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COMMENTARY ON

Art. 50 CO

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VI. Multiple liable parties

1. In tort

Art. 50

¹ Where two or more persons have together caused damage, whether as instigator, perpetrator or accomplice, they are jointly and severally liable to the person suffering damage.

² The court determines at its discretion whether and to what extent they have right of recourse against each other.

³ Abettors are liable in damages only to the extent that they received a share in the gains or caused damage due to their involvement.

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I. GENERAL REMARKS

A. Concept of joint and several liability

- 1 If several tortfeasors have jointly caused damage, they are jointly and severally liable to the injured party (Art. 50 para. 1 CO). This means that each tortfeasor is liable for the entire debt (Art. 143 para. 1 CO). Consequently, the injured party may recover all damages from a single tortfeasor. The injured party may also sue more than one tortfeasor or sue any or all tortfeasors for only part of the damages (Art. 144 para. 1 CO). However, their claim may only be satisfied once.¹ The relationship between the injured party on the one hand and the jointly and severally liable tortfeasors on the other is referred to as the **external relationship**.²
- 2 If a tortfeasor is held liable by the injured party for an amount that exceeds their responsibility, then they may make a claim against the other tortfeasors for the amount overpaid in the external relationship (Art. 50 para. 2 in conjunction with Art. 148 para. 2 CO). The relationship between the tortfeasors is called the **internal relationship**.³

B. Perfect and imperfect joint and several liability

- 3 The Federal Supreme Court distinguishes between so-called **perfect and imperfect joint and several liability**.⁴ Perfect joint and several liability arises if the law explicitly stipulates that it must be applied.⁵ Art. 50 para. 1 CO explicitly provides for joint and several liability in the case of joint fault of the parties involved. In contrast, imperfect joint and several liability exists if the law does not expressly recognise joint and several liability, but its rules are applied mutatis mutandis (joint and several liability per analogiam).⁶ According to Art. 51 para. 1 CO, the right to take recourse from other tortfeasors liable for the same damage on different legal grounds as opposed to joint fault is governed by the rules of Art. 50 para. 2 CO. The possibility of a claim for damages within the internal relationship presupposes joint and several liability in the external relationship.⁷
- 4 The **practical significance** of the Federal Supreme Court's distinction can be seen in three cases: (1) in cases of imperfect joint and several liability in which the actions of a plaintiff that interrupt the prescriptive period against a tortfeasor according to Art. 136 para. 1 CO do not have an effect against the other tortfeasors;⁸ (2) where the subrogation of the creditor's rights under Art. 149 CO only apply in the case of perfect joint and several liability;⁹ and (3) in the case of imperfect joint and several liability where the Federal Supreme Court assumes that individual grounds for reduction are not excluded.

1. BGE 89 II 118 consid. 5a; Brehm, Art. 50 CO mn. 31; BSK-Graber, Art. 50 CO mn. 1; CHK-Mazan, Art. 50 CO mn. 1; CR-Werro/Perritaz, Intro. to Art. 50–51 CO mn. 10; Gautschi, mn. 19; Rey/Wildhaber, mn. 1632. Cf. commentary on Art. 143 CO mn. 1 et seq. for further information.

2. Casanova, p. 13; Fellmann/Kottmann, mn. 2721; Gauch/Schluep/Emmenegger, mn. 3707; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 2.

3. Casanova, p. 13; Fellmann/Kottmann, mn. 2721; Gauch/Schluep/Emmenegger, mn. 3736; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 2.

4. BGE 139 V 176 consid. 8.5; BGE 127 III 257 consid. 6.; BGE 115 II 42 consid. 1b; BGE 104 II 225 consid. 4.

5. BGE 115 II 42 consid. 1b; CR-Werro/Perritaz, Intro. to Art. 50–51 CO mn. 39; Deschenaux/Tercier, § 34 mn. 13; Perritaz, mn. 237; Fellmann/Kottmann, mn. 2870; Oftinger/Stark, § 10 mn. 14.

6. BGE 119 II 127 consid. 4b; BGE 69 II 162 consid. 1 p. 168; Fellmann/Kottmann, mn. 2870; Gautschi, mn. 114; Rey/Wildhaber, mn. 1682.

7. BGE 115 II 42 consid. 1b; BSK-Graber, Art. 51 CO mn. 2; Fellmann/Kottmann, mn. 2835; Gautschi, mn. 127; Rey/Wildhaber, mn. 1681.

