FREE INTERNATIONAL UNIVERSITY OF MOLDOVA

As a manuscript

CZU: 340.1:[342+347](043.2)

CERBA VEACESLAV

THE THEORETICAL CONSTRUCTION OF LEGAL LIABILITY IN PUBLIC AND PRIVATE LAW

SPECIALTY 551.01 – GENERAL THEORY OF LAW

Summary of the doctoral thesis

CHIŞINĂU, 2021

The thesis was elaborated within the Department of Public Law of the Faculty of Law of the Free International University of Moldova.

Scientific Supervisor:
BALTAG Dumitru, habilitated doctor of law, university professor.

Official experts:
GRECU Raisa, habilitated doctor of law, university professor.
NEGRU Boris, doctor of law, university professor.

Composition of the Specialized Scientific Council:
1. SMOCHINĂ Andrei, chairman, habilitated doctor of law, university professor.
2. POSTU Ion, scientific secretary, doctor of law, associate professor.
3. AVORNIC Gheorghe, habilitated doctor of law, university professor.
4. GRAMA Dumitru, doctor of law, research associate professor.
5. LUPAȘCU Zinaida, doctor of law, associate professor.

The defense will take place on 28.05.2021, 14:00 at the Specialized Scientific Council meeting D 551.01-21-9 at the premises of the International Free University of Moldova: Vlaicu Pîrcălab street, 52, Chișinău MD 2012, Republic of Moldova.

The doctoral thesis and the author's report can be consulted on the web pages of the National Council for Accreditation and Attestation (www.cnaa.md), the National Scientific Library of the Republic of Moldova, the FIUM Library.

The summary was submitted on .....

Scientific Secretary of the Specialized Scientific Council
POSTU Ion
Doctor of Law,
Associate Professor. _____

Scientific supervisor
BALTAG Dumitru
Habilitated Doctor of Law,
University Professor. _____

Author
CERBA Veaceslav _____

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The topicality and importance of the addressed theme. An in-depth study of legal liability can never be inopportune or out of date. The subject is so specific to each stage of society and law'sevolution that it is almost impossible to affirm that there's nothing left to study. On the one hand, this comes from the fact that in parallel with the evolution of society, social relations, legal system, and information technologies, legal liability has also gained new dimensions. On the other hand, this institution can't stagnate, and there are no objective ways of stopping its development. As well, there are no arguments to convince us that this subject has been sufficiently researched, and that the existing legal regulations in terms of legal liability both in the spheres of public and private laware sufficiently well formulated and applied and that any additional effort for developing existing studies and adapting existing regulations to the new reality would be thus unnecessary.We cannot agree with a position that fuels the belief that legal liability is an institution that no longer requires study and research efforts.

On the contrary, we support the idea that existing studies on legal liability both on the general theoretical level and law branches level do not cover the need for information appropriate to our contemporary reality.The fact that there are many general and branch studiesonly benefit those who intend to provide a new, maybe different, approach of the legal liability institution. This undoubtedly contributes to the foundation of new ideas, valorizing new opportunities supporting the development of the institution of legal liability.

An additional argument of the current study'stopicality and significance is the fact that at the present stage, the shaping of new and even non-traditional branches of law is a phenomenon that no one disputes. The legal environment has already agreed that this phenomenon can no longer be stopped as it is totally natural for the developing society. In this context, we mention that if the birth or detachment of new branches of law is something unanimously accepted, then, obviously, the forms of legal liability cannot remain the same as in previous periods when the law branches were not so numerous and specific. Of course, we do not say that each branch of law has a corresponding form of liability. Still, we also cannot give a degree or character of universality to one or another form of legal liability.For this exact reason, we state that, although the delimitation of public law from private law is a phenomenon that was carried out and researched centuries before, the outlining of specific elements that would unite, for example, the forms of legal liability specific to public law branches or those specific to private law branchescannot be found in the doctrine except for some incipient attempts. This is where the main argument for the topicality of the study we propose lies - the lack of research that would differentiate public law's legal liability from that of private law.

It is clear that the level of knowledge of the theoretical construction of legal liability in public and private law is at a "rudimentary" level –an accumulation of scientific, hypothetical materials, which, over time, will make possible the movement from quantitative to qualitative indices in the given field. However, the problem is still profound and complicated and is based on the generic concept concerning the studied category - the theoretical construction of legal liability, which has several different manifestations.

As can be deduced from the above mentioned, legal liability as a fundamental law institution has long been studied. First, as a form of social responsibility and later, with all the particularitiesit has obtained in its realization in one or another branch of law. Thus, there are many studies on legal liability in general, both in the Republic of Moldova and abroad.

Numerous authors, theorists, and practitioners have researched the issue of legal liability from various perspectives. The most important thing is that both from a generalizing theoretical point of view and a law branch point of view, legal liability is studied by various authors concerned either with the theoretical study of this institution or with some practical aspects of its manifestation in one or another branch of law. Thus, today, numerous published papersfocus on legal liability from theoretical perspectives, unifying all its forms, andmany works focusingexclusively on one or another form of legal liability.

Although all existing treaties, textbooks of the general theory of law discuss the concept of legal liability (Gh. Avornic, D. Baltag, B. Negru, N. Popa, S. Popescu, I. Craiovan, M. Costin, Gh. Mihai, etc.), and in the Russian doctrine (V.V. Vitruc, C.C. Alexeev, B. T. Bazîlev, C.N. Bratusi, V.N. Lipinschi, O. E. Leist, M. N. Marcenco, I. N. Samoșenco, M. S. Strogovici, etc.) there is an imposing and rich literature where scholars correctly address some aspects of this concept, however, we must assert, that from the point of view of general - theoretical positions,there is no complete elucidation of all the features of legal liability in both public and private law.

Paying due homage to the nominated researchers' scientific efforts and highlighting the important role of their investigations in revealing the content of legal liability, we mention that the issue of legal liability, due to its complexity, is not yet exhausted. Research can be further conducted and developed considering that, on the one hand, any theory is more comprehensive than the empirical generalizations made at a given time. On the other hand, the accumulation of new facts allows the formulation of new characteristics of the studied phenomenon. It is widely accepted that no theory can encompass all human experience, especially when it comes to capitalizing on theoretical and historical knowledge. From this perspective, the concern for the theoretical dimension of legal liability brings additional information, which, through abstractionand generalization,leads to the completion and even improvement of existing theoretical concepts.

Description of the existing situation in the field of research. The forms, functions, principles, and conditions of legal liability have formed and evolved throughout history. In this sense, among the remarkable authors who studied various fundamental aspects of legal liability, which implicitly led to addressing the elements of the theoretical construction of legal liability of public and private law in a broader context, namely that of General Theory of Law, we can nominate local and foreign authors, such as D. Baltag, Gh. Avornic, L. Barac, M. Djuvara, I. Humă, N. Popa, Gh. Mihai and RI Motica, RP Vonică, Gh. Boboş, I. Craiovan , G. Vrabie, etc.If we refer to the most current works, we have to mention those of the authors D. Baltag, Gh. Mihai, I. Craiovan, C. Voicu.

Attempts to characterize the *theoretical construction of legal liability* have been undertaken by several authors, especially from the Russian Federation, in particular: I. A. Cuzimin, L.I. Gluhariova, Iu. I. Grevțov, D. A. Lipinski, V. A. Soap, G. A. Procopovici, A. M. Hujin, V. I. Cervoniuc.

When talking about the theoretical construction of legal liability in public law, our research was based as well on the works of Romanian scholars who address various aspects of the theoretical construction of criminal legal liability: G. Antonius, C. Bulai], M. Udroiu, S. Bogdan, N. Giurgiu; L. V. Lefterache, C. Duvac, N. Neagu, et al.

Recent doctrinal studies have outlined different theories that discuss the place of financial liability in the public law construction of legal liability. In Romania, the authors who treated financial and fiscal liability as a form of liability in the field of public law are C F. Costaș, M. Șt. Minea, D. Drosu Șăguna, D. Șova, A. Trăilescu, R. Postolache.

Another group of researchers studied various fundamental aspects of administrative legal liability, which implicitly led to addressing the elements of the theoretical construction of public law legal liability. These ideas are found in the works of the following authors: V. Guțuleac, V. Cobîșneanu, M. Orlov, L. Lavric, V. Vedinaș, A. Trăilescu, Iu. A. Dmitriev.

