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**THE LEGAL STATUS OF THE SUBJECT OF LAW AT  
DIFFERENT STAGES OF LEGAL LIABILITY**

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## THE MAIN CONCEPTUAL BENCHMARKS OF THE RESEARCH

**The topicality and the level of investigation of the addressed theme.** In the theory of law doctrine there are still some incompletely resolved theoretical problems. Although they seem as traditional, they are characterized by permanent topicality. One of these issues is the issue of legal liability. In its temporal and spatial coordinates, liability is categorically imposed as a central concept, regardless of the nature of the theoretical perspective that addresses it.

The theme I proposed for research is a current one and aims to analyze, deepen and facilitate the understanding of *the evolution over time of legal liability*, the relationship between the legal status of the subject of legal liability and its development stages, to identify its content and destination within the dynamic mechanism of legal liability.

The status of legal liability in dynamics, allows us to infer that it does not occur automatically as a result of committing the illegal act. Regardless of the form of liability, this is a process that starts when the wrongful act is committed and is consumed at the end of the execution of the sanction applicable for the commission of the illegal act. Even when the sanction is applied immediately after the commission of the deed, the liability, nevertheless, is realized in a fixed period of time. This period is necessary for the application of a fair and appropriate measure of legal liability.

Legal liability is one of the fundamental categories of law. Its purpose is to contribute to the realization of law exclusively through the realization of its own functions [1, p. 8-14].

In these conditions, the concept of legal liability is one loaded with novelty and overwhelmed by the multiple perspectives that its treatment can offer. At the same time, more and more authors argue for the need of an integrative vision in order to decipher the current meanings of the evolution of legal liability.

The doctrine knows several attempts to determine different stages of application of the law, deriving from the need for a more profound understanding of the issue. This approach allows solving several tasks that were not previously achieved, such as adding more clarity to the stages of legal liability. Their highlighting is determined by several factors: the logical sequence of certain actions related to legal liability; the functional stages of the legal process; the changes in the legal status of the subject of law at different stages of legal liability. We insist on the idea that the evolution in stages of legal liability is directly dependent on the actions of the legal subjects in the process of investigation by the competent bodies of the wrongful act and the changes that occur in the legal status of the subject of the wrongful act.

It is worth mentioning that, throughout the evolution of legal liability, the legal status of the subject of legal liability does not remain unchanged and homogeneous. Firstly, it differs from the general status by the existence within it of specific rights and obligations. Secondly, considering that the competent state bodies are better acquainted with the wrongful act committed, changes occur not only in the content of the special legal status of the subject of legal liability, but also in its externalization.

As well, it is important to keep in mind that from the moment the wrongful act is committed, the subject obtains a special legal status. However, before achieving this status, it is necessary that the competent body discovers the wrongdoing and identifies the concrete legal liability measure to be applied, which consequently determines the volume of rights and obligations that materialize, complete or limit the general legal status of the subject of law.

The study of legal liability in dynamics leads us to ascertain the procedural aspect of liability. However, we must mention that the procedural form does not represent an independent stage, but only a form of transposition of the material content of the legal relationship of liability. The elements of the judicial process: the procedural regime, the procedural activity, the procedural and functional stages are oriented towards achieving a material result, the legal mediation of the objective fact of existence of the concrete measure of legal liability. The legal status of the criminal subject acquires procedural form; the coercive force applied to the subject acquires a procedural character and represents the means of knowing the limitations, completions and concretizations

realized on the general legal status of the legal subject, which taken all together represent the negative consequences that the subject is supposed to bear.

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. Bazilev, C.N. Bratusi, V.N. Lipinschi, O. E. Leist, M. N. Marcenco, I. N. Samoşenco, 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.

So, the topicality of the chosen subject resides in the increased interest given, especially in recent years in the Republic of Moldova and other states, for debating and revealing the different elements and facets of legal liability as a dynamic process, interest arising from the permanent reconfiguration of reality, that raises questions and brings out problems that were considered to be definitively solved. The achievements in the field of legal sciences in general, ask for reconsiderations, especially in what concerns legal liability.

**The aim of the paper** is to substantiate the legal status of the subject of legal liability, recognize the existence of normative, material and procedural stages in the development of legal liability, the evolution of the special legal status of the perpetrator and the problem of its normative regulation, the need to operate with these syntagmas both at the level of General Theory of Law and branches of law.

The following **objectives** have been set in order to achieve the proposed goal:

- anchoring the concept of legal liability across the strict boundaries of the branch legal sciences, by closely following the insides of the spatial-temporal and structural-systemic construction of this notion;
- determining the meaning and defining the categories of subject and subject of legal liability, subject of the illicit act, tortious capacity of the subject of law in the paradigm of the general conditions of legal liability;
- classifying the subjects of legal liability based on the criterion of the forms of legal liability and of the general criterion of classification of the subjects of law;
- identifying and defining the concept of legal status of the subject of legal liability, by analyzing the specific rights and obligations within the special legal liability relationship;
- the elaboration and complex analysis of the concept of spatial-temporal and structural-systemic construction of the phenomenon of legal liability;
- presentation and analysis of the dynamic phases of the evolution of legal liability and their impact on the modification of the legal status of the subject of legal liability;
- the realization of a complex analysis of the construction of release of legal liability in the process of the evolution of legal liability;
- formulating conclusions and proposals to enrich the current theoretical framework of legal liability and detecting current trends in the evolution of legal liability.

