

SUMMARY

Key Words: guilt, harm caused, compensation for harm

Subject matter: Guilt in civil law: concept, meaning, features

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The relevance of the research topic it is determined by the fact that the problems of guilt in civil law directly or indirectly affect everyone.

In comparison with other branches, civil law is characterized by an increased level of complexity, instability and inconsistency, and the practice of its application is accompanied by various legal problems, some of which are related to the problem of determining guilt in civil law, the role of guilt in assigning civil liability.

Although the problem of guilt in law as grounds of legal liability studied in detail and described in the science of criminal law, the projecting Institute of the guilt of the relationships associated with criminal jurisdiction and qualification of crimes in civil matters, led to a number of problems with the implementation in practice of the principles of civil liability.

Since the Civil code of the Russian Federation (hereinafter - the civil code of the Russian Federation) does not contain a definition of "guilt", law enforcement agencies have to be content with the provisions of criminal law developed in the last century. The lack of a clear and balanced approach to determining and assessing the guilt of the offender, as well as the legally established concept of guilt in civil law, puts the judicial authorities in the conditions for resolving civil disputes with arbitrary criteria for assessing the responsibility of participants in civil turnover. This creates negative prerequisites for an ambiguous interpretation of the concept of civil liability.

Therefore, the relevance of this study is determined by the following circumstances:

1. there is a discrepancy between the level of practical significance of the topic and its actual development in the domestic legal science.
2. the undeveloped problem of guilt in civil law.
3. The absence of the civil code determining the fault and its generic terms, what complicates a clear understanding and application of fault as an element of tort and conditions of civil liability.
4. the definitions of the form of guilt contained in civil legislation do not disclose the concept of guilt and, accordingly, do not disclose the essence of the grounds for civil liability.
5. Lack of unity of opinion among representatives of legal science about the content of the concept of "guilt".

The purpose of the work: it consists in a comprehensive study and reflection of the current state of the problem of guilt in civil law in modern Russia, the development of recommendations for improving the legislative regulation of the institution of guilt in civil law.

Objective:

- Conduct a theoretical analysis of the concept of guilt in law;
- Investigate the provisions on guilt and guilt in the current legislation;
- To study the role of guilt, its forms and types in other branches of law;
- Consider the problems of innocent liability in civil law;
- Identify signs of guilt as an element of the offense;
- Analyze the features of the institution of guilt in civil law, identify problems of its functioning.

The theoretical and practical significance of the research they are determined, first of all, by the systematic approach to the analysis of issues of guilt in civil law, which allows us to talk about the possibility of harmonizing modern legislation and solving a number of problematic issues on this basis.

The results of the research can be used in the study of civil law, as well as aimed at improving civil legislation.

Results of the study: 1. in some cases, guilt should not be taken into account as a condition for

the onset of civil liability, so it is advisable to formulate in the civil code of the Russian Federation a truncated set of conditions for the onset of civil liability: wrongfulness, harm and causation.

2. Guilt is a conscious and conscious mental attitude of the offender to his illegal behavior and its result, manifested in disregard or indifference to the interests of the state and society, and, accordingly, in the choice of illegal, anti-social behavior. In addition, the guilt component is the attitude of the society itself to the offender and his behavior, but priority is given to the first characteristic of guilt.

3. when applying measures of civil liability, the law enforcement officer should first of all be interested in the harm caused and also in whether the offender took objectively possible measures to prevent harm, and not what his subjective, mental attitude to his behavior was.

Recommendations:

1. Considering only the substantive basis of the exemption from civil liability without fault, it is important to unify the different terminology relating to the exemption from liability without fault, such as a "release from damages", "indemnification" (article 1064, paragraph 1, article 1079, section 2 of article 1083, article 1098 of the civil code), "damages", "responsible", "responsible for damage" (art 495, 1073, 1076 of the civil code). In these cases, it is appropriate to use the term "bear responsibility".

2. At least one of the rules of this institution must provide for the General basis and conditions of civil liability. Presumably, it should consist of three points: the first should be devoted to the basis and conditions of liability for fault, the second - the basis and conditions of liability without fault. The third paragraph may provide General grounds for exemption from civil liability, as well as specify special rules for exemption from contractual and tort liability.

3. Further development of civil legislation, judicial and arbitration practice requires improvement of the norms and structure of the Civil code of the Russian Federation. In particular, the rules that establish the General provisions on liability should be placed in section I "General provisions" of the civil code of the Russian Federation, since they are equally applicable in the main institutions of civil law. It should also include a provision on the possibility and grounds for exemption from civil liability without fault.