As for the theoretical construction of legal liability in private law, of course,civil law works have served as a source of inspiration, especially in the part related to civil legal obligations and liability. Thus, among the Romanian authors whose works were used in the current thesis, we nominate L.P. Boilă, F. I. Mangu, R. Petrescu, E.C.Verdeș, C. Stătescu și C. Bîrsan, L. Pop., F. I. Popa., S. T. Vidu, R. I. Motică, E. Lupan, G. Tița-Nicolescu, S. Neculaescu, L. Mocanu ș.a., D. E Sîngeorzan, P. Vasilescu, Gh. Vintilă, etc.

The Russian doctrine in the field of civil law has offered us significant support through the following authors' works: G. F. Șerșenevici, S. G. Grișaev,V.P. Gribanov, S.L. Degterev, I. V. Tordia, E.A. Suhanov, D. A. Pașențev, V.V. Garamita, V.V. Vitreanschii, L. A. Sîrovatskaia, A. M. Lușnicov și M. V. Lușnicova, Iu. N. Poletaev, Iu. P. Orlovschii.

And last but not least, we must mention the autochthonous civil legal doctrine representatives such as: E. Cojocaru, A. Bloșenco, S. Baieș, I. Ivancova as well as the authors E. Boișteanu, N. Romandaș, N. Sadovei, T. Negru and C. Scorțescu in the field of labor law.

The paper aim is to identify and examine the content of theoretical constructions of legal liability in public and private law through the prism of features and elements that generally characterize legal liability and therefore, to emphasize the importance of this construction, the need to operate with this syntagma both at thelevels of general law and the branches of law.

Research objectives. Elaboration and complex analysis of the *concept of theoretical construction of legal liability in the general theory of law*, reconceptualization of the concept of theoretical construction of legal liability attached to the field of public and private law, so as to be adjusted to the conditions and features of these forms of legal liability; identification and characterization of the criteria that delimit the theoretical construction of the public law legal liability and the theoretical construction of the private law legal liability; establishing the impact of this criterion on current trends in many areas of public and private law; the identification of the similarities, the differences and the cumulation of the public law legal liability and the private law legal liability; the presentation and analysis of the elements and the distinguishing signs in the framework of the theoretical construction of the public law legal liability; presentation and analysis of the elements and distinguishing featuresof the framework of the theoretical construction of the private law legal liability; the formulation of conclusions and proposals to enrich the current theoretical framework of legal liability in the general theory of law.

The research hypothesisof this study focuses on revealing the essence of the content of the theoretical construction of legal liability in public and private law and the subjective assumptions resulting from the theory and practice of legal liability realizationindifferent branches of law.

We specify that both the doctrinal interpretations of the legal framework and the theoretical solutions we propose for examination are accompanied by a confirmatory approach and involve constructing a hypothesis based on existing theories and developing an investigation methodology that would finally allow the confirmation of the hypothesis.

The determination of the research hypothesis has an anticipatory and pro-active character of interpretation of the legal liability, which allows us to orient the research towards critical problems such as the formulation of the theoretical construction syntagms of the liability in public and private law, the explicit and clear fixation of the research objectives, the anticipation of correct answers based on existing knowledge.

Research methodological synthesis and justification of the chosen research methods. The methodological support of the thesis is represented by the method of dialectical-scientific perception, as well as the particular scientific methods: logical, historical, comparative, and systemic methods.

The dialectical method allowed us to use concepts and categories, such as system, structure, elements, function, purpose and finality, content and form, essence, and phenomenon. Concerning these aspects, the analyzed subject reconfirms its topicality in the conditions when new forms of legal liability emerge so that the paper creates new visions and objectives concerning legal liability in public and private law.

For a deeper understanding, the phenomenon of legal liability must be viewed from the perspective of historical traditions. The historical method has offered us this possibility.

The systemic method helped us to identify the forms of legal liability, the hierarchy of criteria that delimit the theoretical constructions of legal liability in public and private law, to highlight the role of legal liability in public and private law in ensuring the unity, cohesion, balance, and development of the legal system.

We have also applied some specific scientific research methods, such as analysis, synthesis, induction, deduction, etc.

The general conclusions and recommendations formulated in the doctoral thesis are based on the results of domestic and foreign scientific research (Republic of Moldova, Romania, Russian Federation).

In order to achieve the objectives mentioned above, the adopted scientific approach is based on an extensive bibliography, including monographs and specialized articles of authors from the Republic of Moldova, Romania, the Russian Federation, and other states. The comparative method's application has made it possible to revealthat the existing doctrine regulates and interprets legal liability institution differently in public and private law.

The novelty and scientific originality is determined by the existence, in relation to the subject we address, of a research gap in the doctrine of the general theory of law in the Republic of Moldova and by the need to approach it through new research methods and visions, which would allow the use of new perspectivesin the appreciation of the phenomenon of legal liability.

The paper representsa complex research of the theoretical and applied problems regarding the essence and content of legal liability, the reconceptualization of the theoretical constructions of liability in public and private law. Any action proves to be sufficient only if it starts from adequate theoretical foundations.

Asone of the fundamental institutions of law, representing the foundation of legality and the rule of law, legal liability can not be achieved in a practical way without detailing all its

aspects from multiple perspectives. As, for the time being, the doctrine lacks works that would focus on distinct concepts such as liability in public and private law. Keeping in mind that the concept of theoretical construction of legal liability is a novelty in local doctrine, we consider all the premises mentioned aboveas sufficient groundssupporting this doctoral thesis's novelty and originality.

The above statements entitle us to formulate the following elements of scientific novelty found in the text of this paper:

- formulation of the syntagm "theoretical construction of legal liability";
- the identification of the elements that constitute the theoretical construction of legal liability as a whole;
- formulation of the concept of theoretical construction of public and private legal liability;
- defining the theoretical constructions of the legal liability of public and private law;
- revealing the connection between all the branches of law in the field of public and private law and delimiting public law legal liability and private law legal liability.

The results obtained that contribute to solving a significant scientific problem lie in the formulation of a modern and timely concept, *the theoretical construction of legal liability in public and private law*, as a concept that verifies the authenticity and fairness of legal liability in various branches of law. Consequently, this led to the elaboration and introduction in the vocabulary of the general theory of law of the concept of theoretical construction of legal liabilityin order to establish the elements, features, conditions in both blocks of legal liability analyzed, to guide the practitioners applying these forms of liability,especially in the situations when some forms of liability under public law interfere with forms of legal liability under private law.

Theoretical significance. The paper elucidates various doctrinal approaches to different forms of legal liability. From a theoretical perspective, the aim is to order the elements of legal liability, namely those that constitute the theoretical construction of legal liability, so that it becomes possible to operate with the syntagms introduced in the circuit of the specific language of General Theory of Law.Besides, each of the analyzed elements emphasizeswhat is specific to public and private law legal liability. Another relevant theoretical aspect is that this phenomenon - the theoretical construction of legal liability under public law and that of legal liability under private law - is approached in such a way as to emphasize the interaction of forms of public law liability with those of private law liability.

The applied value of research. The results and conclusions of this paper could be used by judges, lawyers, and other participants in the process of legal liability realization, thus contributing to the standardization of legal practice. Also, the practical reflection of the concept of the theoretical construction of the legal liability of public and private law will undoubtedly be a starting point for other studies seeking to detail certain aspects discussed in the paper. The ideas and arguments we bring can prove their usefulness in the studies dedicated to the General Theory of Law, in studies focusing on the institution of legal liability in different branches of law, in the process of drafting normative acts;can contribute to the reform of legislation in the Republic of Moldova, but alsocan guide those involved in the process of applying the law, especially the legal norms that regulate the institution of legal liability in the framework of different law branches.

Research results can be used:

- in the theoretical-scientific plan, for a conceptualized approach of the problems related to the phenomenon of the theoretical construction of the public and private law legal liability;

- in the normative-legal plan, the research results considerably extend the existing theoretical-doctrinal visions regarding the theoretical constructions of the legal liability of public and private law, which will contribute to the improvement of the legislation of the Republic of Moldova;

- in the didactic-disciplinary plan – when teaching General Theory of Law, on the topic "Legal liability" in the branches of civil law, labor law, administrative law, criminal law, fiscal law, etc.