The **research hypothesis** in this paper focuses on revealing the legal status of the subject of law at various stages of legal liability, as well as of some subjective assumptions resulting from the theory and practice of legal liability realization both at the level of the General Theory of Law and at the level of different branches of law.

We specify that both the scientific interpretations of the legal framework and the theoretical solutions proposed for examination are accompanied by a confirmatory approach and involve the construction of several hypotheses based on existing theories and the launch of an investigation methodology that could finally allow to confirm the main hypothesis.

In the present study we have made a synthesis of all the ideas expressed in connection with the subject under analysis and we have carefully followed the regulations in force, both nationally and internationally.

The validation of the research hypothesis has an anticipatory and proactive character of interpretation of legal liability, which will allow us to orient the research towards really significant

issues such as: determining the meaning and defining the categories of subjects of legal liability, subjects of the illicit act, tortious capacity of the subject of law in the paradigm of the general conditions of legal liability; identifying and defining the concept of legal status of the subject of legal liability; establishing and analyzing the concept of the stage of legal liability and the impact on the modification of the legal status of the subject of legal liability.

**Research methodological synthesis and justification of the chosen research methods.**

The methodological and theoretical-scientific support of the paper is made up of a diversified palette of specialized sources, which belong to the field of General Theory of Law, substantive law and procedural branch law. These are monographs, treatises, studies and commentaries, belonging to specialists in the field, but also from Internet sources, legislation sites, normative acts and jurisprudence.

The methods used to achieve the objectives we proposed were diverse. We used and combined several research methods specific to the legal field. First of all, the preliminary stage of the research consisted in choosing the research topic, referring mainly to the extensive bibliography, which dealt with the topic proposed for investigation. Then, together with the scientific coordinator, we selected those titles that helped us to understand better the way the doctrine and legislation approach the problem in question. We found, as we delved into the doctrine, that so far there is no general theory addressing the legal status of the subject of legal liability and the changes that occur in this status during the evolution of legal liability at different stages of its manifestation.

Moreover, we did not find an approach similar to the one we propose, which would run in parallel, the General Theory of Law in parallel with constitutional, civil, criminal, contraventional, labor law and other branches of law derived from the complex connections of legal liability.

Practically, in the research itself, the conducted investigation included three large blocks: the conception of the doctrine, the legislation and the jurisprudence. The criteria we used took into account their representativeness and relevance. The bibliography included specialized works, scientific articles from various specialized journals, opinions expressed during various scientific events. Thus, a first logical method was the deductive method, through which we analyzed the legal texts, but also the doctrinal discourse - research methods that are found in all four chapters of the paper. The conducted analysis was different, combining the presentation of theoretical elements with concrete factual studies of the legislation, so the paper is not just a rendering of doctrinal opinions and legislative texts, but represents a real analysis of concepts. Therefore, other methods used by us were: historical method, comparative method, systemic method, prospective method, etc.

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

**The doctrinal support of the research** mainly included a series of scientific papers signed by renowned local authors, (such as: Gh. Avornic, E. Aramă, B. Negru, A. Negru, O. Chicu, Xn. Ulianovschi, S. Furdui, T. Carpov, V. Guțuleac, I. Muruianu, S. Botnari, V. Balmuș, I. Bostan, T. Stahi, V. Zaharia, A. Barbăneagră); Romanians, (such as: V. Bădescu, I. Craiovan, L. Barac, M. Costin, Gh. Mihai, T. Ionașcu, E. Bejenaru, M. Dumitrașcu, C. Stătescu, C. Bîrsan, O. Brezeanu, M. Constantinescu, A. Iorgovan, G. Lucianu, Gh. Mateuț, M. Djuvara, C. Manda, V. Hotca, V. Verdinaș, C. Bulai, MK Guiu, Gh. Nistoreanu, N. Popa, CA Lupu, A. Ungureanu, Gh. Alecu); Russians, (such as: N. V. Vitruk, M. I. Shindeapina, S.V. Oblienco, I. C. Kondratieva, V. P. Kuznetsova, I. N. Tikhonenko, D. A. Lipinskii, A.V. Vinogradov, A.V. Malikov, N. M. Matuzov, S. A. Denisov, O. A. Leist, V. N. Hropaniuc, S. V. Pohmelchin, M. V. Malein, V. M. Lazareav, S. V. Aristov, M. S. Bogdanov, A. V. Nikiforov, L. A. Sarovatscaia, M. N. Korșunov, A. V. Naumov); from Europe and USA (such as: Ch. Boyer, E. Ellis, M. Erskine, I. Lenoble, Ch. Lezergez, D. Lidex, Y. Meny, H. Rottlenthe, C. Van Dam) etc.