8. BGE 133 III 6 consid. 5.1; BGE 127 III 257 consid. 6a; BGE 115 II 42 consid. 1b; BGE 104 II 225 consid. 4b.

9. BGE 133 III 6 consid. 5.3.3; BGE 130 III 362 consid. 5.2; BGE 127 III 257 consid. 6c; BGE 115 II 42 consid. 2a.

Nevertheless, great restraint is called for in asserting individual grounds for reduction.¹⁰ With the exception of the three cases mentioned, perfect and imperfect joint and several liability largely coincide in terms of their prerequisites and legal consequences,¹¹ especially since the Federal Supreme Court applies the provisions on (perfect) joint and several liability in Art. 143 et seq. CO analogously to its application of imperfect joint and several liability.¹²

- 5 Among legal scholars, the distinction meets with **criticism**.¹³ The majority rejects a distinction between perfect and imperfect joint and several liability.¹⁴ The reasons given are that the introduction of Art. 51 CO by the legislator was rather incidental and that the comparable interests of the two types of joint and several liability would not justify a distinction. In addition, it is argued that the relevance of the different legal consequences is low and that due to an unwritten principle in tort law, joint and several liability should generally exist in the external relationship.¹⁵ Some authors support the differentiation.¹⁶

II. THE JOINT AND SEVERAL LIABILITY ACCORDING TO PARA 1

A. Requirements

1. Joint causation of damage

- 6 The joint and several liability of Art. 50 para. 1 CO requires the **cooperation of several tortfeasors** resulting in damage and the participation of each individual must be determined to be legally causal for the damage.¹⁷ An event is legally causal if, according to the usual course of events and general experience of life, it is in itself capable of bringing about a result of the kind that occurred.¹⁸ It is irrelevant which party has induced the *final* cause of damage.¹⁹
- 7 **Damage** within the meaning of Art. 50 CO primarily includes tortious damage, i.e. damage that arises from the violation of a legally protected right or of a provision of conduct that protects one's assets.²⁰ Compensation claims for personal suffering are also covered by the regulation.²¹ For contractual damage, Art. 50 CO applies via Art. 99 para. 3 CO.²²
- 8 **Joint causation** can, on the one hand, be achieved by a joint act of the parties involved. On the other hand, acts done separately but with a common purpose can also lead to joint and several liability.

10. BGE 127 III 257 consid. 6b; BGE 112 II 138 consid. 4a.

11. Brehm, Art. 51 CO mn. 19; KUKO-Schönenberger, Art. 50/51 CO mn. 5; Oftinger/Stark, § 10 mn. 18.

12. BGE 141 III 112 consid. 4.5; BGE 133 III 6 consid. 5.3.4; BGE 119 II 127 consid. 4b.

13. Cf. also the Federal Supreme Court's discussion of the criticism in BGE 115 II 42 consid. 1b and BGE 104 II 225 consid. 4.

14. Casanova, p. 45 et seq.; CR-Werro/Perritaz, Intro. to Art. 50–51 CO mn. 69 et seq.; Deschenaux/Tercier, § 34 mn. 18; Gauch/Schluep/Emmenegger, mn. 3755; Gautschi, mn. 181 et seq.; KUKO-Schönenberger, Art. 50/51 CO mn. 4; Oftinger/Stark, § 10 mn. 18; Perritaz, mn. 415 et seq.

15. Casanova, p. 45; Oftinger/Stark, § 10 mn. 11. Cf. on the history of origins Brehm, Art. 51 CO mn. 5 and CR-Werro/Perritaz, Art. 51 CO mn. 8 et seq.

16. Brehm, Art. 51 CO mn. 23; Bucher, p. 499; Fellmann/Kottmann, mn. 2734 and 2873; Schwenger/Fountoulakis, mn. 88.46.

17. BGE 127 III 257 consid. 5a; BGE 115 II 42 consid. 1b.

18. Instead of many BGE 145 III 72 consid. 2.3.1. In Swiss legal terminology “adäquate Kausalität”, “causalité adéquate” or “causalità adeguata”.

19. BGE 104 II 184 consid. 2; BSK-Graber, Art. 50 CO mn. 7; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 13.

20. Brehm, Art. 50 CO mn. 6.

21. BGE 131 III 26 consid. 12.1; BGE 126 III 161 consid. 5b/aa; Brehm, Art. 50 CO mn. 39; BSK-Graber, Art. 50 CO mn. 1; KUKO-Schönenberger, Art. 50/51 CO mn. 1; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 3.