Approval of research results. The results of the study were reflected in the scientific papers presented at national and international scientific events, of which we nominate:

1. *Some aspects of the legal liability in the public and private law*. In: The International conference "European union's history, culture, and citizenship, Piteşti, Romania, 2013, p. 24-28.
2. *Liability for the acts of others - specific liability in private law*. In: Materials of the national conference "Simpossia Profesorum," ULIM, Chisinau, 2018, pp. 196-202.
3. *Some theoretical aspects regarding the causal link in some branches of public law*. In: Law and Life, no.11 (311), Chisinau, 2017, p.51-53., (0.4 c.a.)
4. *The theoretical construction of legal liability in the general theory of law*. In: Law and Life, no. 12, Chisinau, 2019, pp. 28-33., (0.47 c.a.)
5. *The specifics of the theoretical construction of legal liability in public law.* In: National Legal Journal: theory and practice, no. 6 (40), Chisinau, 2019, pp. 76-80., (0.52 c.a.

Publications on the topic of the thesis. The investigation' results were reflected in 12 publications in the NCAA's accredited journals and collections of materials from national and international scientific conferences. The total volume of publications is 5.94 c.a.

Volume and structure of the thesis: Introduction; three chapters; general conclusions and recommendations; bibliography of 373 titles; 172 pages of the main text; the statement regarding the assumption of responsibility; author's CV.

Keywords: legal liability, theoretical construction of legal liability, theoretical construction of legal liability in private law, theoretical construction of legal liability in public law.

THESIS CONTENT

The doctoral thesis entitled "**Theoretical construction of legal liability in public and private law"** begins with an introduction, highlighting thenecessity for thisstudy and the novelty to which it leads. The thesis is structured into four chapters, divided into subchapters, followed by general conclusions and recommendations. The doctoral dissertation includes, as well, the notes, the keywords, the list of abbreviations used in the thesis as well as the bibliographic list.

The first Chapter, "**Analysis of the situation in the field of legal liability research in public and private law,**" - reflects the bibliographic analysis of national and foreign doctrine on legal liability in public and private law by applying the method of analysis, synthesis, and comparison. The theoretical aspect and scientific controversies were analyzed from the perspective of the General Theory of Law and the branches of law.

In subchapter 1.1,**"Analysis of scientific research on the theoretical construction of legal liability in public and private law,"** special attention is paid to the analysis of the works of researchers in the field, who have contributed significantly to the study of the concepts of theoretical construction of legal liability in public and private law, and other current issues related to the topic of the thesis.

Speaking of law as a system, the author S.S. Alexeev argues that the legal system's both near and distant futureis closely linked with the design of legal construction [17, p. 255].

What is most important for the concept of legal liability's theoretical construction (in public and private law) is that the notion of legal liability was introduced relatively late into the scientific and legislative circuit of scholars(only at the middle of the XXth century). Before this period, the essence of legal liability was regarded as equivalent to that of a legal obligation. This fact is no longer accepted at the current stage; most specialists in the field are opting for the delimitation of these two phenomena: obligation and liability [10, p. 19].

The phenomenon of legal liability has generated researchers' continuous interest worldwide, which has resulted in the emergence of an impressive number of works both in law theory and in the field of branch legalsciences, aiming to reveal the content of legal liability. Solid proovesare the numerous doctrinal sources analyzed during our research. However, we are aware that multiple sources still remain unstudied, as it is unrealistic to reach and include all the works elaborated worldwide on the subject of legal liability, whether under public or private law. Perhaps in the case of smaller legal institutions, this can be done. Still, in the case of such a

pervasive and controversial institution, we certainly cannot include all the existing knowledge sources.

Attempts to characterize legal liability's theoretical construction have been undertaken by several authors, especially from the Russian Federation, particularly: I. A. Cuzimin [19], Iu. I. Grevțov [18], D. A. Lipinski [20; 21], et al.

Professor D. Baltag points out correctly that the study of any phenomenon's content necessarily involves the analysis of its structure, the research of the correlation between its components. The application of structural-systemic analysis in the process of studying legal liability has led to the use in the works of the author mentioned above of the notion of the legal construction of legal liability, which we currently consider requires a particular scientific interpretation and study in both public and private law. But this notion, as a rule, in the author's opinion, is attributed by jurists to the category of technical and almost secondary characteristics of law, which refers to the way of forming legal norms into laws and normative acts [1, p. 215].

In the theory of law, we do not find unanimity on the meaning of the syntagm of *theoretical construction of legal liability*. The examination of the theoretical construction of legal liability in the General Theory of Law in private and public law would expand the understanding of the importance of legal liability institution. These studies helped us reach a clear understanding of the topic chosen for research and, consequently, have outlined the research's purpose and objectives.

Subchapter 1.2, "Normative reflection of the phenomenon of legal liability in public and private law," containsthe analysis of normative acts. As for the perspective of reflecting the liability of public or private law, of course, no normative act detaches such an expression of legal liability. We will not find normative acts that reflect the liability of private or public law, but only normative acts that regulate either civil, criminal, administrative, disciplinary, material, patrimonial liability, which we will delimit in private law or public law liability. Or, some normative acts also reflect legal liability depending on the scope of the subjects to which they apply.

Concerning the theoretical construction of liability in public law, it will be correct to mention first of all the criminal legislation. In matters of administrative law as a branch of public law, art. 20 of the new Administrative Code of the Republic of Moldova stipulates that "*if an administrative activity violates a legitimate right or a freedom established by law, this right can be claimed through an action in administrative litigation, according to the decision of the competent courtsfor the examination of the contentious administrative procedure*."

Analyzing the provisions of the Fiscal Code of the Republic of Moldova in the context of the investigation of the theoretical construction in public law, we mention that it establishes the manner and conditions of liability for the violation of fiscal legislation. Art. 231 of the Fiscal Code speaks about the legal liability for the fiscal violation, "*the liability for the fiscal violation*," implying in fact "*the realization of the fiscal liability*."

The Civil Code of the Republic of Moldova sets the foundation of civil legislation and, of course, regulation of civil legal liability. Here, a significant aspectis the regulation of contractual and tortious liability and of the means of guaranteeing the execution of civil obligations. We show a specific interest in these means because they anticipate the birth of civil liability; in other words, the non-execution of the obligation attracts liability, and the non-execution of the guaranteed obligation attracts the execution of the means of guarantee.

Conclusions 1.3. contain generalizations, methodological and analytical benchmarks that can serve as a basis for researching the theoretical construction in both public and private law.

Chapter 2,"The foundations of the theoretical construction of legal liability," contains an in-depth analysis of the foundations of the theoretical construction of legal liability.

Subchapter 2.1. "Theoretical construction of legal liability in the General Theory of Law and its definition - a premise of its delimitation intopublic law legal liability and private law legal liability." One of the problems of the phenomenon of legal liability is that it has been insufficiently researched. Another problem is related to the general theoretical definition of the syntagm "*theoretical construction of legal liability*," which was left out of in-depth research both at the scientific treatise and thesis level, so we consider we are obliged to pay well-deserved attention to this subject.

We agree with Professor D. Baltag that the vast majority of studies examining legal liability focuses on elucidating the essence of this phenomenon, while it allocates little space and concern for the actual content of legal liability. It is unanimously recognized that the study of any phenomenon's content necessarily involves the analysis of its structure, the research of the correlation between its components [1, p. 215]. Thus, during the study of legal liability, in order to establish its content, it is rational to apply the structural-systemic analysis.

Attempts to model legal liability's theoretical construction have been undertaken by many other authors, especially in the Russian Federation's doctrine. For example, the author O. F. Skakun understands by theoretical construction the exact typical schemes of the legal relations verified by practice and elaborated by science and legislative activity [23, p. 554].

We consider that the *theoretical value of the definition of theoretical construction of legal liability* is manifested in the possibility of: - deepening the theoretical knowledge of legal liability and the analysis of the legal nature of liability; - identification and delimitation of legal liability from other legal protection phenomena (application of state coercive force or legal responsibility, etc.); - defining a "dynamic" concept of legal liability based on the phenomenon of realizing liability and responsibility in law.

The practical value of defining the theoretical construction of legal liability applicable to the interpretation and application of legal norms is expressed in the possibility: to create the normative (legal), complete and complex construction of legal liability (as a technical means) suitable for practical use in any field of social relations; the development of efficient methods of implementation and realization of legal liability, improvement of the educational process in the field of legal liability both at the level of the general theory of law and in-branch sciences.