In parallel with the doctrinal support, a wide national, international, jurisprudential normative support was used in conducting the research.

**The elements of novelty and scientific originality** help complete the limited research on this subject in the doctrine of the General Theory of Law and the need to approach it through the prism of new research methods and visions, which would allow the emergence of new perspective on the phenomenon of legal liability.

Also, the novelty of the paper lies essentially, on the one hand, in prospecting the trends of evolution and realization of legal liability at its various stages of manifestation, and on the other hand, in probing the relationship between liability at different branches of law, from the integrative perspective of the General Theory of Law, with resonances involving substantive law and procedural law. Basically, we considered the same "panorama" viewed from as many angles as possible to outline an integrative perspective. The paper proposes another approach, which, on the one hand, allows to identify points between which the network that forms the foundations of legal liability is structured, and on the other hand, to confront two important phenomena of legal liability, the legal status of the subject of liability and its stages of manifestation in the evolution of legal liability, combining their elements in a real legal-social kaleidoscope. Therefore, the elements of novelty lie not only in the topic of this research, but also in the proposed perspective.

The above mentioned allows us to formulate the following elements of scientific novelty found in the text of this thesis:

- elaboration of the spatial-temporal and structural-systemic construction of the legal liability;
- the formulation of the syntagm tortious capacity of the subject of legal liability;
- the determination of the meaning of subject of legal liability in relation to that of subject of the illegal act and the criteria for classifying the subjects of legal liability;
- the formulation and definition of the concept of legal status of the subject of legal liability as a special block of substantive and procedural legal rights and obligations;
- the statement of the material and procedural stages of the evolution of legal liability from the moment of committing the illicit deed until the execution of the sanction;
- the identification of the conditions for release of legal liability during its evolution, together with the release of legal punishment at any stage of manifestation of liability.

**The obtained results that contribute to solving an important scientific problem** lie in the formulation of modern and timely concepts - the legal status of the subject of legal liability and the substantive and procedural stages of the evolution of legal liability - as concepts that verify the authenticity and fairness of legal liability realization or non - realization in different branches of law, which led to the elaboration and inclusion in the vocabulary of the General Theory of Law of the concept of legal status of the subject of legal liability and its materialization at different stages of legal liability, in order to establish the elements, specific features of this status and dynamic phases of evolution and manifestation, and to guide the practitioners who apply different forms of legal liability in legal relations of substantive and procedural law.

**Theoretical significance.** The paper elucidates various doctrinal approaches of different forms of liability in the realization of legal rights and obligations specific to certain phases of its manifestation. From a theoretical perspective, the aim is to analyze and explain different elements of the legal status of the subject of legal liability, the stages of initiation, disclosure, concretization and realization of legal liability, so as to make it possible to operate with these categories introduced in the scientific circuit of the General Theory of Law. Moreover, each of the elements and stages analyzed emphasize what is specific to the constitutional, civil, criminal, contraventional and labor legal liability, etc.

Another relevant theoretical aspect is that this phenomenon - the legal status of the subject of legal liability and the substantive and procedural stages in which it manifests itself, is approached in such a way as to emphasize the interaction of special legal rights and obligations in different branches of law.

**The applicative value of research.** The emergence and evolution of legal liability is organically linked to the legal rights and obligations of the subject of legal liability at various stages, which in their entirety form the special legal status of the legal subject based on its general

legal status. The research results have not only theoretical but also practical importance for legislators, judges, lawyers, but also other participants in the process of legal liability realization. Also, the practical reflection of the elucidated concepts will certainly be a good start for other studies that will detail certain aspects presented in the paper. The ideas of this paper can be useful for the studies dedicated to the General Theory of Legal Liability, studies focusing on the General Theory of Law and the branches of law, in the process of drafting normative acts, their application in the jurisdictional process, especially, the application of the legal norms that regulate the legal status of the subject of legal liability.

The research results can be used:

- in the theoretical-scientific plan, for a conceptualized approach of the problems related to the phenomenon of legal rights and obligations of the subjects of legal liability;
- in the normative-legal plan, the results of the investigation considerably extend the existing theoretical-doctrinal visions regarding the legal status of the subject of law in case of legal liability that will contribute to the improvement of the normative framework regulating these specific rights and obligations;
- in the didactic-methodical plan, when teaching the courses of General Theory of Law and of a special, optional course, "*Theory of liability and legal responsibility*", also in the chapters "*Legal liability*" in the branches of constitutional, civil, administrative, criminal, contraventional, and labor law, etc.

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

1. *An overview of legal liability.* In: International Scientific-Practical Conference. 4th edition "European integration: economic and legal aspects", December 21, Chisinau: USEM, 2018, pp. 300-304.

2. *Some reflections on the spatial-temporal and structural systemic construction of the phenomenon of legal liability.* In: Materials of the national scientific conference with international participation: "The state and law between tradition and modernity". Chisinau: USM, 2019, pp. 271-280.

