

Editorial

Special Issue Tort Law Reform in Europe and Beyond. Why is Tort Law Reform So Difficult?

This special issue contains the papers presented at the Symposium ‘Tort Law Reform in Europe and Beyond. Why is Tort Law Reform So Difficult?’, organized by the Institute of European and Comparative Private Law of the University of Girona (Spain) and held at this university on the 27 and 28 June 2024.

The Symposium aimed to analyse the reasons why it has been relatively uncomplicated in some countries to reform tort law to adapt it to the demands of the times, whereas in others the reform attempts -if any- are still lost in ministerial or academic drawers.

In the first decade of the 21st century, a reform of non-contractual liability was carried out in Acts and Civil codes of the Baltic states and, a decade later, in countries of Central and Eastern Europe, such as in Romania (2011), in the Czech Republic (2012) or in Hungary (2013). Türkiye (2012), closely linked to the Swiss tradition, can also give some insights into the difficulties of codifying non-contractual liability. China (2021) offers a contrasting point of view from cultural and socioeconomic perspectives which are quite remote from European ones.

By contrast, some European countries such as Austria, Switzerland or France have already developed quite detailed and complete reform plans, sometimes through successive drafts or projects, neither of which has so far become law. In France a reform of the general part of the law of obligations was adopted in 2016, while that of non-contractual liability is still pending. In Belgium, however, the reform of the general part of the law of obligations took place in 2022 and the reform of non-contractual liability was finally adopted, after much debate, in 2024. In other countries, as in the case of Spain, despite some private projects, there is apparently no urgent call for amending this part of the law of obligations.

The papers presented aim at analysing an open list of issues, some of which apply in some countries and not in others, which was intended to serve as a kind of very loose guidelines for the authors of the corresponding papers.

Among the possible issues to be analysed were the position of interests’ groups, such as associations of victims, insurers, and legal professionals regarding the current situation in their countries and to a need for reform. To what extent soft law (Draft Common Frame of Reference, DCFR, Principles of European Tort Law, PETL, etc.) and the legislation of other countries had had any impact in the proposals. Which were the technical solutions proposed in different areas such as causation, damage, damages, grounds of liability, etc. and which innovations prompted the greatest rejection or the warmest applause.

The papers included in this special issue encompass both papers that were commissioned by the organization, which offer a more general overview, and papers presented as a response to a call for papers, which generally deal with more specific topics. The organizers of the Symposium would like to express their gratitude to the authors of the papers, to all participants for their contribution to an enriching debate and, last but not the least, to the Spanish Ministry of Science, Innovation and Universities and to the Catalan Department of Research and Universities, for their financial support to the Symposium, which was essential for the Symposium to take place.

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