In **subchapter 2.2. "Analysis and definition of the concept of theoretical construction of legal liability in public law,"** we try to define the theoretical construction of legal liability in public law. As a result, we consider that it is possible to characterize the theoretical construction of liability in public law according to the following characteristics: *purpose; depending on the field of application; depending on the normative source that regulates public law liability; the "de facto"grounds of public liability; the subjective foundation; from the point of view of the subjects of the legal relationship of public law liability; according to the form and mechanism of realization.*

The above allows us to come to the following conclusions regarding the theoretical construction of liability in public law: - public liability is a type of liability with a specific structure and content that must be distinguished from private liability according to multiple

criteria; - the main characteristics of public law liability result from the purpose, scope, forms of manifestation of public liability, subjects and implementation mechanism; - the submission of strict legality requirements in the field of public law presupposes a specific construction of legal liability, so that the regulations concerning the activity of the competent bodies in the application of this category of norms to involve strict permissiveness, the formulations being usually the following: *is allowed exclusively*or *is allowednothing other than*...; - public law liability arises only as a consequence of a violation of the rules of public law; - the theoretical construction and the mechanism of application of the legal liability of public law requires additional research and continuous improvement, taking into account the experiences in establishing and implementing these legal categories, the characteristics of which were formulated in the current thesis [6, p. 80].

As a conclusion of this subchapter, we mention that *by theoretical construction of the public law legal liability,we understand a set of structural elements that contain norms of the material and public procedural law that impose the sanction, punishment, and other punitive measures, the order, and consecutiveness of their realization, such as the principles, ideas, and concepts regarding the grounds, conditions, and limits of liability, characterized by an imperative method of regulation, which forms the type of public law liability with specific forms and modalities of realization, with the ultimate goal of ensuring the interests of the state and society, the rights and freedoms of citizens* [6, p. 80].

To highlight and emphasize the particularities of the concept of theoretical construction of private law legal liability in **subchapter 2.3. "Formulation and definition of the particularities of the concept of theoretical construction of private law legal liability"**weanalyze the particularities of the theoretical construction of liability in private law.

In general, the issue of legal liability in private law has at its origins the study of the differences between the liability ofpublic law subjects and private law subjects. From this perspective, the Russian doctrine conveys the idea that this diminishes the role and importance of private law liability[27].

We disagree with such an approach for the reason that we can't differentiate public law and private law liability in terms of their importance, keeping in mind that they are the same legal institution manifested in different subsystems of the law system [4, p. 45]. We are convinced that the purpose of private law liability is a global manifestation of the objectives of private legal liability, such as ensuring compliance with the rule of law and the supremacy of law. The dominant idea of private liability is that of commutative justice. In other words, this legal institution's primary purpose is to return what has been lost or to repair what has been destroyed so that the victim remains unharmed and the suffered damage is repaired.

Thestudy of the theoretical construction of legal liability in private law allows us to formulate the following definition: *by theoretical construction of legal liability in private law, we understand a set of structural elements that contain the rules of private substantive and procedural law that impose sanctions and other remedial measures, the order and sequence of their realization, such as the principles, scientific definitions, and concepts regarding the grounds and limits that form the type of legal liability under private law, with forms and specific ways of realization, with the ultimate goal of full reparation of prejudice, as a means of ensuring rights and freedoms in private law legal relations* [14, p. 55].

Thus, we conclude that: - private law legal liability is a type of liability, which is realized through different forms (for example, civil liability) and modalities (for example, tortious or contractual liability); - legal liability under private law - is one of the most contested categories in jurisprudence - a phenomenon based on the legal protection of private interests; - despite the lack of common positions, the legislator (de facto) and the courts (de jure) recognize the existence of private law legal liability, emphasizing the forms and modalities of civil legal liability; - the particularities of legal liability in private law can be revealed through the basic criteria previously characterized, the purpose, the forms of manifestation, the subjects, the mechanism of realization, etc.; - the theory of legal liability in private law in modern conditions requires complex and thorough research, in order to reach a unity of opinions in the legal doctrine [14, p. 55].

Subchapter 2.4. "Theoretical-practical problems in investigating the correlation between public law legal liability and private law legal liability."

The relationship between public and private law is by no means a strictly theoretical problem. It is absolutely pragmatic in nature as it depends considerably on the right of the state to intervene and the limits of this right when it comes to the privacy of state citizens. And this cannot be omitted when we refer to the specific liability of each of the two areas. In this context, we mention that *one of the arguments for delimiting the forms of liability in those of public law and those of private law is related to the interests protected, defended, and pursued to be restored by applying these forms.*

The analysis of the dialectical interaction of public and private law, as well as of the dialectical interaction of legal liability of public and private law, is an imperative of the contemporary development of the phenomenon of legal liability and the entire legal system. Another important moment in the division of law into public and private concerns the replacement of this division with the interaction between their component elements.

The state is present as the only bearer of the coercive force we refer to every time we define legal liability. Namely, this criterion justifies the delimitation of the two blocks of legal liability: in the case of public law liability, the state participates actively in the legal liability relationship being directly present and exercising rights and obligations absolutely directly. In contrast, in the case of private law liability, the state's presence is not always visible in situations when the liability is *de facto*realized, but the state, through its representatives, is not actively involved in its realization.

In the conclusions in Chapter 2, we define the concept of the theoretical construction of legal liability in public and private law and the correlation between the theoretical construction of public and private law legal liability in terms of the general theory of law.

Chapter 3 The legal dimension of the theoretical construction of public law liability - is devoted to the scientific study of the theoretical construction of liability in public law.

In **subchapter 3.1.,**In **the *de jure* and *de facto*grounds of liability in public law**, we approached the idea of the *de facto* grounds by which we understand the legal act that attracts legal liability through the nature of the social danger it manifests. When the *de facto*grounds to which we refer attract liability in the field of private law, it creates the perception of a social danger lower than the one represented by the *de facto*grounds of the public law's forms of liability.

We must mention that the *de jure* grounds of public law legal liability can be only the concrete wrongful act, established by legislation (criminal, contraventional, tax legislation) that meets certain features, well-highlighted characteristics, committed with guilt, by incurring specific sanctions, which acquires an inevitable coercive character, and which is established in order to defend some values essential for the rule of law (the person, rights and freedoms, property, etc.).

When approaching the idea of the*de facto grounds*, the importance of social danger necessarily intervenesas one of the main features in the application of public law legalliability, namely due to its existence and negative intervention, which endangers all spiritual, moral, legal, and material values, etc.

We conclude that the legal liability in public law has as its grounds the illicit deed with a high degree of social danger, a foundation without which it cannot be explained or achieved. *The real grounds of the public law legal liabilityare represented by the prejudicial act committed, and the composition of the crime, stipulated in the criminal law, represents the legal grounds of the public law legal liability.*

In **subchapter 3.2. The causal - dimension relationship of the theoretical construction of public law legal liability**, we investigate the causal relationship, existent inthe normative plan, namely, according to Article 2 of the Criminal Code of the Republic of Moldova: *Criminal law protects persons from crimes; a person's rights and freedoms; property; the environment; constitutional order; the sovereignty, independence, and territorial integrity of the Republic of Moldova; the peace and security of humanity as well as the rule of law in its entirety*, which if damaged or endangered by crime, i.e., by a *prejudicial act (action or inaction) outlined in the criminal law, committed with guilt and subject to criminal punishment*[7], the persons found guilty from a criminal perspective are held accountable and punished.

Or, if the nominated values are endangered or even harmed by a subject of the contravention law within a corresponding legal relationship, then the liability for which the subject will be held accountable will be the contraventional one. Suppose the damage or endangerment of the nominated values takes place in a legal relationship of financial law. In that case, the liability will be specific to financial law or, if the damage is regulated by criminal law, the liability will also be criminal.If the prejudiceoccurs within a legal relationship of constitutional law, the liability will be specific to the constitutional law branch [5, p. 52].

In conclusion, the establishment of a causal link in public law is necessary in all cases where the law requires the production of a certain result representing a change in the objective world. Or, in other words, the establishment of the causal link must be done in the case of crimes with material composition. For crimes with formal composition, the causal link is not excluded; on the contrary, it is mandatory. However, the causal link is only presumed, and the need to look for the link between cause and effect is excluded.