3. *Some theoretical considerations on the functions of legal liability.* In: The concept of development of the rule of law in the Republic of Moldova and Ukraine in the context of Eurointegration processes. International Scientific-Practical Conference. Chisinau, 1-2 November, 2019, pp. 8-14.

4. *Some reflections on the development of legal liability as a phenomenon.* In: The state, security and human rights in the conditions of the information society. Collection of international scientific-practical studies, USM, December 12-13, Chisinau, 2019, pp. 271-283.

5. DOBÎNDA, V. The Dynamics of Legal Liability and its Development Stages: some Key Considerations. În: European Interaction Realities and perspectives. The 16 Edition of the International Conference. ELBR 2021. Galați 2021, p. 471-476. ISSN 2067-9211.

6. BALTAG, D., DOBÎNDA, V. Problematika responsabilității și răspunderii juridice în doctrina juridică contemporană. În: Materialele Simpozionului Internațional științifico-practic "Reglementarea utilizării resurselor naturale: realizări și perspective", Chișinău: UASM, 01-02.10.2021, p.

## THESIS CONTENT

**Chapter 1** entitled "**Theoretical and normative reflection of the phenomenon of subjects and substantive and procedural stages of legal liability**" generally includes a review of investigations, which were conducted by researchers and materialized in scientific papers on the subjects and stages of legal liability, also, the normative acts that regulate the actions of the subjects of legal liability at different stages of its manifestation.

In the first section, *1.1. Current trends in the theoretical-scientific approach of the legal status of the subject of legal liability at different stages of its evolution* ", the main focus is on the existing studies in the field of research, substantiation of the legal status of the subject of legal



liability, the recognition of the existence of normative, substantive and procedural stages in the development of legal liability. The studies invoked are grouped according to the main aspects developed, which are directly or tangentially related to legal liability.

In order to expose the existing situation in the field of study dedicated to this subject, we presented the relevant bibliographic sources in the field of General Theory of Law, but also in the branch fields, without ignoring some sources of philosophical and sociological origin. The bibliographic sources addressing legal liability, in general, and the subjects of legal liability at different stages of the manifestation of their rights, in particular, are rich, varied and relevant. The choice of bibliographic sources had as a demanding premise the identification of those studies meant to outline the link between legal liability and its evolution through different stages of manifestation, in order to identify the concepts of legal status of the subject of legal liability, procedural forms of manifestation of stages and phases of legal liability, the tortious capacity of the subject of law.

Over time, legal liability has been the subject of study of various authors, the approaches being often different, shaping new opinions regarding this legal phenomenon, so that the topic addressed in the doctoral thesis is constantly current and significant. In the specialized legal literature, legal liability has been approached as a general category of law, but also as a branch institution of the constitutional, civil, criminal, contraventional, labor, financial law or other law branch. Recently, in the context of the evolution of social relations, new forms of legal liability have been detected. Thus, a balance of legislative evolution, meant to give a new vector to the objectives, principles, functions of legal liability, consists in the emergence of new, non-traditional forms of legal liability.

The problems of legal liability, from the perspective of the General Theory of Law were approached by authors, such as: Gh. Avornic, D. Baltag, V. Bădescu, L. Barac, I. Craiovan, M. Costin, E. Cojocaru, Gh. Mihai, B. Negru. In the legal doctrine of the Republic of Moldova a complex treatise dedicated to the study of the phenomenon of legal liability, from a methodological and practical doctrinal perspective belongs to Prof. D. Baltag. In his studies, Prof. D. Baltag deals with issues such as: the relationship between responsibility and legal liability, the subjects of legal liability, the conditions and forms of manifestation of legal liability, the functions and principles of legal liability.

Prof. Gh. Avornic, L. Barac, I. Craiovan, M. Costin, Gh. Mihai, B. Negru in their studies dedicated to the phenomenon of legal liability analyze the concept, basis, finality, subjects, but also different forms of legal liability.

At present, the national doctrine can't offer a concrete answer to the question regarding what we have in mind when we refer to the subject of legal liability. Very little space was given to this issue in the works dealing with legal liability from one perspective or another, although in the light of the Moldovan legal system reform, this subject is becoming increasingly relevant.

In this regard, special attention was given to the studies dealing with the concept of tortious capacity of the subject of law, the classification of subjects of legal liability, the characteristics of individual and collective subjects of legal liability, the correlation between the subjects of responsibility and the subjects of legal liability belonging to the authors A. Negru, O. Chicu, T. Ionașcu, E. Bejenaru, T. Carpov, C. Bulai, M. Basarab, Xn. Ulianovschii, S. Furdui, V. Guțuleac, M. Bojincă, C. Stătescu, C. Bîrsan, I. Muruianu, O. Brezeanu, S. Botnari, I. Leș, C. Ioneascu, I. Muraru, M. Florea, M. Constantinescu, A. Iorgovan, V. Balmuș, O. Buruianu, V. Grosu, V. Pavelencu, N. Ispas, E. Moraru, T. Stahi, N. V. Vitruk, M. L. Șindeapina, S. V. Oblienko, S. C. Kondratieva, V. P. Kuznetsova, I. N. Tikhonenko, D. A. Lipinskii, A.V. Vinogradov, A. V. Malikov etc.

