perspective of experimental legal philosophy" by Karolina Prochownik

This thesis was concerned with the application of the research programs of experimental philosophy to legal philosophy and legal theory. Specifically, my objective in this thesis was to analyse, from this scientific perspective, basic concepts for criminal responsibility ascription—intentionality and causation. I first examined the question if it is possible to apply theoretical and methodological assumptions of experimental philosophy to legal philosophy and legal theory. With this aim in mind, I began with presenting main theoretical and methodological assumptions and research programs of experimental philosophy. After this step, I presented an argument that legal philosophy and theory can be characterized by the usage of conceptual analysis, as well as thought experiments and hypothetical legally-relevant scenarios, and appeal to intuitions, which place them close to the analytical tradition of philosophy, and thus make them "susceptible" to the methodology of experimental philosophy.

In the next step I analysed the debate about the folk concept of intentionality in the context of research on the "side-effect-effect" ("Knobe effect") and the related "severity effect", and their implications for the legal system. I considered some arguments in the literature that the presence of these effects, which suggest that judgments of intentionality of actions are influenced by the moral valence and the level of severity of the side-effects of these actions ("morally charged" concept of intentionality), may be problematic for the legal system. First, I argued that because many competing psychological explanations coexist in the literature ("competence", "bias" and "pragmatic" account), and because of very different implications these models have for the law, currently it is not possible to make claims about the normative implications of this research for the law. Further, I discussed available research on the presence of the "Knobe effect" and the "severity effect" in legal experts. First, I indicated that existing research on the presence of the "Knobe effect" in legal experts does not provide sufficient grounds for claiming that lawyers' concept of intentionality is "morally charged" (incorrect from the legal point of view). Secondly, I argued that the current state of research on the presence of the "severity effect" in lawyers is not sufficient to claim that expertise defense, an argument which states that intuitions of legal experts have special reliability in legal matters, cannot be applied in this case. Most notably, I indicated that previous research reporting the "severity effect" in legal experts suffers from methodological problems, which renders it impossible to draw any conclusions about the applicability of expertise defense to judgments of intentionality based on these studies. Because of that I presented new experimental research

on the presence of the "severity effect" in people with legal education and people without such education. Since the results of this research do not confirm the presence of this effect in any of the two examined groups, I argued against the rejection of the legal expertise defense or, more broadly, against drawing any conclusions for the legal system based on this research.

Subsequently, I examined some legal theories of causation in terms of their congruence with folk causal intuitions. The goal of this analysis was to shed new "empirical" light on frequent statements in legal philosophy and legal theory that lay notion of causation provides a model for legal criteria for assessing the causal link. I chose to examine a popular legal test of assessing factual causation (*conditio sine qua non*), and "normative theories of causation" that assume that ascription of causal link or outcome is dependent on the assessment of norm violation (both influential theory of causation by Hart and Honoré and the "objective effect ascription theory" in the doctrine of criminal law belong to this category). The conducted analyses of the legally-relevant empirical research on the folk concept of causation demonstrated partial overlap between the folk criteria of assessing causation and the legal *sine qua non* test; as well as general congruence between the "normative theories of causation" and folk causal intuitions which regard normative violations as relevant in ascribing causation. Moreover, I discussed the explanatory potential of different psychological models of this link between causes and norms ("competence", "bias" and "pragmatic" account). I argued that the "competence account" proposed by Knobe and his collaborators is able to explain basic assumptions and typical components of "normative theories of causation" in legal philosophy and legal theory to the greatest extent. Finally, I discussed potential implications of the (lack of) congruence between the legal and the folk concepts of causation.

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