The **Subchapter 3.3. The presumption of innocence - a component of the theoretical construction of public law legal liability** discussesthe principle of presumption of innocence, as a part of the public law and one of the guarantees of the person's right not to be blamed and prosecuted, except as a result of the administration, during a legal trial, ofpieces of evidencethat can prove the guilt for the committed act. This guarantee is a natural one in relation to the general human values created and promoted by society.

The presumption of innocence is the basis of the modern criminal process, proving a special relationship with the principle of a fair criminal process, as its mission is to protect the individual from public authorities [25, p. 444].

The doctrine is unanimous in the sense that the presumption of innocence is both a basic rule of the modern criminal process, one of the fundamental principles of the criminal process, and a fundamental human right. However, we conclude that within the public law legal liability, one of the specific elements of its theoretical construction is the presumption of innocence, as we explain below: - being a basic rule of the modern procedural law, it is undoubtedly a basic rule of the procedural phase of the public law legal liability; - being one of the fundamental principles of criminal law, it thus becomes a principle of criminal liability, and consequently of public law liability; - being also a basic human right (fact proved by its consecration in the fundamental international and domestic legal acts), it also characterizes the theoretical construction of public law liability.

In conclusion, unlike liability in private law, where the principle of presumption of guilt is dominant, in public law liability, an essential element is the presumption of innocence, a principle enshrined in both national and international law. This principle is one of the guarantees of the right of the person not to be accused and prosecuted, except as a result of the administration, within a legal trial, of evidenceproving the person's guilt for a committed act.

Subchapter 3.4. Sanctioning measures of material and procedural law within the theoretical construction of public law liability. Sanctions under public law liability contribute to the settlement of potential elements of conflict; guarantee the observance of legal rights and obligations by mutually limiting individuals' actions; restore the rule of law disrupted by illegal acts and deeds. However, the realization of legal liability in public law can not be reduced only to the sanction application because legal liability has multiple purposes related to true human values. While the sanction is one of the tools of law, it is not the only one.

In conclusion to the above, we must highlight that sanctions under public liability differ from sanctions under private liability: - they are applied on behalf of the state, by the competent bodies, - they have a repressive character, which must not lead to physical suffering; - they are applied only to the guilty party, the liability being individual or personal; - is the main way in which the public authority protects and organizes by legitimate coercion the living conditions of the society,- public law sanctions aim to prevent the commission of new crimes both by those who already committed illegal acts, but also by those tempted to commit them.

The Chapter ends with the conclusions and recommendations identified in the theoretical construction of private law legal liability.

Chapter 4 The legal dimension of the theoretical construction of private law liability - is devoted to the scientific study of the theoretical construction of liability in private law.

Subchapter 4.1.The *de facto*grounds and the *prejudice* as basic conditions of private law legal liabilityapproaches the *de facto*grounds and the prejudice in the private law. According to F. Mangu [8, p. 13], the *de facto grounds* is a legal act, the consequence is the one provided by the law in force, and its content, as a complex of rights and obligations, results from the commission of the wrongful act. We further emphasize that legal liability in private law has a ground, a basis without which it cannot be explained, recognized, manifested, or realized. Being defined, in essence, as the effect of a failure to fulfill a moral, legal or conventional obligation,

this basis is a legal act or a legal deed committed with or without guilt, as its author had an understanding of his deeds and was free to decide knowingly or not.

Prejudice, in our opinion, is the element *forte* when we talk about the theoretical construction of private law legal liability. Repairing the prejudice is the most important but also the most sensitive matter of liability in private law. S. Neculaescu mentions that prejudice is a regulatory area that highlights, to a lesser extent, the virtues of the law, and to a greater extent, its vulnerabilities [11, p. 44].

In conclusion, researching one of the dimensions of the theoretical construction of legal liability in private law, we underline that the grounds of liability are the wrongful, prejudicial act, its consequence - the sanction applied to the offender, directly or indirectly, as a complex of rights and obligations specific to the constituted legal report. Legal liability in private law has some grounds, a foundation, without which it cannot be explained, manifested, or realized.

In **subchapter 4.2. The causal link - an element of the theoretical construction of legal liability in private law**-we investigate the report of causality. In the Republic of Moldova's legislation, there's no article to strictly regulate the conditions of liability in private law, although the content of many articles highlights the need for a causal relationship between the act and the damage as a condition of liability. Although in the legal provisions governing private liability, no legal norm enshrines the following rule- *only the prejudice that represents the direct effect of non-execution is reparable* - the legislator expressly states it in the content of contractual civil liability, the art. 901. We share the opinion that this principle thus established has, undoubtedly, a character of general applicability. In art. 2043, Civil Code of the Republic of Moldova, the syntagm"causal link" is used transparently, namely: "*the injured party must bring proof of the vice, the prejudice and the causal link between them*."

However, there are recommendations of the Plenum of the Supreme Court of Justice that come to law enforcement aid, expressly indicating the conditions for the imposition of tortious liability in concrete circumstances, among which expressly nominates the causal relationship between the civil offense and its consequences.

Professor D. Baltag finds that the causal relationship has a leading role, presenting an indisputable interest of a theoretical nature and an immense significance for the activity of law enforcement bodies [2, p. 34-38]. That said, the need to thoroughly study the causal relationship is imposed by the growing interest in the activity of justice, prosecution, and police bodies for correct theoretical orientation of whichthe judicial practice is well aware.

Regarding the causal relationship and the rules applicable to it in private law liability, we conclude that, due to the specifics of private law liability, being represented by the mandatory occurrence of property damage, the specificity of the causal relationship is the one that excludes any presumption of causation concerning the possible results. Only after the damage is ascertained, the analysis of the causal relationship between the prejudice and the illegal deed can be discussed.

Subchapter 4.3. Presumption of guilt - specific inherent dimension of the theoretical construction of private law legal liability. At the contemporary stage, we cannot deny the interest of doctrinaires towards this aspect,specific to the private law legal liability. The legal-material aspect of the presumption of guilt consists of determining the specifics of the birth, content, and realization of the participants' legal status in the legal relations of civil liability, which implies the right to compensation for the caused prejudice and the obligation to repair the

damage. The legal-procedural aspect in private law refers to the plaintiff's task of proving his innocence and the non-application of sanctioning measures on his person if he manages to prove his innocence.

In the private law legal liability' system of conditions and premises, the presumption of guilt represents the foundation that determines the content and the specificity of the illegality and culpability of the one who committed the illicit deed. As can be seen, the presumption of guilt is to be treated in the light of existing theories on the substantiation of civil legal liability [26]. The inventory of these doctrinal constructions makes it possible to place them in three groups of theories: the theory of subjective responsibility, the objective theories, and the mixed theories [12, p. 395].

In conclusion, we could mention that, *in practice, the presumption of guilt admits the idea of liability without guilt in the situation when, in reality, the plaintiff fails to prove his innocence. This presumption presents the specifics of operation, determined by the three stages of evolution of civil legal liability, which include the birth of rights and obligations of the parties of the legal liability relationship, their extra-procedural and procedural realization*

Subchapter 3.4. Liability for the deed of another - specific liability in private law. According to F. Mangu, the tortious civil liability for the deed of another is always a play of three actors: the perpetrator, the victim, and the civilly liable person, their game describing the situation of liability, this time a complex one [9, p. 7].The civilly liable person is the secondary person responsible, being, in the following, the indirect perpetrator of the prejudice. The law requires him to repair the prejudice suffered by the victim, to the same extent as the primary perpetrator, as if he were the one who, directly, by his act, had caused the damage.

Thus, the determination of this liability is always based on a sum of existing relations between the direct perpetrator of the harmful wrongful act and the person called by law to be liable for that act, such as, for example, in family law, the existing family relations between parents and their minor children, legally regulated in the form of the parental authority relationship, between the minor children left without parental protection and their guardians. Common to all these civilly liable persons is the obligation to supervise those for whom they are called to answer, an obligation acquired by law, by contract, or by court decision.

The second type of social relationship on which tortious civil liability for the deed of another is based takes the form of legal relations of subordination of those who perform certain activities (perform certain functions or tasks) in the interest of those who organize and guide their activity. These are generic legal relations called "subordinate relationships" [9, p. 14], established between the principals and their subordinates. In all these cases, the liability for the deed of another is based on the existence of reports under which the responsible person exercises authority over the perpetrator of the harmful act, consisting of supervising, educating, raising, or controlling his activity. The relations between the two are relations of legal subordination. These categories of relations are provided by art: 2005, 2007 of the Civil Code of the Republic of Moldova.