The concept of legal liability is treated in the doctrine along with that of legal responsibility. Hence, the characteristic of the subject of legal liability and of the subject of legal responsibility. This issue has been treated in the legal doctrine by authors such as D. Baltag, Gh. Mihai, A. Negru, O. Chicu, D. A. Lipinskii and others. Legal responsibility as well as liability is characterized by the presence of the subject. Referring to the characterization of the subject of legal responsibility

D. A. Lipinskii et al. notes that the tortious capacity of this subject includes the same signs as the tortious capacity of the subject of legal liability. Prof. D. Baltag, A. Negru, O. Chicu consider that it would be more appropriate to delimit these subjects and to refer to the capacity of exercise as a broader category, considering that legal responsibility is more related to the execution of obligations and less with the bearing of negative legal consequences arising from the application of state coercion.

The classification of the subjects of legal liability was one of the subjects of investigation within the branch legal sciences. In the doctrine, concerns have been raised about the issue of classification by authors such as: V. Guțuleac, S. Furdui, L. Pop, M. Bojincă, C. Stătescu, C. Bârsan, I. Craiovan, I. Muruianu, L. Barac, S. Botnari, O. Brezeanu, I. Muraru, C. Ionescu, V. Balmuş, A. Băieşu, S. Băieşu, I. Bostan, T. Stahi, M. Octavian, V. A. Vinogradov and others.

The legal status of the subjects of legal liability was one of the important subjects of investigation. Through the legal status are regulated the legal relations between the perpetrator and the state, which arise precisely from the committed wrongdoing. In the specialized doctrine the authors that contributed with researches in this field are the following: E. Aramă, Gh. Mihai, V. Guțuleac, D. Micu, G. Lucianu, Gh. Mateuț, M. Djuvara, T. Osoianu, C. Manda, V. Hotca, M. Orlov, V. Negruț, V. Vizdoagă, A. Eşanu, N. V. Vitruk, N. M. Matuzov, S. A. Denisov, O. A. Leist, V. N. Hropaniuk, V. V. Pohmelkin and others.

Researchers in the field, such as: M. Djuvara, D. Baltag, C. Bulai, G. Antoniu, V. Guțuleac, V. Hotca, C. Manda, V. Vedinaş, V. Negruță, M. Orlov, E. A. Suhanov, M. N. Malein, V. M. Lazarev, S. V. Aristov, M. S. Bogdanov, A. V. Nikiforov, L. A. Sirovatskaia, I. M. Korşunov and others, attache great importance to the investigation of the normative assurance of the rights and obligations of the subjects of legal liability arising as a result of the commission of illegal acts. The incessant study of this problem derives, first of all, from the large number of illicit deeds in different fields of law, from the forms of liability applied, but also from numerous legal relations, which spring from the realization of these rights.

The topicality of the current theme is also supported by the existence of a conflict between the interests of the parties of the legal liability relationship which realize their rights and are constrained to exercise their obligations within the limits of this relationship.

To prove this truth we were inspired by the works of the authors: M. Djuvara, D. Baltag, C. Chigheci, C. Antoniu, C. Bulai, M. K. Guiu, V. Guțuleac, V. Negruț, M. Orlov, A. A. Cisteakov, V. A. Nomokonov, V. V. Pohmelkin, A. V. Kladov, A. F. Cerdanțev, M. N. Maleina, S. V. Aristov, V. V. Lazarev, M. S. Bogdanov, A. V. Nikiforov, L. A. Sirovatskaia, K. N. Gusov and others, who researched the ways of ensuring the subjective rights of the subjects of legal liability in different branches of law.

The highlighting of the legal relationship of liability and its evolution is reflected in the correlation between the substantive and procedural side of the law. If the substantive side has been sufficiently researched in the legal doctrine, the procedural one is insufficiently researched, although there are multiple opinions regarding the determination of the procedural form, the legal procedure, the procedural relations, the procedural stages in the evolution of legal liability. The existing conceptions in this sense are different, from the equivalence of their meaning, to the delimitation of each of the enunciated categories. In this plan we were inspired by the studies of several authors, specialists in both substantive and procedural law, such as: D. Baltag, V. Zaharia, B. Negru, M. Costin, V. Băieşu, I. Căpăţină, N. Jurjiu, Gh. Nistoreanu, E. Comarnițaia, V. Lungu, I. R. Mărgineanu, V. Guțuleac, E. Belei, N. Popa, C. A. Lupu, A. Ungureanu, A. Barbăneagră, Gh. Alecu, A. B. Levkov, N. V. Vitruk, S. V. Bobodov, A. Borşevskiy, A. V. Naumov, V. A. Novikov and others.