22. BGE 115 II 42 consid. 1b; CR-Werro/Perritaz, Intro. to Art. 50–51 CO mn. 1; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 3; Oftinger/Stark, § 10 mn. 26.

Thus, it does not benefit a group of tortfeasors if they divide their acts (in time or place) but pursue a common goal or cause uniform damage.²³

- 9 Art. 50 para. 1 CO also includes **legally «joint» actions**. The culpable conduct of a governing body of a legal person obliges both the governing officer (Art. 55 para. 3 CC) and the legal person (Art. 55 para. 2 CC), giving rise to joint and several liability.²⁴
- 10 It remains to be noted that the **failure to act** in breach of duty can also cause damages and thus contribute to joint causation.²⁵

2. Joint fault

- 11 Joint and several liability under Art. 50 para. 1 CO requires **joint fault** on the part of the tortfeasors.²⁶ It is a prerequisite that the participants know or could know of the other's conduct in breach of duty.²⁷ This is the case if the participants intend the joint damage, see the joint damage merely as a means to an end, accept it in the sense of contingent intent, or do not consider the damage as a result of their joint carelessness in breach of duty (negligence).²⁸ The individual degree of fault of the participants is irrelevant for joint and several liability in the external relationship. The injured party can make a claim against all tortfeasors for the entire amount. Only in the context of the internal relationship are the respective individual faults taken into account.²⁹
- 12 If the tortfeasors act independently of each other and are **not aware** of their cooperation, there is no joint fault. Therefore, perfect joint and several liability does not apply. Instead, there is a competition of claims, which is handled according to Art. 51 CO.³⁰ Joint fault is also denied if a tortfeasor is not at fault, as in the case of a child who may be incapable of judgement (cf. Art. 16 and 18 CC).³¹ Unless liability is established, there is no joint and several liability in the external relationship.³²

3. Types of tortfeasors

- 13 Art. 50 para. 1 CO lists the **instigator**, the **perpetrator**, and the **accomplice** as types of tortfeasors and also clarifies that these categories are irrelevant in the external relationship.³³ The degree of participation and fault are only taken into account in the internal relationship.³⁴ Nonetheless, not every participatory act is considered legally causational with respect the damage that has occurred, and not

23. Brehm, Art. 50 CO mn. 19; CHK-Mazan, Art. 50 CO mn. 6. Cf. also Fellmann/Kottmann, mn. 2764.

24. Brehm, Art. 50 CO mn. 21; Deschenaux/Tercier, § 35 mn. 7.

25. BGE 71 II 107 consid. 3 p. 113 et seq.; Brehm, Art. 50 CO mn. 22; CR-Werro/Perritaz, Art. 50 CO mn. 6; Fellmann/Kottmann, mn. 2765. Cf. BGE 112 II 439 where several people would have been obliged to cut back a tree.

26. Cf. the more precise German legal text «gemeinsam verschuldet» compared to the French or Italian text «causé ensemble» and «cagionato da più persone insieme» or compared to the English translation «together caused». BGE 115 II 42 consid. 1b; BGE 104 II 225 consid. 4; BGE 55 II 320 consid. 2; Brehm, Art. 50 CO mn. 7; BSK-Graber, Art. 50 CO mn. 9; CR-Werro/Perritaz, Art. 50 CO mn. 4; Fellmann/Kottmann, mn. 2761; KUKO-Schönenberger, Art. 50/51 CO mn. 7; Rey/Wildhaber, mn. 1672.

27. BGE 115 II 42 consid. 1b.

28. Brehm, Art. 50 CO mn. 9 et seq.; BSK-Graber, Art. 50 CO mn. 9 et seq.; CHK-Mazan, Art. 50 CO mn. 9 et seq.; Deschenaux/Tercier, § 35 mn. 4; Fellmann/Kottmann, mn. 2781.

29. BGE 104 II 225 consid. 4a; BGE 71 II 107 consid. 2 p. 112 et seq.; Brehm, Art. 50 CO mn. 14; CR-Werro/Perritaz, Art. 50 CO mn. 7.