In conclusion, we note that *liability for the deed of another as a dimension of private law legal liability differs from liability for one's own deed through a specific and special function, which consists in creating, in favor of the victim, of an additional guarantee of prejudice reparation, by incurring the liability for the same damage of another person, as the indirect perpetrator of the prejudice.*

Subchapter 3.5. Sanctioning measures of material and procedural law within the theoretical construction of private law liability. Civil, procedural, and labor law sanctions, which are part of the category of private law, fulfill the essential guarantee of legality, representing as well means of coercion, without which an effective functioning of a legal system would not be possible.

The difference between civil sanctions and civil punishments has been well researched in the literature - the civil sanctionsare considered to have a mainly reparative role, and the civil punishments a mainly repressive function [15, p. 114].

Among the sanctions that refer to private legal acts, we can mention nullity, resolution, termination, revocation. The sanctions that refer to the patrimonial rights are damages, the penal clause, and the earnest.

Sanctions, as an object of research, have been less researched in civil procedural law, although they have been analyzed, as a separate institution, in the various chapters of some treaties or university courses. In this sense, it was specified that the procedural sanctions represent "coercive measures meant to guarantee the observance of the legal norms that prescribe the forms and conditions according to which the judicial activity must be carried out in civil cases" [13, p. 2].

It can thus be stated that the sanction of civil procedural law represents an essential guarantee of legality and a means of optimal administration of justice [13, p. 4].

In the labor law liability, we find additional elements specific to the theoretical construction of the private law legal liability, namely in the application of specific sanctioning measures: the deductions from employees'salary to pay their debts to the employer can be made based on his order to repay the advance issued from the salary.

Labor law also includes disciplinary sanctions, which represent an action taken by the employer, as a result of the defective behavior of the employee and following the non-execution or improper execution of the individual employment contract.

Generalizing this paragraph, we can confirm with certainty that the sanctions within the theoretical construction of private law liability have certain specific characteristics, which distinguishes them from other sanctions: the sanctioned offense derives from the violation of a legal rule governing private law legal relations; can be applied to both subjects of law, the natural person and the legal person; sanctions under private law apply regardless of subject's age; the source of the sanctions of private law resides either in a normative act or in a manifestation of the will of the individuals stipulated in a contract; the intervention of the courts does not condition their application, this being necessary only in the case of non-voluntary execution of the sanction.

Through their content, the four chapters reflect the research in the field at the current stage of development, include a presentation of the practical analysis conducted as well as the personal opinion of the author. The conclusions that emerged from the research are presented in detail in the thesis's content andits final part. The thesis ends withthe conclusions and recommendations highlighted in the study. The thesis concludes with a list of bibliographic sources used to conduct the research.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The scientific results obtained followingthe research carried out were reflected in: the complex analysis of the institutions of legal liability in public and private law, the reconceptualization of legal liability, and its connection to new doctrinal trends concerning the types, forms, and modalities of legal liability so that to create effective guarantees for the protection of the rights and freedoms of participants in legal liability relationships; exposing the necessity ofincluding the concept of theoretical construction of legal liability in the legal language of the General Theory of Law; the study of the particularities and mechanism of realization of legal liability under public and private law, as types of legal liability, the formulation of guidelines for practitioners who perform these types of liability in situations where some forms of liability under public law interfere with some forms of legal liability under private law.

Starting from the objectives of the thesis, as well as from the fact that the significant importance of the current scientific problem has been demonstrated in relation to the research hypothesis, we formulate the following conclusions:

1. In the theory of law and the branch sciences, there is no unanimity of opinion on the identification and definition of the concept of theoretical construction of legal liability. While researching the structural elements of the theoretical construction of legal liability, we came to the conclusion that these elements are:

• the norms of the material and procedural law;

•sanctions of legal norms of material and procedural law;

• principles of legal liability;

• scientific definitions and concepts regarding the grounds and limits of legal liability [chap.2, par.2.1.].

2. Defining the essence and elements of the theoretical construction of legal liability is possible only if the following conditions are met: establishing a specific approach for understanding the concept of "legal construction" (as a technical-legal means); the concrete definition of legal liability as an institution of law or as a legal means; defining the dimensional limits of the theoretical construction of legal liability in general and the dimensional limits of the constructions of legal liability in public and private law, taking into account the aims and objectives of these types of liability. By establishing and formulating precisely the essence and content of the theoretical construction of legal liability as a legal construction, and consolidating its principles at the legislative level, we will be able to equitably solve fundamental problems related to legal liability, legality, prevention and repression of wrongdoing, removal of damage caused to society and the rule of law [chap.2, par.2.1.].

3. The analysis of the dialectical interaction of public and private law, as well as of the dialectical interaction of legal liability of public and private law, is an imperative of the contemporary development of the phenomenon of legal liability and the entire legal system. The category of theoretical construction can be used not only to identify the type of legal liability (e.g. public law legal liability, private law legal liability) but also its forms (constitutional liability, administrative liability, criminal liability, civil liability, environmental liability, etc.), its modalities (tortious civil liability, contractual civil liability, administrative-disciplinary liability, administrative-contraventional liability, etc.), limits of achievement (realized legal liability and unrealized legal liability) but also the legal status of the subjects, conditions, the content of the legal relations of legal liability in its evolution [chap.2, par.2.4.].

4. The theoretical construction of legal liability in public law is expressed in the system of legal norms of an onerous and prohibitive nature based on which sanctions are applied for the categories of illegal acts such as crimes, contraventions, constitutional offenses, as well as procedures related to establishing, specifying and imposing legal liability under public law. Legal liability under public law is the type of legal liability that includes in itself the following forms (constitutional liability, criminal liability, administrative liability, contraventional liability, financial liability, criminal procedural liability, etc.). Legal liability under public law differs from legal liability under private law through the following characteristics: *de jure* and *de facto* grounds, causation, the presumption of innocence, the specific of sanctions -they are applied on behalf of the state, by the competent bodies, - they have a repressive character, which must not lead to physical suffering; - they are applied only to the guilty party, the liability being individual or personal; - is the main way in which the public authority protects and organizes by legitimate coercion the living conditions of the society, - aim to prevent the commission of new crimes both by those who already committed illegal acts, but also by those tempted to commit them [chap.3, par.2.3.].

5. The theoretical construction of legal liability under private law denotes an interbranch character, cumulating several specific elements, including *de jure* and *de facto* grounds, prejudice, causation, the presumption of guilt, liability for another's act, specific sanctioning

measures. Liability under private law, unlike liability under public law, may also be regulated by normative acts subordinated to the law, including contracts concluded between the parties, unilateral acts expressing the will of the subject of law. This feature of private law liability derives from the principle of autonomy of the will of the parties and the principle of contractual freedom.

The criteria used by legal science to delimit the theoretical construction of private law from public law are: the social importance of the interest harmed by the wrongful act, the purpose, nature, and content of coercive measures, the form and methods of application of sanctions. The existence of prejudice and its recovery is the condition and the basic principle of liability in private law. The modality of legal liability on contractual grounds is another element of the theoretical construction of private law legal liability. This modality of legal liability, which is part of the form of civil liability and the type of liability in private law, is also found in other branches, for example, the matrimonial contract in family law, the individual employment contract in labor law, etc. [chap.4, par.3.4.].

6. *Personal contributions to solving the problem addressed in the thesis* have materialized in the complex investigation of legal liability in public and private law with the aim of supplementing the system of material and procedural guarantees in order to provide an existing judicial protection to the rights, freedoms, and legitimate interests of natural and legal persons in the phase of the legal liability realization. For the first time in the national doctrine, the issue of identifying a pertinent concept of legal liability was raised, which should indicate the vector of the regulatory direction of the respective institution in the legislation and legal doctrine of the Republic of Moldova. The structure and elements specific to the construction of legal liability were subjected to a multi-perspective analysis.From the need to connect these concepts to the existing ideas and theories in the General Theory of Law, we have formulated definitions, classifications of the respective theoretical constructions,and necessary conclusions.