Section 1.2. of the chapter is devoted to a topic entitled *"The level of legal regulation of the spatial and temporal evolution of legal liability"*. To begin with, we mention that the explanation of the phenomenon of legal liability by characterizing the legal status of legal liability, and the legal status of legal subjects at different stages of legal liability, determined us to make an analysis of the national and international normative regulations of this phenomenon.

Regarding the legal status of the subjects of legal liability, it is correct to mention, first of all, the constitutional regulations.

Article 16 para. (1) of the Constitution of the Republic of Moldova stipulates that ensuring the respect and protection of the person is a primary duty of the state. Respectively, all the declared rights are also guaranteed by the state. Thus, art. 134 para. (3) of the Constitution entrusts the Constitutional Court with guaranteeing the responsibility of the state towards the citizen and of the citizen towards the state.

Intending to finalize the constitutional retrospective in question with an own subjective finality, we will start from the fact that the rights and freedoms formulated in the Constitution guarantee the capacity of the subject of law to act freely, i.e. the legal responsibility of the subject. The elements of this capacity are: the requirements provided by the norm, the obligation to act in the manner prescribed by the norm, the realization of the obligation to act according to the norm in the form of stimulation or encouragement. In turn, the subject's liability capacity (tortious capacity) also presupposes certain elements: the existence of the obligation to bear the negative consequences of the wrongful act and the obligation or constraint of the subject to accept a certain conduct.

Returning to the notion of subject of law and the notion of subject of liability, we mention that they are purely legal, of a normative nature, or the subject acquires tortious capacity through the will of the legal order. The quality of subject of law and subject of legal liability is not an inherent one to the human being or to the organizations/associations. They become tortious subjects only as a result of the action of legal norms of the substantive objective law, which are born from the necessity for social order.

Determining the meaning of the notion of subject of legal liability, we are to correlate this notion with that of subject of the illicit deed. Usually, the perpetrator of an illegal act is also the subject of legal liability; it does not matter that it is an individual or collective subject. However, there are exceptions in both civil and criminal law. It is about the liability for the deed of another, regulated by the provisions of art. 2005, 2007, 2008 of the Moldovan Civil Code, when the subject of the illicit deed is not the subject of legal liability and the collective subject of the illicit deed does not always represent the collective subject of legal liability, in this case only we refer to the institution of criminal participation.

In the legislation, the subjects of legal liability were divided into two categories: individual subjects and collective subjects. The individual subjects are, first of all, the citizens of the state.

The syntagm of individual subject of law has been proposed in connection with the fact that the notion of citizen implies a cumulation of rights and obligations that constitute the constitutional status of the individual, but which includes some specific rights and obligations that belong to foreigners, stateless persons, influencing *de facto* the legal situation of these persons, including the realization of legal liability.

With regard to the other category of subjects, collective subjects, in addition to organizations, this also includes structural subdivisions (ex, faculty, customs) and their work collectives. For these reasons, it is more appropriate to name the second category with the syntagm of collective subjects, thus showing exactly who is included in this category.

The delimitation of these two concepts, subject of the illicit deed and subject of legal liability must be also based on the institution of release of legal liability, which consists in the fact that when meeting certain conditions regulated by law the subject who committed the wrongful deed is released from liability. So, he remains the subject of the wrongful act, without being the subject of legal liability. For example, art. 154 of the Criminal Code of the Republic of Moldova, the release of minors from criminal liability; art. 155 - the release from criminal liability with administrative-contraventional liability; art. 56 - the release from criminal liability due to the voluntary renunciation to the criminal intention; art. 57 - the release from criminal liability in connection with active repentance; art. 58 - the release from criminal liability in connection with the change of situation; art. 59 - the conditional release from criminal liability and art. 60 - the prescription of criminal liability.

Legal liability is a constantly evolving process in which the procedural relations overlap with the substantive ones. This overlap starts from the moment of committing the illicit deed and lasts until its consumption at the moment of executing the sentence, going through certain stages. For these reasons, we mention that the stages of substantive legal liability are determined by their procedural form.

The evolution of legal liability in the legislation of the Republic of Moldova has the common tendency to create the normative basis, which would help to identify the persons legally liable. As new trends we could formulate: the formation of the block of legal relations oriented towards highlighting the factors that give rise to the legal liability of the persons guilty of committing them; determining a system of legal relations inherent in the execution of the sentence, but also the subsequent differentiation of legal liability.

Of course, the list of normative acts is not limited to those enunciated by us, they being much more numerous. It is important that, although the normative acts enunciated by us are the main ones, covering, from a normative point of view, the institution of legal liability, we remind that there are multiple acts inferior to the law, which by their nature also establish sanctioning measures for concrete illicit deeds in concrete fields of activity.