30. BSK-Graber, Art. 50 CO mn. 11; Fellmann/Kottmann, mn. 2773; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 15.

31. Brehm, Art. 50 CO mn. 33; BSK-Graber, Art. 50 CO mn. 11.

32. BGE 133 III 6 consid. 5.2.1; BGE 130 III 362 consid. 5.2; Brehm, Art. 50 CO mn. 33; BSK-Graber, Art. 50 CO mn. 8.

33. BSK-Graber, Art. 50 CO mn. 8; CHK-Mazan, Art. 50 CO mn. 14; KUKO-Schönenberger, Art. 50/51 CO mn. 7; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 14.

34. BGE 71 II 107 consid. 2; Brehm, Art. 50 CO mn. 14; Fellmann/Kottmann, mn. 2783.

every act of participation that has promotional influence meets the requirement. A sufficiently close connection with the act itself is required.³⁵

- 14 In addition to the three types mentioned in Art. 50 para. 1 CO, the **abettor** is also liable. The legal consequence is determined by para. 3.³⁶

B. Joint and several liability as legal consequence

- 15 If the requirements of Art. 50 para. 1 CO are fulfilled, the tortfeasors are jointly and severally liable vis-à-vis the injured party in the external relationship. Each of them can be held individually liable for the **entire damage** (Art. 144 para. 1 CO) without being able to object that they only partially contributed to it.³⁷
- 16 According to the case law of the Federal Supreme Court, in the external relationship, no **individual grounds for reduction**, such as minor fault according to Art. 43 para. 1 CO, can be invoked,³⁸ even though most legal scholars support the admissibility of individual grounds for reduction.³⁹ However, the legal situation is different for objections arising from the personal relationship between the joint and several debtor and the creditor, such as acquittal, deferment, or set-off (Art. 145 para. 1 var. 1 CO), which can be brought forward in the external relationship.⁴⁰ The same applies to objections based on the nature of, or collective reason for the joint and several obligation (Art. 145 para. 1 var. 2 CO). These include, among others, the creditor's own fault or other circumstances attributable to them (cf. Art. 44 para. 1 CO).⁴¹

III. RECOURSE BETWEEN THE JOINT AND SEVERAL DEBTORS ACCORDING TO PARA. 2

A. Recourse and subrogation

- 17 If a claim is made against a joint and several debtor by the injured party, the question arises as to whether and to what extent they can take **recourse** against the other joint and several debtors.⁴² The Federal Supreme Court defines recourse as the situation in which someone who has made a payment to a beneficiary in place of a third party to take action against that third party to recover damages.⁴³ Even if the joint and several debtor sued by the injured party is liable externally up to the full amount of the damage, they can only be held liable internally on a pro rata basis. Art. 50 para. 2 (in conjunction with Art. 148 para. 2) CO entitles the joint and several debtor to take action against other debtors.⁴⁴ The right of recourse arises at the time of performance to the injured party.⁴⁵

35. BGE 145 III 72 consid. 2.3.1.

36. Brehm, Art. 50 CO mn. 29.

37. Brehm, Art. 50 CO mn. 19; BSK-Graber, Art. 50 CO mn. 14; Casanova, p. 13; Fellmann/Kottmann, mn. 2815; Rey/Wildhaber, mn. 1667. For the concrete effects of joint and several liability, see the commentaries on Art. 144 et seq. CO.

38. BGE 127 III 257 consid. 6b; BGE 113 II 323 consid. 2b; BGE 97 II 403 consid. 7d.

39. Oftinger/Stark, § 10 mn. 33; Rey/Wildhaber, mn. 1713. Cf. commentary on Art. 145 CO mn. 4 et seq. and Brehm, Art. 50 CO mn. 41 et seq. for further references.

40. Brehm, Art. 50 CO mn. 48; BSK-Graber, Art. 50 CO mn. 20; CHK-Mazan, Art. 50 CO mn. 18; Fellmann/Kottmann, mn. 2827. Cf. commentary on Art. 145 CO mn. 2 et seq. for further examples.

41. Brehm, Art. 50 CO mn. 49; Casanova, p. 14 et seq.; CHK-Mazan, Art. 50 CO mn. 17; Deschenaux/Tercier, § 35 mn. 19; Fellmann/Kottmann, mn. 2826. Cf. commentary on Art. 145 CO mn. 8 et seq. for further information.

