



Conceptual foundations of civil responsibility in civilist thinking

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Abstract: This article examines the conceptual foundations of civil responsibility within the tradition of civilist legal thought. Civil responsibility, as one of the core institutions of private law, serves to restore violated rights, ensure compensation for harm, and maintain stability in civil turnover. The study analyzes the theoretical nature of civil responsibility, its goals, functions, and its relationship with the structure of obligations. Special attention is given to the classical elements of civil responsibility – wrongful conduct, damage, causation, and fault and their evolution in modern doctrine. The paper highlights the transition from fault-based liability to objective (strict) liability in areas involving professional or increased-risk activities, as well as the growing role of protective mechanisms such as contractual penalties, insurance, and risk allocation principles.

Keywords: civil responsibility; civilist theory; obligations; wrongful act; causation; fault; strict liability; damages; compensation;

Civil liability occupies a central position within civil law theory, serving as a mechanism for restoring violated rights, compensating damages, and ensuring the stability of civil turnover. In the tradition of civil law thought, the concept of liability has evolved as a doctrinal construction grounded in principles of justice, balance of interests, and legal certainty. Unlike punitive mechanisms characteristic of criminal or administrative law, civil liability aims to re-establish the patrimonial equilibrium disrupted by unlawful conduct or non-performance of obligations. The conceptual foundations of civil liability reflect both historical development and contemporary transformations of private law, including contractual autonomy, the rise of complex



economic relations, and the increase in risks inherent in modern transactions.

Civil liability is the property consequences for the violator of the law or contract, consisting in the imposition of additional obligations (for example, compensation for damages, payment of a penalty, compensation for moral damage) in favor of the victim, aimed at restoring the violated right and compensating for losses, with the possibility of state coercion. It is of a property, compensatory nature and is applied in the presence of a violation, losses, causation and fault (although there are exceptions, for example, in entrepreneurial activity).

In the system of regulation of civil legal relations, civil liability occupies a central place. Being the initial concept of the whole institution of civil law, its definition is of particular interest, along with the main scientific categories of civil law.

However, despite the general, fundamental nature of this concept, as well as the general rules on liability enshrined in the Civil Code of the Republic of Uzbekistan, there is no unified approach to the definition of civil liability in the science of civil law. Obviously, this is primarily due to the complexity and multi-layered nature of its content. Therefore, our task is to study the scientific material and, based on the basic elements developed by theorists, as well as specialists in the field of civil law, to give an idea of the nature and features of this legal phenomenon¹.

The analysis can be carried out on various grounds, criteria and requirements, but it is most reasonable to begin our study with the history of the emergence of responsibility as such.

As a social phenomenon, as a mechanism designed to regulate social relations, responsibility, in its embryonic state, first arose at the stage of the formation of tribal society, in order to ensure labor discipline. And it was a system of customs, dressed

¹ Гражданское право: учебник В 2 т. Т.1 / под ред. Е.А. Суханова. - М.,1993. - С. 172-173.



in the form of a religious prohibition, with a whole "system of taboos", providing for a special kind of sanctions for their violation. With the division of labor and the appearance of surpluses from labor activity, society is divided into classes, which inevitably leads to the formation of a state, where custom, as before, remaining the main source of law, is gradually transformed into law, and will create prerequisites for the development of responsibility as a form of state provision of justice².

For example, in the heyday of the Roman Empire with its developed commodity turnover, that part of Roman law that regulated various property relations, and especially its most important institution - the law of obligations, received special development. Already at this stage, the concept of contractual relations is defined quite clearly. The treaty is considered inviolable and must be strictly observed. Failure to perform or breach of a contractual obligation inevitably entails liability, which is of a personal nature. And if the debtor fails to fulfill his duty, he can be imprisoned, sold into slavery or even deprived of life.

With the transition of society from an appropriating economy to a productive one, and as a result, the emergence of a surplus product, there is a possibility of replacing responsibility of a personal nature with a certain material compensation. Debtors began to be liable for non-fulfillment of obligations not with their person, but with their property. According to sources, this innovation was introduced by the law of Petelius in the IV century BC, and set forth in the Law of the XII Tables³.

На этом этапе, Государство еще недостаточно сильно, чтобы окончательно исключить частный произвол, но это уже первый шаг на пути к построению института гражданско-правовой ответственности.

² Хачатуров Р.Л. От ответственности в первобытном обществе к юридической ответственности // Вектор науки Тольяттинского государственного университета. Серия: Юридические науки. - 2011. - №4. - С. 141-147.

³ Барина М. А., Максименко С. Т. Римское частное право: учебное пособие для вузов [Электронный ресурс]. - Режим доступа: <http://beUib.org/?p=3401>



Let us consider "civil liability" from the point of view of the doctrine of legal science. Despite the centuries-old history of civil legal relations, it is noteworthy that the term "civil liability" appeared relatively recently, in France at the end of the 18th century. At the same time, none of the legal families gives an unambiguous definition. In the Anglo-Saxon legal family, there is no doctrinal interpretation of "responsibility" in principle. This is primarily due to the absence of the concept of obligation, through which the legal relationship of responsibility is built. As for the Romano-Germanic legal system, the lack of a single definition is due to the clear distinction between contractual and tort liability⁴.

As mentioned earlier, in legal science, there is also no unified approach to solving this issue, despite the abundance of research in this area. This is explained by the specifics of the range of relations regulated by civil law, its goals, object and method of legal regulation. The unity of views is expressed mainly in the fact that this is one of the leading and most complex types of legal responsibility.