The theoretical significance of the thesis. The paper elucidates various doctrinal approaches to different forms of legal liability. From a theoretical perspective, the aim is to order the elements of legal liability, namely those that constitute the theoretical construction of legal liability, so that it becomes possible to operate with the syntagms introduced in the circuit of the specific language of General Theory of Law. In addition, each of the analyzed elements emphasizes what is specific to public and private law legal liability. Another relevant theoretical aspect is that this phenomenon - the theoretical construction of legal liability under public law and that of legal liability under private law - is approached in such a way as to emphasize the interaction of forms of public law liability with those of private law liability.

The practical value of the thesis andthe impact of its findings are determined by the fact that the results and conclusions of this paper could be used by judges, lawyers, and other participants in the process of legal liability realization, thus contributing to the standardization of legal practice. Also, the practical reflection of the concept of the theoretical construction of the legal liability of public and private law will undoubtedly be a starting point for other studies seeking to detail certain aspects discussed in the paper. The ideas and concepts found in the text of this paper can prove their usefulness in the studies dedicated to the General Theory of Law, in studies focusing on the institution of legal liability in different branches of law, in the process of drafting normative acts; can contribute to the reform of legislation in the Republic of Moldova,

but also can guide those involved in the process of applying the law, especially the legal norms that regulate the institution of legal liability in the framework of different law branches.

Based on the findings of the conducted research and being aware of their impact on the doctrinal framework of the general theory of law, and appreciating as well their theoretical and practical value, we make the following recommendations:

1. We propose the definition of theoretical construction of legal liability: *by the theoretical construction of legal liability, we understand a structural model, certain technical-legal means by which the principles of action, the components, the scientific definitions, and concepts regarding the grounds and limits of legal liability are established* [chap.2, par.2.1].

2. Following the investigation of public law liability, we propose the following definition: *by theoretical construction of the public law legal liability, we understand a set of structural elements that contain norms of the material and public procedural law that impose the sanction, punishment, and other punitive measures, the order, and consecutiveness of their realization, such as the principles, ideas, and concepts regarding the grounds, conditions, and limits of liability, characterized by an imperative method of regulation, which forms the type of public law liability with specific forms and modalities of realization, with the ultimate goal of ensuring the interests of the state and society, the rights and freedoms of citizens* [chap.2, par.2.2].

3. We also propose the definition of the theoretical construction of liability in private law which can be formulated as follows: *by theoretical construction of legal liability in private law, we understand a set of structural elements that contain the rules of private substantive and procedural law that impose sanctions and other remedial measures, the order and sequence of their realization, such as the principles, scientific definitions, and concepts regarding the grounds and limits that form the type of legal liability under private law, with forms and specific ways of realization, with the ultimate goal of full reparation of prejudice, as a means of ensuring rights and freedoms in private law legal relations* [chap.2, par.2.3].

4. Also generalizing the existing opinions in the doctrine of the General Theory of Law, we come up with some proposals that would widen the area of usage of the category of theoretical construction using various criteria in classifying the types, forms, and modalities of legal liability:

1) According to the legal nature of the legal norms:

a.the theoretical construction of legal liability in public law, which includes: the theoretical construction of constitutional liability; the theoretical construction of administrative liability (contraventional liability, patrimonial-administrative liability, administrative-disciplinary liability); the theoretical construction of criminal liability; the theoretical construction of ecological liability; the theoretical construction of financial liability, the theoretical construction of fiscal liability, etc.

b. Theoretical construction of legal liability in private law,which includes: the theoretical construction of civil liability (tortious liability; contractual liability); the theoretical construction of liability in labor law (disciplinary liability, patrimonial liability); the theoretical construction of liability in family law; theoretical construction of liability in land law, etc.

2) According to the legal status of the subject of law: a) theoretical construction of the legal liability of the natural persons; b) theoretical construction of the legal liability of the legal persons; c) theoretical construction of the legal liability of the state.

3) According to the degree of guilt: a) the theoretical construction of the objective legal liability; b) the theoretical construction of the subjective legal liability.

4) According to the legal report's content: a) theoretical construction of the material legal liability; b) theoretical construction of procedural legal liability [chap.2, par.2.1].

5. Legal liability is one of the fundamental categories of the science of contemporary law, which puts into practice, depending on the circumstances, the rules of both public and private law branches.

We recommend the use in the legal vocabulary of the General Theory of Law through the theoretical construction of legal liability, of the following legal categories:

• *Type of legal liability* (for example, public law liability, private law liability);

• *Form of legal liability* (for example, constitutional liability, administrative liability, criminal liability, civil liability, etc.), which in most cases correspond to a branch of law.

• *Modality of legal liability* (tortious liability and contractual liability in civil law, property liability, contraventional liability, disciplinary liability in administrative law, which may be interbranch).

• *The limits of realization of the legal liability* (realized legal liability, unrealized legal liability) [chap.2, par.2.1].

Suggestions regarding the potential research directions related to the approached topic: based on the results materialized in this doctoral thesis, possible directions of some perspective research were identified, among which:

• The theoretical construction of the status of legal liability' subjects.

• Material and procedural normative facts in the evolution of legal liability;

• Theoretical construction of procedural legal liability as a distinct form of legal liability.

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ADNOTARE

Cerba Veaceslav, Construcția teoretică a răspunderii juridice în dreptul public și în dreptul privat, teză de doctor în drept la Specialitatea 551.01 – Teoria Generală a Dreptului, Chișinău, 2021.

Structura tezei: Introducere, patru capitole, concluzii generale şi recomandări, bibliografia din 373 titluri, 172 pagini text de bază. Rezultatele obținute sunt publicate în 12 lucrări științifice, volumul total al publicațiilor la temă este de 5,94 c.a.

Cuvinte-cheie: răspundere juridică, construcție teoretică a răspunderii juridice, construcție teoretică a răspunderii juridice în dreptul privat, construcție teoretică a răspunderii juridice în dreptul public.

Domeniul de studiu: Teoria generală a dreptului.

Scopul lucrării: constă în identificarea și examinarea conținutului construcțiilor teoretice a răspunderii juridice în dreptul public și dreptul privat prin prisma trăsăturilor și elementelor ce caracterizează în general răspunderea juridică și ca urmare accentuarea importanței acestei construcții, necesitatea operării cu această sintagmă atât la nivelul teoriei generale a dreptului cât și a ramurilor de drept.

Obiectivele cercetării: Elaborarea și analiza complexă a conceptului *construcție teoretică a răspunderii juridice în teoria generală a dreptului*, reconceptualizarea conceptului de construcție teoretică a răspunderii juridice atașată domeniului dreptului public și privat astfel în cât să fie ajustat cerințlor și trăsăturilor acestor forme de răspundere; identificarea și caracterizarea criteriilor ce delimitează construcția teoretică a răspunderii juridice în dreptul public de construcția teoretică a răspunderii juridice în dreptul privat; stabilirea impactului acestor criterii asupra actualei tendințe de intercalare a mai multor ramuri de drept public și drept privat; identificarea asemănărilor, deosebirilor și cumulul răspunderii juridice de drept public și

răspunderii juridice de drept privat; prezentarea și analiza elementelor și semnelor disctinctive din cadrul construcției teoretice a răspunderii juridice de drept public; prezentarea și analiza elementelor și semnelor disctinctive din cadrul construcției teoretice a răspunderii juridice de drept privat; formularea concluziilor și a propunerilor venite să îmbogățească cadru teoretic al răspunderii juridice în teoria generală a dreptului.

Noutatea şi originalitatea ştiinţifică este determinată de insuficiența studierii acestui subiect în doctrina teoriei generale a dreptului în Republica Moldova și de necesitatea abordării lui prin prisma unor noi metode și viziuni de cercetare, care ar permite aprecierea dintr-o nouă perspectivă și de pe alte poziții a fenomenului răspunderii juridice. Lucrarea reprezintă o cercetare complexă a problemelor teoretice și aplicative privind esența și conținutul răspunderii juridice, reconceptualizarea construcțiilor teoretice ale răspunderii în dreptul public și privat. Cele enunțate ne îndreptățesc să formulăm următoarele elemente de noutate științifică: formularea sintagmei *„construcție teoretică a răspunderii juridice”;* identificarea elementelor ce constituie în ansamblu construcția teoretică a răspunderii juridice; formularea conceptului de construcție teoretică a răspunderii juridice de drept public, precum și de drept privat; definirea construcțiilor teoretice a răspunderii juridice de drept public și drept privat; enunțarea conexiunii dintre totalitatea ramurilor de drept în cele ale dreptului public și cele ale dreptului privat și delimitarea răspunderii juridice în răspundere juridică de drept public și răspundere juridică de drept privat.