42. BSK-Graber, Art. 50 CO mn. 22; CHK-Mazan, Art. 50 CO mn. 20; Fellmann/Kottmann, mn. 2910; Rey/Wildhaber, mn. 1727.

43. BGE 136 V 131 consid. 3.4.

44. Casanova, p. 18 et seq.; Fellmann/Kottmann, mn. 2915 et seq.

45. Fellmann/Kottmann, mn. 2920.

- 18 In addition to the original right of recourse under Art. 50 para. 2 in conjunction with Art. 148 para. 2 CO, the joint and several debtor also has the right of **subrogation** under Art. 149 CO.⁴⁶ In this case, the claim of the aggrieved creditor passes to the debtor against whom a claim has been made as an assignment by law together with the accessory rights (cf. Art. 166 and 170 CO). The debtor assumes the position of the creditor and can assert the subrogated claim, less the share to be borne by them, against the other tortfeasors.⁴⁷

B. Extent of the recourse

- 19 Whether and to what extent the jointly and severally liable tortfeasor can take recourse against his co-tortfeasors in the internal relationship is at the **discretion of the court** (Art. 50 para. 2 CO). The court first takes into account the severity of the fault of each party, whereby a perpetrator or instigator must usually bear a greater share than an accomplice.⁴⁸ Furthermore, the potentially different interests of the participants must be taken into account.⁴⁹ Only at this point can the joint and several tortfeasor assert individual grounds for reduction among themselves.⁵⁰
- 20 The constellation of several joint tortfeasors according to Art. 50 paras. 1 and 2 CO is a legal exception to Art. 148 para. 1 CO which requires a **deviation** from the distribution according to heads.⁵¹ In addition, there is no joint and several liability in the internal relationship between the debtors.⁵² The recourse creditor can only sue the other tortfeasors in the amount of their internal share. The inability of a tortfeasor to pay is governed by Art. 148 para. 3 CO.⁵³

C. Prescription of the right of recourse

- 21 The relative prescription period of the right of **recourse** according to Art. 50 para. 2 CO is regulated in Art. 139 CO.⁵⁴ Accordingly, the debtor's right of recourse lapses three years after the day on which they have satisfied the injured party and are aware of their co-debtors. Most scholars also postulate a ten-year absolute period of prescription,⁵⁵ which, according to the view held in this commentary, begins at the time the injured party is satisfied by the first joint and several debtor.⁵⁶

46. Brehm, Art. 50 CO mn. 56; BSK-Graber, Art. 50 CO mn. 23; Casanova, p. 20; CHK-Mazan, Art. 50 CO mn. 21; Deschenaux/Tercier, § 36 mn. 17. CR-Werro/Perritaz, Intro. to Art. 50–51 CO mn. 61 and OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 20 et seq. see the subrogation under Art. 149 CO as the only ground for a claim.

47. Cf. commentary on Art. 149 CO for further information.

48. Brehm, Art. 50 CO mn. 58; BSK-Graber, Art. 50 CO mn. 25; CR-Werro/Perritaz, Art. 50 CO mn. 14; Fellmann/Kottmann, mn. 2922; KUKO-Schönenberger, Art. 50/51 CO mn. 10; Rey/Wildhaber, mn. 1747.

49. Brehm, Art. 50 CO mn. 58; BSK-Graber, Art. 50 CO mn. 25; CR-Werro/Perritaz, Art. 50 CO mn. 14; Deschenaux/Tercier, § 36 mn. 26; Fellmann/Kottmann, mn. 2922.

50. Brehm, Art. 50 CO mn. 58; CHK-Mazan, Art. 50 CO mn. 23; CR-Werro/Perritaz, Art. 50 CO mn. 14; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 8; Rey/Wildhaber, mn. 1748.

51. Casanova, p. 18; CR-Werro/Perritaz, Art. 50 CO mn. 14; Fellmann/Kottmann, mn. 2919; KUKO-Schönenberger, Art. 50/51 CO mn. 3.

52. BGE 103 II 137 consid. 4d; Brehm, Art. 50 CO mn. 60; BSK-Graber, Art. 50 CO mn. 27; Casanova, S, 18; Deschenaux/Tercier, § 36 mn. 49; Fellmann/Kottmann, mn. 2925. According to CR-Werro/Perritaz, Intro. to Art. 50–51 CO mn. 79, there is joint and several liability in the internal relationship if the recovering debtor relies on subrogation. Cf. also commentary on Art. 148 CO mn. 10.

