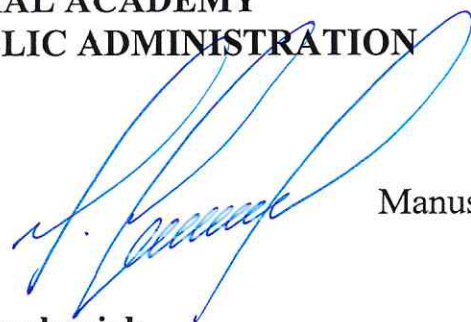


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Manuscript

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**LIABILITY OF PARTICIPANTS IN CIVIL PROCEEDINGS**

Specialty: 5.1.3 – Private (Civil) Sciences

Abstract of the Dissertation  
for the Degree of Candidate of Legal Sciences

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### **The relevance of the Research Topic**

Legal liability is a complex legal category that requires doctrinal analysis and improvement.

Most studies focus on civil liability, which is only a part of legal liability, although it determines the doctrinal and regulatory framework for legal liability. This study covers not only civil liability, but also arbitration and administrative proceedings, providing a comprehensive review and comparative analysis of the main procedural codes. This is particularly relevant in the context of ongoing discussions on the creation of a unified civil procedural code without including the Code of Administrative Procedure.

The relevance of the topic is due to the lack of strictly regulated norms regarding judicial fines for procedural offenses, as well as the controversial nature of concepts such as abuse of rights, unfair procedural behavior, civil liability, shikana, estoppel, and others. The absence of such norms contributes to the development of numerous legal disputes, which hinders the administration of justice and the maintenance of order in court proceedings. The complexity of identifying these concepts is the responsibility of the judiciary, and therefore, a doctrinal definition and enumeration of their characteristics are essential for improving the quality of legal proceedings not only in domestic but also in global civil law.

The topic of this dissertation is relevant to the problems associated with the quality of work performed by lawyers and other participants at all levels, as well as their responsibility for conducting certain procedural actions. Thus, this work is based not only on judicial practice, but also on the disciplinary practices of lawyers, prosecutors, representatives, and other individuals who assist in the administration of justice.

### **The extent of prior research of the topic.**

The following authors have studied the general norms on the responsibility of participants in the legal process: V.F. Borisova, A.G. Boyarkina, M.L. Galperin, A.A. Efimov, T.N. Kazarina, N.S. Malein, V.A. Melikhov, A.A. Mishin, S.V. Potapenko, I.A. Tabak, and Y.Y. Ustinenko. In addition, M.R. Zagidullin has described the features of the institution of legal responsibility. I.M. Divin, M.E. Kashina, A.N. Mayorov, V.V. Minina, A.Z. Sirotyuk and Y.N. Starilov have studied certain issues related to the development of

civil liability. V.V. Yarkov's work «The Development of the Civil procedure in Russia: Selected Issues»<sup>1</sup> is particularly relevant for this study. The problems of participants in civil, arbitration and administrative proceedings have been studied by M.V. Adrianova, M.V. Vronskaya, K.R. Gallyamova, I.N. Gelieva, D.V. Gritsenko, I.V. Zakharova, I.V. Reshetnikova, M.A. Rumyantseva and T.N. Temnikova. In addition, the works of U.V. Yudina such as «The Concept of the Principle of Good Faith in Civil Procedure»<sup>2</sup> and the dissertation of M.A. Bolovnev «The Effectiveness of Countering Abuses of Procedural Rights»<sup>3</sup> are particularly important for the development of the legal doctrine on civil liability. The works of M.A. Bolovnev I.V., Vorontsova, O.D. Dyukova and A.G. Stolyarov have been devoted to research on the legal grounds and procedures for bringing participants in civil proceedings to various types of liability. In particular, the monographs by E.V. Vavilin «The Exercise and Protection of Civil Rights»<sup>4</sup> and A.V. Yudin «Civil Procedure Offenses and Liability»<sup>5</sup> stand out. Additionally, the works of T.E. Abova, E.A. Vinogradova, K.A. Lebed and I.N. Lukyanova «Constitutional Principles of Civil Procedure»<sup>6</sup>, Zh.V. Vassalatiy and K.M. Mishin «Some Issues in Conducting and Evaluating Expert Assessments in Civil Proceedings»<sup>7</sup>, E.A. Pevtsova «Civil Liability of Minors»<sup>8</sup>, A.V. Zuev and N.S. Kadovb «Shikana: Features of Development and Structural

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<sup>1</sup> Yarkov, V.V. The Development of the Civil Procedure in Russia: Selected Issues // Bulletin of Civil Procedure №. 1. Moscow, 2011. P. 17-53.

