

THE CONCEPT AND ROLE OF THE INSTITUTION OF CIVIL LIABILITY IN THE GENERAL PART OF CIVIL LAW

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Annotation. This article examines the concept of civil liability in the context of its importance and role in the civil law system of the Russian Federation. The main aspects of civil liability are studied in detail, including its types, principles, signs, functions, and grounds for occurrence.

Key words: civil liability, civil law, civil Code of the Russian Federation, legislation

ПОНЯТИЕ И РОЛЬ ИНСТИТУТА ГРАЖДАНСКО-ПРАВОВОЙ ОТВЕТСТВЕННОСТИ В ОБЩЕЙ ЧАСТИ ГРАЖДАНСКОГО ПРАВА

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Аннотация. В данной статье рассматривается концепция гражданско-правовой ответственности в контексте ее значения и роли в системе гражданского права Российской Федерации. Подробно изучаются основные аспекты гражданско-правовой ответственности, включая её виды, принципы, признаки, функции, основания возникновения.

Ключевые слова: гражданско-правовая ответственность, гражданское право, гражданский кодекс РФ, законодательство

According to the provisions of the Constitution of the Russian Federation, the exercise of human and civil rights and freedoms should not violate the rights and freedoms of others. The Constitution speaks about the duty of the State to respect, protect and defend the rights and freedom of man and citizen. [4] The norms of the

Civil Legislation of the Russian Federation (hereinafter — the Civil Code of the Russian Federation), the content of which determines civil liability, fix and specify this fundamental objective of the basic law of our country.

Civil liability is considered to be an integral part of a broader institution of legal responsibility, rightfully judged as one of the functional categories of jurisprudence, the origin and formation of which took place in the era of the emergence of law and the state.

Legal liability formalization is characterized by the fact that it exists only being provided by legal norms. Only those civil liability types and their amount are applied that are either directly provided by law or allowed.

In modern society, civil liability is one of the most important tools for ensuring justice and protecting the interests of citizens and organizations, regulating civil legal relations, which is relevant and important for understanding the basic principles of civil law.

Legislation and other legal acts do not include the general concept of the term ‘civil liability’; we can only study the general norms and types of liability that are set down in Chapter 25 of the Civil Code of the Russian Federation. [2] The complexity of forming the civil liability concept is associated with the lack of a single established concept of legal liability, which is generic in relation to the concept under consideration.

To understand the meaning of civil liability, it is necessary to consider the formulation of the definition of legal scholars such as V.P. Griбанov, E.A. Sukhanov, S.N. Bratus::

E. A. Sukhanov defines civil liability as ‘one of the state coercion forms, consisting in the recovery by the court of property sanctions from the offender in favor of the victim, imposing on the offender unfavorable property consequences of his behavior and aimed at restoring the property sphere of the victim.’ [5]

According to the American researcher I. A. Hobel, civil liability is associated with the presence of mandatory measures fixed in law or contract aimed at regulating relations, compensating for damage caused or imposing other adverse consequences on the violator in order to restore violated civil rights. [3]

S. N. Bratus highlights the idea that ‘Civil liability is a measure of state or public coercion, including forcing the debtor to fulfill his obligations.’ [1]

Civil liability has special, unique features, determined by the specifics of the subject of civil law:

1. The proprietary nature of liability;
2. Responsibility of the offender to the victim;
3. Property relations, that constitute the subject of civil law regulation, are of an equivalent and compensatory nature, characteristic of normal trade turnover, value economic relations;
4. Ensures the elimination of losses in the property sphere of the victim, which occurred as a result of violations by other participants in civil turnover, by assigning them to the property sphere of the offender;

5. Measures of civil liability can be both provided for in legislation and established by the participants in the turnover themselves.

Having analyzed the information above, we can come to the conclusion that civil liability is a measure of state coercion of a property nature provided for by law or contract, used in order to restore the damaged state and satisfy the victim at the expense of the offender.

The main functions of civil liability include restorative (compensatory), preventive and educational (stimulating) and punitive (repressive).

Depending on the presence or absence of binding relations between the offender and the authorized person, contractual and non-contractual types of liability are distinguished. Both types of liability are characterized by a compensatory orientation and satisfy the property interests of the victim at the expense of the offender.

Based on the grounds of occurrence, liability for causing property damage (committing a property offense) and liability for causing moral harm (harm caused to a person's personality) can be distinguished.

Civil liability can be classified depending on the plurality of persons on the debtor's side as well:

1. Shared responsibility is applied in cases where each of the subjects of responsibility is in charge of its share limits. The debtor is liable to the creditor only in that part of the obligation that falls on him as a result of non-fulfillment or improper fulfillment of the obligation. According to Art. 321 of the Civil Code of the Russian Federation, if several creditors or several debtors participate in the obligation, then each of the creditors has the right to demand performance, and each of the debtors is obliged to fulfill the obligation equally with others insofar as nothing else follows from the law, other legal acts or the terms of the obligation; [2]

2. Article 322 of the Civil Code of the Russian Federation stipulates that joint and several liability arises if the solidarity of an obligation or claim is provided for by a contract or established by law, in particular when the subject of the obligation is indivisible. The creditor (victim) has the right to file a claim against all debtors jointly or against any of them separately; [2]

3. In case of subsidiary liability, the subsidiary debtor bears additional liability in relation to the liability borne by the main debtor;

4. Article 403 of the Civil Code of the Russian Federation establishes that the debtor is responsible for non-fulfillment or improper fulfillment of the obligation by the third parties who were entrusted with the execution. [2]

For civil liability to arise, it is necessary to establish the presence of certain circumstances (conditions) that are common and typical for civil offenses:

- 1) unlawful nature of the conduct (actions or omissions) of the person who is supposed to be held responsible (or the occurrence of other circumstances specifically provided for by law or contract). It is characterized by violation the norms of law, provisions of laws, contracts, business practices, etc. are d;

- 2) presence of harm or loss to the injured person;

- 3) causal relationship between the illegal behavior of the violator and the harmful consequences that have occurred. The violator can be brought to civil liability only if

the act committed by him entailed the corresponding consequences, and they are interconnected;

4) the guilt of the offender.

Thus, civil liability establishes the consequences of misconduct that violates the rights and interests of others, therefore its application is one of the ways to protect violated subjective rights and legally protected interests. The most important feature of this method is the application of liability measures through state coercion, i.e. with the help of public authority.

The institution of civil liability is also important because it reveals the concepts of guilt, damages, and penalties; determines the grounds, extent of liability and exemptions from it, and also plays an important role in the trial of specific cases.

To conclude the famous quote about civil liabilities said by Henry Ward Beecher ‘A law is valuable not because it is law, but because there is right in it’ may be used.

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