53. Cf. commentary on Art. 148 CO mn. 16 et seq. for further information.

54. CR-Pichonnaz, Art. 139 CO mn. 10; CR-Werro/Perritaz, Art. 50 CO mn. 13; Wildhaber/Dede, Art. 139 CO mn. 39. According to BSK-Graber, Art. 50 CO mn. 28, Art. 139 CO only applies to imperfect joint and several liability. Yet, the author transfers the rule of Art. 139 CO to recourse claims under Art. 50 para. 2 CO. Similar BSK-Däppen, Art. 139 CO mn. 3 and OFK-Schwander, Art. 139 CO mn. 2 that only want to apply the prescription according to Art. 139 CO to perfect joint and several liability if the recourse creditor can rely on Art. 148 para. 2 CO. OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 26 and Brehm, Art. 50 CO mn. 64 apply the prescription rule of Art. 67 CO analogously.

55. Cf. the references in the commentary on Art. 148 CO mn. 14.

56. Cf. commentary on Art. 148 CO mn. 14 for further information. Critical Brehm, Art. 50 CO mn. 64.

- 22 If the debtor from whom the creditor recovers relies on **subrogation** under Art. 149 para. 1 CO, both the claim, including accessory rights, and the prescription period, which has already begun, passes to them. The starting date and duration of the period are determined by the main claim that has been transferred.⁵⁷

IV. LIABILITY OF THE ABETTOR ACCORDING TO PARA. 3

- 23 The **term** «abettor» used in the English translation of the Code of Obligations first needs to be clarified. It does not mean someone who helps or encourages the tortfeasor in causing the damage.⁵⁸ Rather, the abettor in the sense of para. 3 only acts after the damage has been done by securing the outcome that has already occurred.⁵⁹ They may, for example, act as a receiver of stolen goods⁶⁰ or money launderer.⁶¹ Due to the lack of a legally causational link, the abettor is only liable for the consequential damage caused by their conduct (in addition to any share of the profit received) and not for the damage caused by the principal tort.⁶²
- 24 The liability of the abettor requires **fault**, even if the law does not explicitly mention it. In contrast to the criminal offence of handling stolen goods under Art. 160 Criminal Code that requires intention, negligence is sufficient.⁶³
- 25 Art. 50 para. 3 CO distinguishes between **two variants**. On the one hand, the abettor is liable insofar as they have received a share in the gains or otherwise benefit by saving expenses. This is the case, for example, if the abettor receives a share in the stolen goods in return for hiding them or riding in a stolen car.⁶⁴ On the other hand, the abettor becomes liable for the damage they have caused: for example, the sale of a stolen item.⁶⁵
- 26 The **legal consequence** of Art. 50 para. 3 CO is the joint and several liability of the abettor together with the tortfeasors according to para. 1. However, the extent of the joint and several liability is limited from the point of view of the abettor. It only extends as far as they are liable according to para. 3 and not necessarily to all damages.⁶⁶ If the abettor also acts as an accomplice before and during the causation of the damage, their joint and several liability is governed solely by para. 1.⁶⁷

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57. Brehm, Art. 50 CO mn. 63; BSK-Graber, Art. 50 CO mn. 29.

58. Cf. <https://dictionary.cambridge.org/dictionary/english/abettor> (last visited on 12.7.2023).

59. BGE 101 II 102 consid. 4a; CR-Werro/Perritaz, Art. 50 CO mn. 15; Fellmann/Kottmann, mn. 2804.

60. Cf. also the French legal text «receleur». However, the civil and criminal elements of the offence do not coincide (BGE 77 II 301 consid. 3b).

61. BSK-Graber, Art. 50 CO mn. 30. Cf. on the money launderer Heierli, *passim*.

62. BGE 101 II 102 consid. 4a; CR-Werro/Perritaz, Art. 50 CO mn. 15; KUKO-Schönenberger, Art. 50/51 CO mn. 8; OFK-Fischer/Böhme/Gähwiler, Art. 50 CO mn. 27.

63. Brehm, Art. 50 CO mn. 68; Fellmann/Kottmann, mn. 2806.

64. BSK-Graber, Art. 50 CO mn. 31; CHK-Mazan, Art. 50 CO mn. 26.

65. Brehm, Art. 50 CO mn. 72; BSK-Graber, Art. 50 CO mn. 32; CHK-Mazan, Art. 50 CO mn. 26.

66. Brehm, Art. 50 CO mn. 73; BSK-Graber, Art. 50 CO mn. 33; CHK-Mazan, Art. 50 CO mn. 27; KUKO-Schönenberger, Art. 50/51 CO mn. 8.

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