



Tipicidad sin tipo subjetivo? Sobre lo inescindible del tipo objetivo y el tipo subjetivo en teoría del delito [

2020

text (article)

Analítica

Neither the objective ex-ante observer nor the perpetrator's special knowledge, by which the doctrine of objective imputation aims to solve the problem of criminal imputation on the objective level, allow to dispense with the mens rea that, on the same level as the corpus delicti -in which the doctrine of objective imputation plays a decisive role-, form an inseparable unity that can only be separated for analytical purposes. Neither the reckless crime allows to dispense with the subjective representations of the perpetrator (mens rea of recklessness) nor does the intentional crime support the so-called standardization of intent that reduces it to a representation of a high objective danger, regardless of the subjective (psychological) consciousness of the presence of a high objective danger. In the same way that formerly it was impossible to configure the requirements of a Handlungsunwert and an Erfolgsunwert in a clearly separate way, because both form an inseparable unity, the latest developments of the doctrine of objective imputation show its insurmountable difficulties when it comes to separating objective imputation and subjective imputation, relegating the latter to a secondary level, only relevant for the purpose of gauging guilt for an illicit act limited in a purely objective way. Neither the objective ex-ante observer nor the perpetrator's special knowledge, by which the doctrine of objective imputation aims to solve the problem of criminal imputation on the objective level, allow to dispense with the mens rea that, on the same level as the corpus delicti -in which the doctrine of objective imputation plays a decisive role-, form an inseparable unity that can only be separated for analytical purposes. Neither the reckless crime allows to dispense with the subjective representations of the perpetrator (mens rea of recklessness) nor does the intentional crime support the so-called standardization of intent that reduces it to a representation of a high objective danger, regardless of the subjective (psychological) consciousness of the presence of a high objective danger. In the same way that formerly it was impossible to configure the requirements of a Handlungsunwert and an Erfolgsunwert in a clearly separate way, because both form an inseparable unity, the latest developments of the doctrine of objective imputation show its insurmountable difficulties when it comes to separating objective imputation and subjective imputation, relegating the latter to a secondary level, only relevant for the purpose of gauging guilt for an illicit act limited in a purely objective way.

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Editorial: 2020

Tipo Audiovisual: Observador objetivo ex ante Infracción objetiva de cuidado Infracción subjetiva de cuidado Tipo subjetivo de imprudencia Imputación objetiva del resultado Normativización del dolo Dolo e imprudencia como acción Dolo como intencionalidad Conocimientos especiales Desvalor-acción Desvalor-resultado Elemento objetivo del injusto Elemento subjetivo del injusto Naturalismo Normativismo Injusto como referencia de la culpabilidad Ex ante objective observer Objective infringement of care Subjective violation of care Mens rea of recklessness Objective imputation of the result Standardization of intent Intent and recklessness as action Intent as intentionality Special knowledge Handlungsunwert Erfolgsunwert Objective element of an illicit act Subjective element of an illicit act Naturalism Normativism Illicit act as a reference to guilt

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