<sup>2</sup> Yudina Y.V. The Concept of the Principle of Good Faith in Civil Procedure // Bulletin of the Public Research Laboratory "Interaction of the Criminal Executive System with Civil Society Institutions: Historical, Legal, and Theoretical-Methodological Aspects" №. 22. Ryazan. 2021. P. 187-192.

<sup>3</sup> Bolovnev, M.A. The Effectiveness of Countering Abuses of Procedural Rights: Dissertation for the Candidate of Legal Sciences: 12.00.15. – Omsk State University named after F.M. Dostoevsky, Omsk, 2018, P. 30.

<sup>4</sup> Vavilin, E.V. Implementation and Protection of Civil Rights. 2nd ed. Moscow: Statut, 2016. P. 416.

<sup>5</sup> Yudin, A.V. Civil Procedure Offenses and Responsibility: A Monograph. St. Petersburg: Yuridicheskaya Kniga, 2009. P. 624.

<sup>6</sup> Abova T.E., Vinogradova E.A., Lebed K.A., Lukyanova I.N. Constitutional Principles of Civil Procedure // Twenty Years of the Constitution of the Russian Federation: Legal Science and Practice. Moscow. 2013. P. 66-75

<sup>7</sup> Vassalatiy J.V. N. K. Mishina, M.N. Some problems in conducting and evaluating examinations in civil proceedings // Issues of Russian and International Law. Noginsk 2023. Volume 13. №. 4A. According to S. N. 270-280. DOI: 10.34670/AR.2023.10.26.041.

<sup>8</sup> Pevtsova E.A. Civil liability of minors // Modern additional professional pedagogical education № 1(1). Moscow. 2015. P. 7-13.

Elements»<sup>9</sup> and N.R. Safaeva «The Possibility of Applying the Category of Good Faith and Abuse of Procedural Rights to Participants in Disputes Arising from Corporate Legal Relations under the Legislation of the CIS and Near Abroad States»<sup>10</sup> are also noteworthy.

### **Goal and tasks of the Research.**

The goal of the study is to identify the specifics of the method of implementing the responsibility of participants in the civil procedure, to define its concept and structure, as well as to develop practical recommendations for improving the effectiveness of the mechanism for implementing the responsibility of participants of the civil procedure in national legislation and law enforcement practice.

The goal of the dissertation research led to the following tasks:

- 1) To study the legal nature of liability in the context of the civil procedure;
- 2) To analyze the development of the institution of liability for participants in the civil procedure in terms of historical periodization;
- 3) To study and systematize the features of the legal status and implementation of the responsibility of participants in the civil procedure;
- 4) To reveal the concept and define the main types of procedural offenses in civil proceedings as grounds for liability;
- 5) To determine the procedure for bringing participants of the civil procedure to administrative, disciplinary, and criminal liability;
- 6) To identify the main problems and features of the regulatory regulation of the responsibility of participants of the civil procedure in the Russian legal system;
- 7) To present possible ways of development and prospects for improving the institution of responsibility in the civil procedure.

**The object of Research** is the public relations in the civil procedure.

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<sup>9</sup> Zuev A.V., Kadovb N.S. Shikan: features of development and structural elements // World trends and prospects of science development in the era of change: from theory to practice: proceedings of the I International Scientific and Practical Conference (Rostov-on-Don, January 30, 2023). P. 294-295.

<sup>10</sup> Safaeva N.R. The possibility of applying the category "good faith and abuse of procedural rights" to participants in disputes arising from corporate legal relations under the legislation of the CIS and neighboring countries // Lex russica. 2021. Vol. 74. №. 5. P. 143-150. DOI: 10.17803/1729-5920.2021.174.5.143-150.

**The subject of the Research** are the legal norms, doctrinal foundations, and judicial practice related to the implementation of the responsibility of participants in the civil procedure in the Russian Federation.