With regard to international acts, which regulate the legal status of the subject of legal liability at various stages of the evolution of legal liability, we mention the Universal Declaration of Human Rights [2], the Convention for the Protection of Human Rights and Fundamental Freedoms [3] as main pillars, which make an indirect contribution to the application of legal liability in various branches of law. Although they do not expressly refer to legal liability, they establish the fundamental human rights for the violation of which legal liability arises. By the nature of the rights and freedoms enshrined in the nominated international normative acts, they refer to categories of rights and freedoms in different fields of law.

We have considered appropriate to include these domestic and international normative acts in the present chapters, although the list is not exhaustive, neither in terms of theoretical studies nor in terms of the legal regulations regarding the field of legal liability.

Examining the doctrinal and legislative picture and analyzing the above, we can conclude that the investigation of the legal status of subjects of law at different stages of legal liability it is subject to continuous evolution first of all, under the rule of legislative changes and more current modifications and transformations in the branch plan of legal liability, making it possible to outline new approaches to legal liability. Through this scientific approach we tend to contribute to the deepening of knowledge in the field of legal liability and to the formulation of recommendations for the theoretical and normative framework.

**Chapter 2** entitled "**The quality of subject of law as a premise and condition for triggering legal liability**", presents a debut chapter in which we mainly tried to argue about the need to outline the concept of subject of law along with the concept of subject of the illicit act and subject of legal liability.

Structurally, the chapter consists of four sections, depending on the three concepts stated, as well as the classifications of the subjects of legal liability. 2.1. "*The ability of the subject of law to respond and act freely - a special form of legal capacity*"; 2.2. "*Classification of subjects of legal liability*"; 2.3. "*Individual subjects of legal liability*"; 2.4. "*Collective subjects of legal liability*".

The main hypothesis from which the study starts is that, at present, the national doctrine does not have a concrete answer to the question regarding what we have in mind when we refer to the subject of legal liability.

This issue is given very little space in the works dealing with legal liability from one perspective or another, although in the light of the reform of the legal system of the Republic of Moldova the mentioned topic is becoming increasingly relevant. For example, Prof. Gh. Mihai pointed out the following aspects regarding the concept of the subject of legal liability [4, p. 52]: 1) liability arising from a certain role of the person, from which certain obligations derive, such as the fact that the father has moral, legal, religious obligations; 2) causal liability, which can be

attributed to both people and natural events; 3) the liability of the person who violates the legal norm, having to bear a sanction, to repair the caused damage.

In the multilateral analysis of the notion, the capacity of the subject of law to answer for an act done and to act freely must be assigned, in our opinion, to the most important characteristics of the correlation between liability and legal responsibility, liability - when we refer to the subject's capacity to answer for his deed and, responsibility - capacity to act.

The legal doctrine deeply analyzes the meaning and significance of legal responsibility and liability. The difference between these concepts, in the opinion of V. Bădescu, was made through the distinction between accepting a norm (therefore the liability is of a normative order) [5, p. 57] and adhering (even more so, assuming), as mentioned by B. Negru, to an objective and efficient realization and therefore, the responsibility is of value order) [6, p. 44]. But this delimitation between norm and value, which underlies the person's attitude in case of liability and responsibility, respectively, in our opinion, is, however, relative, because the norm is also the expression of a value, it is elaborated following the positive appreciation of a social experience, which outlines an expected pattern of human behavior.

It is true, however, that the total and absolute assimilation of this norm, to such an extent as to become a factor of the inner world of man, is the proof of the value orientation of man. Although distinct, liability and responsibility are two phenomena closely connected, which refer to the relationship between the individual and the community, as forms of integration of the individual in society [7, p. 15-19].

We observe from these definitions that responsibility is the ability of the subject of law to act freely, while liability represents a complex of rights and obligations of the subject of law, which must bear a sanction in order to repair the damage caused following the violation of a legal norm. This complex of rights and obligations leads us to think about the content of a legal relationship of liability. This relationship has as subjects, on the one hand, the state, and, on the other hand, the one who ignored the prescriptions of the legal norm, being a natural person as an individual subject or a collective person (for example, the legal person).

The subject's capacity to act freely (responsibility) and his capacity to answer for his deed (liability) do not exist separately, there is a close link between liability and responsibility, because responsibility has a wider scope and includes that of liability or at least presupposes it, though it is not reduced to it. Only the liable person can be responsible, so the responsibility and liability are not manifested separately, but are simultaneous, they are two dimensions that intertwine, interacting as a tortious capacity.

Prof. Gh. Mihai considers that the capacity to bear liability derives from the capacity to act freely, or the liability derives from responsibility, the legal liability is the consequence of the responsible commission of an illicit act. Holding someone legally liable follows the commission with responsibility of an illegal act, thus legal liability can be distinguished from responsibility [8, p. 34]. We support this view and at the same time we add the point of view of the authors A. Negru and O. Chicu, who emphasize that legal responsibility is based on legal rules that provide a minimum of freedom, including general principles of law, which govern the norms of conduct admitted in the given society in a strictly determined period. But, it is not reduced to these norms, because there is a need to be aware of them by taking a positive attitude towards them (opting for action, inaction prescribed by norms, decision) and by achieving the conduct required by the norm (the action). So, in fact, the same conditions apply as in the case of liability, only with the plus sign, the lawful act, the free will and conscience, the favorable legal consequences and the causal link between the deed and the consequences. This proves once again that responsibility and liability are hypostases of the same phenomenon - of the realization of law [9, p. 37].

