**Tort law**

**Presuppositions**

In contrast to the *casuistic* system of delictual liability of the ancient Roman law, which exists today in England and partially in Germany, AK deals with delictual liability in two *general clauses* (Arts 914 and 919). Article 914 AK stipulates that whoever unlawfully and culpably causes damage to another is obliged to compensate the injured party. Article 919 AK also lays down that whoever intentionally and in a manner violating the commands of morality causes damage to another is bound to compensate the injured party. In both cases a causal relation, i.e. an adequate (proximate) connection between the unlawful and faulty act and damage is needed. In these two general rules apart from the objective presupposition of an unlawful or contravening bonos mores act a subjective presupposition, fault (culpability), is needed. This means that AK establishes subjective liability of the tortfeasor. Exceptionally Greek law establishes strict liability, that is liability to compensate regardless of the fault of the tortfeasor. In contrast with the general clauses on subjective liability, there is not a general clause imposing no fault liability. The main reason which justifies the introduction of strict liability is that the activity of the person causing the prejudice (e.g. the use of a car, of an airplane) constitutes a source of risk from which its holder draws benefits, consequently he should also bear the losses stemming from this source of risks.

**Comparison with contractual liability**

There are some differences in the regulation of these two types of liabilities. The main are the following:

Burden of proof: In contractual liability fault is presumed (rebuttable presumption), while in delictual liability the proof of fault (and certainly all the other conditions) is borne by the injured party according to the procedural rule that that the burden of proof lies on the plaintiff.

Moral damage: It is covered only in the case of delictual liability (AK 932 which also provides for the recovery of distress of third parties belonging to the family of a person who was killed by the tortfeasor.).

Prescription: Claims arising from delictual liability are prescribed five years from the time the injured party has had knowledge of the injury and of the identity of the person bound to compensate him. Claims arising from contractual liability are subject to the general twenty year prescription.

**Concurrence of delictual and contractual liability**

There is a dispute whether the provisions on delictual and contractual liability may concur. According to an opinion influenced by French authors rules on contractual liability prevail as special rules and exclusively regulate cases of contractual liability (principe de non-cumul). The injured party cannot choose the provisions which serve better his interests. According to the opposite opinion concurrence of the two liabilities is accepted if the act or omission which constitutes the contractual non performance simultaneously is an unlawful act (it would be also unlawful if it had been committed without the pre-existing contract). This means that the victim may choose and ground his claim on the provisions either of contractual or of delictual liability.

**Remedies**

The victim is entitled to claim compensation, which covers damages not only for pecuniary injury but also for moral (non-pecuniary) damage which he has suffered as a consequence of the tort (AK 932).

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I wish you good luck and a pleasant stay in Athens!