### **Theoretical and Methodological Framework of the Research.**

The study is based on the works of Russian authors in the fields of civil, arbitration, and administrative law, including T.E. Abova, M.A. Bolovnev, E.V. Vavilin, E.A. Vinogradova, M.R. Zagidullin, A.V. Zuev, N.S. Kadovb, K.A. Lebed, I.N. Lukyanova, E.A. Pevtsova, M.A. Rumyantseva, N.R. Safaeva, A.V. Yudin, Y.V. Yudina and V.V. Yarkov.

During the conducted research, both general and special legal scientific methods were used. The general methods of work include the methods of deduction and induction, analogy and generalization, the method of scientific synthesis, the formal-logical method, and the method of statistical analysis. The legal research methods included the method of historical and legal analysis, the formal-legal scientific method, and the method of legal hermeneutics.

The method of deduction was used in the construction of the dissertation research plan. The inductive scientific method allowed for the construction of the conclusions of the first general theoretical chapter, which described the concepts of "civil procedure" and "civil liability." The methods of analogy and generalization were used in conjunction with a comparative analysis of the norms of various procedural codes, both within the Russian jurisdiction and in conducting a comparative analysis of the legislation of the Russian Federation, Belarus as a representative of the Union State, and Germany as a member of the European Union. The method of scientific synthesis allowed for the generalization of the research results. The formal-logical method gave the work a structured, reasonable, and scientifically complete form.

The historical and legal analysis is presented in Section 1.2. By using this method, the periodization of participants in the civil procedure from 1497 to the present day was established. The formal legal method provided the work with the impartiality and legal literacy necessary for this type of research. Additionally, the method of legal

hermeneutics involved the synthesis of doctrinal sources and legal practice, ensuring the validity of the conclusions in the dissertation.

Finally, the statistical method was employed to analyze data from the Judicial Department of the Supreme Court of the Russian Federation regarding the number of court fines in the civil procedure from 2021 to 2023. This analysis revealed that most offenses during this period were related to the failure to comply with court orders.

**The Research information base.**

The study is based on the Civil Procedure Code of the Russian Federation, the Arbitration Procedure Code of the Russian Federation, the Code of Administrative Procedure of the Russian Federation, and other federal laws.

The study also relies on empirical sources, including court decisions from general jurisdiction courts, arbitration courts, the Supreme Court of the Russian Federation, and the Constitutional Court of the Russian Federation. Additionally, the study includes materials from the Statistical Department of the Supreme Court of the Russian Federation.

**The validity and reliability of the Research results** are ensured by a wide range of materials related to civil liability, extensive judicial and disciplinary practice in 2022-2024, and statistical data from the Supreme Court of the Russian Federation for 2023.

**The scientific novelty of the Research** is due to the development of several legislative proposals based on a global comparative analysis of the norms on liability in civil, arbitration, and administrative proceedings. As part of the dissertation research, new provisions were formulated and existing provisions in the doctrine were clarified in relation to the object and subject of the study.

During the research, new practically and scientifically optimized definitions were given for the following concepts: abuse of rights, unfair procedural behavior, liability of participants in civil proceedings, and violation of procedural duties. The theoretical analysis of doctrinal, regulatory, and judicial sources allowed for the differentiation of various procedural offenses based on their severity, as well as the development of preventive norms against such abuses. Additionally, the comparative analysis also covered the legal jurisdictions of the Republic of Belarus and the Federal Republic of Germany, which enhances the validity of the conclusions presented in the conclusion.

Furthermore, the dissertation research resulted in the development of scientific and practical justifications for improving the mechanism and enhancing the protection of the property of minors, which aligns with the development of remote professions where adolescent labor is in demand and generally socially encouraged.

The most significant research results are **Submitted for Defense**:

1. The responsibility of participants of the civil procedure is a form of state force based on a set of procedural legislation norms that affect the course of the process and are aimed at establishing possible civil, administrative, and other sanctions for procedural offenses. Consequently, the legal nature of civil responsibility is expressed in the existence of sanctions for violations of procedural norms, contractual certainty, including public legal relations, and the regulatory framework of civil legislation (*which corresponds to paragraph 5 of the Passport of Specialization 5.1.3*).

2. The study revealed that the genesis of civil liability reflects the gradual division of types of liability, the development of the rights and obligations of the participants in the process, adaptation to socio-economic conditions, and the formation of an institution that meets the principles of equality of the parties and procedural justice.