Rezultatele obținute care contribuie la soluționarea unei probleme științifice importante rezidă în formularea unui concept modern și oportun, *construcția teoretică a răspunderii juridice în dreptul public și dreptul privat*, ca fiind un concept ce verifică autencitatea și justețea realizării răspunderii juridice în diferite ramuri ale dreptului, fapt care a condus la elaborarea și introducerea în vocabularul teoriei generale a dreptului a conceptului de construcție teoretică a răspunderii juridice, în vederea stabilirii elementelor, trăsăturilor, condițiilor din ambele blocuri ale răspunderii juridice analizate, orientării practicienilor ce aplică aceste forme de răspundere.

Semnificația teoretică. Lucrarea elucidează diverse abordări doctrinare ale diferitor forme de răspundere juridică. Din perspectivă teoretică, se urmărește ordonarea elementelor răspunderii juridice, și anume a celor care constituie construcția teoretică a răspunderii juridice, în așa fel, încât să se poată opera cu sintagmele introduse în circuitul limbajului specific Teoriei generale a dreptului.

Valoarea aplicativă a cercetării. Rezultatele și concluziile prezentei lucrări vor putea fi folosite de către judecători, avocați și alți participanți în procesul de realizare a răspunderii juridice, contribuind la uniformizarea practicii juridice. De asemenea, reflectarea practică a conceptului construcției teoretică a răspunderii juridice de drept public și a celei de drept privat, cu siguranță va constitui un început pentru alte studii ce vor detalia anumite aspecte prezente în lucrare.

Implementarea rezultatelor ştiinţifice: Concluziile tezei, elementele de noutate și recomandările formulate sunt sunt utilizate în procesul de studii la predarea cursului de Teorie generală a dreptului, la tema „Răspunderea juridică”, în ramurile de drept civil, dreptul muncii, dreptul administrativ, dreptul penal, dreptul fiscal, etc.

ANNOTATION

Cerba Veaceslav, "The theoretical construction of legal liability in public and private law," Law Doctoral Thesis, Specialty 551.01 - General Theory of Law, Chișinău, 2021

Structure of the thesis: Introduction, four chapters, general conclusions and recommendations, bibliography of 373 titles, 172 basic text pages. The results obtained are published in 12 scientific papers; the publications' total volume is around 5.94 c.a.

Keywords: legal liability, theoretical construction of legal liability, theoretical construction of legal liability in private law, theoretical construction of legal liability in public law.

Field of study: The General Theory of Law.

Aim of the paper: consists in identifying and examining the content of theoretical construction of public and private law liability through the features and elements that generally characterize legal liability as well as highlighting the importance of this construct, the necessity of operating with this syntagm both at the level of the general theory of law and branches of law.

Research objectives: elaboration and complex analysis of the concept of theoretical construction of legal liability in the general theory of law, the reconceptualization of the concept of theoretical construction of legal liability both in the field of public and private law; identifying and characterizing the criteria that delineate the theoretical construction of public law liability and the theoretical construct of private law liability; establishing the impact of these criteria on the current tendency of intercalating branches of public law and of private law; identifying the similarities, differences and the cumulation of

the public and private law liability; presenting and analyzing the elements and distinctive signs belonging to the theoretical construction of public law liability and private law liability.

The scientific novelty and originality are determined by the research gap related to this particular subject in the doctrine of the general theory of law in the Republic of Moldova and by the necessity of addressing it through the prism of new research methods and perspectives, which would allow a new outlook on the phenomenon of legal liability. The current work represents a complex research of theoretical and applicative problems regarding the essence and the content of legal liability, reconceptualizing the theoretical constructions of public and private law liability. The above stated allows us to formulate the following elements of scientific novelty: the syntagm of "theoretical construction of legal liability"; to identify the constitutive elements of the theoretical construction of legal liability; to formulate the concept of theoretical construction of public law and private law liability.

The results that contribute to an important scientific problem - solving reside in the formulation of a modern and timely concept, the theoretical construction of legal liability in the branches of public law and of private law, as a concept that verifies the authenticity and exactness of legal liability realization in different branches of law, a fact which led to the elaboration and introduction in the vocabulary of the general theory of law of the concept of theoretical construction of legal liability, in order to establish the elements, features, conditions of both blocks of analyzed legal liabilities, and to guide the practitioners who apply these forms of liability.

The theoretical significance. The paper elucidates various doctrinal approaches of different forms of legal liability. From a theoretical perspective, we aim at ordering the elements of legal liability, namely those constituting the theoretical construction of legal liability, so that it becomes possible to operate with the syntagmas introduced into the language circuit specific to the general theory of law.

The applicative value of the research. The results and conclusions of this paper may be used by judges, lawyers, and other participants in the process of realization of legal liability, thus contributing to the standardization of the legal practice. Also, the practical reflection of the concept of theoretical construction of public law and private law liability will undoubtedly be a stimulus for other studies that will analyze in more detail certain aspects elucidated in the current paper.

The implementation of scientific results: The conclusions of the thesis, the elements of novelty, and the recommendations formulated are used in the study process when teaching the course of the general theory of law on the topic "Legal liability," in the branches of civil law, labor law, administrative law, criminal law, fiscal law, etc.

АННОТАЦИЯ

Черба Веачеслав «Теоретическая конструкция юридическая ответственность в публичном и частном праве», диссертация по праву по специальности 551.01 – Общая теория права, Кишинэу, 2021

Структура диссертации: введение, четыре главы, общие выводы и рекомендации, библиография из 373 наименований, 172 страницы основного текста. Полученные результаты опубликованы в 12 научных работах, общий объем публикаций по теме составляет 5.94 а.л.

Ключевые слова: юридическая ответственность, теоретическая конструкция юридической ответственности, теоретическая конструкция юридической ответственности в публичном праве, теоретическая конструкция юридической ответственности в частном праве.

Цель работы состоит в идентификации и изучении содержания конструкции юридической ответственности в публичном и частном праве, общих и отличительных черт, которые характеризуют юридическую ответственность в целом и как следствие, выявление значимости данной конструкции, необходимость ёе применения как в Общей теории права, так и в отраслевых науках.

Задачи исследования: комплексный анализ и разработка концепции теоретической конструкции юридической ответственности в общей теории права; реконцептуализация понятий конструкции юридической ответственности применительно к публичному и

частному праву; идентификация и характеристика критериев, которые разделяют конструкции юридической ответственности в публичном и частном праве; установление влияния данных критериев на развитие взаимодействия различных отраслей права; выявление общих и отличительных черт юридической ответственности в публичном и частном праве;

Научная новизна и оригинальность исследования: данная работа представляет собой комплексное исследование прикладных и теоретических проблем касающиеся сущности и содержания юридической ответственностив Республике Молдова. Вышесказанное, позволяет нам обозначить следующие элементы новизны исследования: сформулирование синтагмы «теоретическая конструкция юридической ответственности»; идентификация составляющих ёе элементов; разработка концепции теоретических конструкций юридической ответственности в публичном и частном праве; определение данных конструкций в области теории права.

Полученные результаты, способствующие решению важной научной проблемы заключаются в сформулировании современной концепции «теоретической конструкции юридическая ответственность в публичном и частном праве», концепции позволяющей выявить аутентичность и правильность применения юридической ответственности в различных отраслях права, факт приводящий к разработке и внесению в общий словарь теории права авторского варианта концепции теоретическая конструкция юридической ответственности, для выявления элементов, отличительных черт и уяснения роли юридической ответственности как общесоциального явления, ориентации практических работников применяющих данные формы юридической ответственности.

Теоретическая значимость состоит в том, что в работе освещаются взгляды различных авторов касаемо юридической ответственности, также в теоретической перспективе преследуется цель упорядочения структуры, элементов юридической ответственности, в той мере которая позволит их исследование в общей теории юридической ответственности.

Прикладная ценность исследования: результаты и выводы данной работы могут быть использованы на практике судьями, адвокатами и другими участниками процесса реализации юридической ответственности, а также теоретиками, в той мере, которая позволит использовать исследуемые категории в Общей теории права.

Внедрение научных результатов: результаты исследования были внедрены в учебный и научный процесс МНУМ.