Let us turn to the definition of legal liability proposed by A.G. Chernyavsky: "Legal liability is a special type of state coercion, consisting in the subject of law suffering unfavorable consequences provided for by the sanction of the violated norm, and carried out in the form of a protective legal relationship"⁵. This definition, quite accurately and succinctly, characterizes legal responsibility and allows us to identify its main features:

- a) is expressed in certain negative consequences for the offender: property (material), moral, physical, political;
- b) occurs for an unlawful act and always has the official nature of state condemnation of the offender's behavior;

⁴ Ермолаев С.Н. Понятие гражданско-правовой ответственности // Альманах современной науки и образования. - 2010. - С. 12-15.

⁵ Чернявский А.Г. Юридическая ответственность: учебное пособие. - М.: Альфа-М, 2014. - С. 321-323.



c) uses the mechanisms of state coercion;

d) the nature and extent of the offender's deprivation are established in the sanction of the legal norm;

e) the state performs a protective function in regulating social relations.

If we adhere to this concept of legal liability, taking into account the basic principles and specifics of civil law, from the point of view of V.P. Gribanov, civil liability can be defined as one of the "forms of state coercion associated with the application of property sanctions aimed at restoring violated rights and stimulating normal economic relations of legally equal participants in civil turnover"⁶.

However, this definition is not final and exhaustive, but only reflects one of the many approaches to a controversial issue for legal science.

The approach of A.B. Babaev and V.A. Belov is revolutionary, who believe that the too broad content of civil liability calls into question the expediency of its definition. In their opinion, the most relevant is the study of the basic principles of civil liability, which should be followed when imposing an obligation resulting from "violation of a subjective civil right and (or) an element of civil law and order protected by law (legitimate interest in its preservation)". A definition takes place if there is a need to distinguish related concepts and identify problems⁷.

Indeed, the concept of civil liability is so broad that it is simply impossible to fit it into a few lines of text form. It would be wrong to consider any of the approaches to be erroneous. By considering the issue from the point of view of various aspects, we can have a complete understanding of civil liability, its scope and content, as well as distinguish it from other types of liability and methods of protection. Based on the studied material, we will try to generate the information

⁶ Гражданское право: учебник В 2 т. Т.1 / под ред. Е.А. Суханова. - М.,1993. - С. 172-173.

⁷ Гражданское право. Актуальные проблемы теории и практики // под общ. ред. В.А. Белова. - М.: Юрайт, 2016. - В 2 т. - Т. 2. - С. 401.



obtained and identify a number of distinctive features and signs inherent in civil liability:

1. Civil liability is a legal relationship arising in the event of non-fulfillment or improper fulfillment of one's subjective obligations by one person, which entailed a violation of the subjective right of another person.

2. Civil liability is associated with the imposition of a new additional obligation.

3. Dispositive nature of the application of civil liability.

4. The obligation constituting the content of responsibility may be fulfilled by the offender voluntarily.

5. The implementation of measures of responsibility is ensured by state coercion, but prosecution is possible only on the initiative of the person whose right has been violated.

6. Civil liability is of a property and restorative nature, it is not aimed at the personality of the offender.

7. Civil liability performs a preventive (regulatory) function.

8. Civil liability is of a restorative and compensatory nature. Restoration of the violated right is implemented through the compensatory function (the purpose is to eliminate the adverse consequences of the victim at the expense of the violator). The Civil Code of the Republic of Uzbekistan enshrines the principle of full compensation for damage, deviations from which are possible in cases provided for by law.

Civil liability may take various forms:

1. Compensation for damages – the core and most traditional form.
2. Payment of penalties (liquidated damages) – often used in contractual relations to secure performance.
3. Restitution – returning unlawfully acquired property.



4. Invalidation consequences – restoration of parties to their prior condition.

5. Moral (non-material) damages – recognized in personal injury and dignity-related cases.

These forms demonstrate the diversity and flexibility of civil liability within the civil law system.

A core conceptual issue in civilist thought concerns the relationship between liability and obligation. Scholars distinguish between:

- **primary obligations**, which arise from contracts, torts, or other legal facts; and
- **secondary obligations**, which emerge upon breach of the primary obligation and constitute the essence of civil liability.

Civil liability therefore operates when a debtor fails to perform a primary obligation, transforming it into a secondary duty—typically, a duty to compensate damages, pay penalties, or otherwise rectify the harm caused.

This dual structure underscores the compensatory nature of civil liability and emphasizes that liability is not punitive but remedial.

Civil liability in civil law theory is traditionally defined as a legal consequence of the non-performance or improper performance of obligations, or the violation of absolute rights, which results in a duty to compensate harm or to fulfill other compensatory measures. Its primary functions include:

- Restorative function – restoring the previous state of patrimonial relations through compensation of damages.
- Protective function – ensuring effective protection of subjective civil rights.
- Preventive function – deterring participants in civil turnover from violating legal norms and contractual terms.



- Regulatory function – reinforcing responsibility and discipline in contractual relations.

Thus, civil liability is instrumental in maintaining order, predictability, and fairness within private law relationships.

The conceptual foundations of civil liability in civil law thought reflect a well-developed system grounded in principles of justice, compensation, and legal certainty. Serving as a mechanism to restore violated rights and regulate private law relations, civil liability has evolved from classical fault-based doctrine to a more nuanced and flexible institution capable of addressing the demands of contemporary legal and economic life.

The modern approach emphasizes the interplay between subjective fault, objective risks, contractual freedom, and social responsibility. As civilist thought continues to develop, civil liability remains central to ensuring the stability, fairness, and effectiveness of civil turnover in both national and international legal systems.

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