Civil liability is inextricably linked to the development of civil law from traditional to positivist, which is reflected in the formation of procedural norms of interaction between the state and other individuals, the imposition of property (material) damages for procedural violations, and the introduction of procedural guarantees and forms of liability (*which corresponds to paragraph 1, 4 of the Passport of Specialization 5.1.3*).

3. The dissertation research proposes a conceptual framework for the legal status of participants in the civil procedure as a systemically organized set of subjects' rights, which is implemented through the complex interaction of the following categories of participants in civil proceedings:

- Parties and intervenors are characterized by the inadmissibility of abuse of procedural rights, the obligation to comply with the principles of good faith, equality, and competitiveness of the parties, and the desire to achieve an objective resolution of the case;

- Representatives, lawyers and prosecutors form a triune system of participants in the process who act from different legal positions (ensuring a balance between private and public principles of justice) and are responsible for strengthening the rule of law and ensuring effective access to justice, without having their own substantive legal interest.

- Persons who aid in the administration of justice are characterized by their auxiliary and functionally determined role in ensuring the reliability of the evidence base for the proceedings, and their responsibility is both disciplinary and repressive.

- Judges, who have the exclusive authority to administer justice, not only apply the rules of law but also ensure their impartial interpretation, are not only the guarantors of justice and the rule of law, but also bear a special responsibility, the violation of which undermines the authority of the court and the system of protection of rights in general (*which corresponds to paragraph 5, 6, 12 of the Passport of Specialization 5.1.3*).

4. The author substantiates the systemic consolidation of the role of the judge's assistant in the civil procedural mechanism, which is proposed to be reflected in the comprehensive consolidation of the rights and obligations of the judge's assistant as a special subject of legal proceedings, the establishment of the limits of permissible participation in the process, the requirements for maintaining the secrecy of justice, and the specification of the grounds for disciplinary, administrative and criminal liability due to the lack of legal regulation of this institution (*which corresponds to paragraph 12, 20, 25 of the Passport of Specialization 5.1.3*).

5. It has been proven that an offense as a deliberate procedural defect by the participants in the trial is expressed in the violation of the procedure for judicial protection, which hinders the trial in the form of non-appearance of the parties, violation of the order in the court session, unscrupulous behavior, abuse of rights, false testimony and falsification of evidence.

The correlation between procedural offenses and procedural liability has been determined, which is expressed in the differentiation of liability measures depending on the category of the subject, the presence or absence of intent and the impact on the trial process (*which corresponds to paragraph 9, 12, 20 of the Passport of Specialization 5.1.3*).

6. The main way to implement the responsibility of participants in the civil procedure is the judicial fine, which is a measure of procedural responsibility of a property nature for violations of established procedural duties. The conceptual necessity of the civil procedure lies in emphasizing its dual nature as both a sanction and a preventive and regulatory tool.

This mechanism of implementing responsibility is proposed to be understood from the perspective of a comprehensive approach, which includes the proportionality of punishment, considering the proposed model of differentiating offenses by their significance: for abuse of procedural rights, for offensive and obscene statements, and for other offenses (*which corresponds to paragraph 9, 12, 27 of the Passport of Specialization 5.1.3*).

7. During the study, the concepts of "abuse of right" and "good faith behavior" were proposed, and the relationship between these concepts was defined:

- Abuse of right in a civil procedure is defined as the behavior of a party in a civil procedure that causes the other party to lose the opportunity to protect their own interests or makes it unlikely that they will be able to do so.

- Good faith behavior is the parties' desire to achieve an objective resolution of the case, to uphold the principles of equality, equivalence and competitiveness in the legal process towards a positive outcome.

The relationship between abuse of right and good faith behavior in a civil procedure is a special regulatory mechanism that defines the boundaries of permissible procedural behavior, serves as a system-forming criterion of legality, ensures the balance of interests between the parties and the stability of the procedural form, and differentiates between positive procedural status and a specific form of legal deformation (*which corresponds to paragraph 9 of the Passport of Specialization 5.1.3*).

To put these and other findings of the dissertation research into practice, the author has developed the following proposals:

1. To amend Article 129 of the Civil Procedure Code of the Russian Federation as follows:

«If the debtor provides a reason for not receiving correspondence in the rented accommodation, this fact must be confirmed by a rental agreement or a lease agreement, as well as by the landlord's declaration confirming the validity of such a contract.»;

2. To amend Article 106 of the Civil Procedure Code of the Russian Federation, as well as Part 4 of Article 123 of the Administrative Procedure Code of the Russian Federation, as follows:

«The court's decision to impose a judicial fine may be appealed within one month from the date of receipt of the copy of the decision by the person who has been imposed a judicial fine.»;

3. To enhance the differentiation of fines, to amend Article 105 of the Civil Procedure Code of the Russian Federation, Part 1 of Article 119 of the Arbitration Procedure Code of the Russian Federation, and Part 1 of Article 122 of the Administrative Procedure Code of the Russian Federation as follows:

«For offenses related to abuse of procedural rights, the amount of the judicial fine cannot be less than 50% of the established maximum amounts; for offenses related to violations of public order, the amount of the judicial fine cannot be higher than 50% of the established maximum amounts; for other offenses, the amount of the judicial fine is determined by the court.»;

4. To enhance the protection of the property of working minors and their family members, to amend the following provisions:

To amend Article 1074 of the Civil Code of the Russian Federation as follows:

«The property liability of parents, adoptive parents, and guardians, which relates to the liability of a minor between the ages of 14 and 18 and is related to the minor's employment or professional activities as a self-employed individual, cannot be expressed in the shared or private ownership of real estate owned by the minor, their parents, adoptive parents, or guardians, unless the value of such property does not exceed two times the market value of an average residential property in the region where the property is located.»;

To amend Article 446 of the Civil Procedure Code of the Russian Federation as follows:

«...real estate owned by the parents, guardians, and adoptive parents of debtors between the ages of 14 and 18, whose market value does not exceed two times the market value of an average residential property in the region where the property is located.».

### **Theoretical and practical significance of the research.**

The theoretical significance of the study lies in the significant expansion and differentiation of the concept of abuse in the civil procedure. In addition, the author provides a direct definition of the civil procedure, which is controversial in Russian legal science. However, a comprehensive examination of various interpretations and doctrinal trends suggests that this work can serve as a basis for the normative incorporation of the concept of "civil procedure" into Russian legislation.

The practical significance of the research results is due to the need to determine the direction for improving the legislation governing civil proceedings. The results of the dissertation research make it possible to use the presented material in the preparation of draft laws related to the liability of participants in civil, arbitration, and administrative proceedings. This material can also be used as a methodological guide for judges, lawyers, representatives of civil law fields, as well as for students, master's students, and postgraduate students of civil law departments.

### **Approbation of the Research results.**

The dissertation was completed and discussed at the Department of Legal Support for Market Economy at the Higher School of Law at the Institute of Public Service and Management of the Federal State Budgetary Educational Institution of Higher Education "Russian Presidential Academy of National Economy and Public Administration".

The theoretical provisions and conclusions of the dissertation research formed the basis for three of the author's works, which were published in scientific journals included in the list of leading peer-reviewed journals and publications recommended by the Higher Attestation Commission of the Ministry of Science and Higher Education of the Russian Federation.

### **List of Author's Publications on the Research topic.**

1. Kumsiashvili S.Z. Responsibility of the parties to civil proceedings for actions that prevent the consideration of the case and the adoption of a lawful and justified judicial

act: comparative legal analysis of Russian and foreign experience // Juridical science – 2023. – № 10. – pp. 106-111.

2. Kumsiashvili S.Z. Actual problems of procedural regulation of disciplinary and professional responsibility of a lawyer in a civil procedure // Voprosy rossiiskogo i mezhdunarodnogo prava [Matters of Russian and International Law] – 2024. – No. 7A. – pp. 318-324.

3. Kumsiashvili S.Z. The problem of implementing responsibility for procedural violations in civil proceedings // Voprosy rossiiskogo i mezhdunarodnogo prava [Matters of Russian and International Law] – 2025. – No. 3A. – pp. 189-193.

**The structure of the dissertation** is determined by its goals and objectives and includes an introduction, four chapters, thirteen paragraphs, a conclusion, as well as a bibliographic list. The main conclusions of the conducted research are presented in the dissertation work in paragraphs.