*Intending to complete the doctrinal retrospective in question with an own subjective finality, we will start from the fact that the subject's ability to act freely (responsibility) can be defined as a conscious and legal action of the subject of law, oriented towards free and voluntary acceptance and execution of certain legal obligations. The elements of this capacity are: the requirements established by the norm, the obligation to act in the manner prescribed by the norm, the realization*

*of the obligation to act in accordance with the norm and the society's reaction in the form of stimulation or encouragement. In turn, the capacity to answer for the committed deed presupposes the following elements: the existence of the obligation to bear the negative consequences of the illicit act and the obligation of the subject to accept a certain conduct.*

Analyzing the above, we can conclude that, in both cases, both of responsibility and liability we observe an objective process, only that one ends with stimulation and the other, with condemnation, i.e. the attitude and negative reaction of the society.

Returning to the notion of subject of law, we mention that it is a purely legal one or the subject acquires this quality / capacity from the outside through the will of the legal order. The quality of subject of law is not an inherent one to the human being or to the organizations / associations. They become subjects of law only as a result of the action of some legal norms of objective law, which are born from the needs or order resulted from the evolution of society.

So, *the legal capacity of the subject of law* - represents the *capacity of persons* (citizens, groups of citizens, the state and its bodies) to become subjects of law, i.e. participants in legal relations, bearers of rights and subjective obligations. This includes both the ability to hold rights and obligations and the ability to perform them independently.

*The content of the legal capacity* is accentuated by legal categories such as the *use capacity, the exercise capacity and the tortious capacity of the subject.*

*The capacity to use* is recognized to all persons, regardless of race, color, nationality, ethnic origin, language, religion, age, sex or sexual orientation, opinion, personal beliefs, political or trade union affiliation, the belonging to a social class or disadvantaged category, wealth, social origin, degree of culture, as well as any other similar situation, being an intrinsic element of any person. In the absence of this capacity we can't talk of a person, as of a subject of law [10, p. 40].

For the characterization of the subject of legal liability, for us, the categories of exercise capacity and that of tortious capacity are of greater relevance. The *exercise capacity* presupposes the recognition by the state of the subject's ability to acquire, exercise, modify, terminate legal rights and obligations both in relation to himself and others, and in addition, it also presupposes the subject's ability to bear liability for the improper exercise of rights or non-execution of his obligations [11, p. 90].

The exercise capacity as a general category of law is the basis for the formulation of another equally important category - tortious capacity. The *tortious capacity* presupposes the subject's ability to answer for the crimes committed. The tortious capacity of natural persons expresses their capacity to act consciously and voluntarily (depending on their age and state of health), to control their actions, ie to be the full author of those actions / inactions, which can lead to holding a person liable as a subject of the crime. The syntagm of tortious capacity, characterizes the person first of all as a potential author of a crime [12, pp. 71-76]. Another aspect of this capacity is that it presupposes the subject's ability to answer to society for the acts committed, as tortious capacity characterizes a social maturity of the individual that makes him understand the fair social value of his deeds and adopt a behavior guided by this social maturity [13, p. 90].

Determining the meaning of the notion of *subject of legal liability*, we are to correlate this notion with that of *subject of the illicit deed*. In this sense, too, the legal doctrine does not know an unequivocal position.

We must mention that the category of subject of the illicit deed represents an abstract category, a tool used by legal theorists and practitioners. When the one that enforces the law identifies the subject and not only the subject of the wrongful act, but also the other elements of the specific composition of the wrongful act, this legal category loses its relevance, as it has fulfilled its function of one of the elements necessary to substantiate legal liability.

Thus, if the category of the *subject of the illegal act* is linked to the solving of the problem concerning the identification of the grounds for legal liability, then the category of subject of legal liability is linked to reciprocal correlative rights and obligations between the state and the perpetrator in the legal liability relationship, objectively generated when committing the illegal act.

The subject of legal liability is the real, concrete and factual bearer of the concrete subjective rights and obligations of the subject of this legal report. In addition, in our opinion, the notion of subject of legal liability should not refer to other participants in the same legal relationship (state and victim), as this very syntagm - the subject of legal liability - emphasizes the idea that the subject who committed the wrongdoing bears legal liability which has the quality of a specific obligation.

The correct determination of the subject of legal liability has not only a theoretical significance, but also a practical one. Depending on its identification, the practical problem regarding the moment of the birth of the liability and the volume of the rights and obligations of the concrete person who committed the illicit deed will be solved.

In this context, we consider that the rights and obligations of the subject of legal liability should not be limited to the rights and obligations of the participant in procedural legal relations. Here, the independence of substantive and procedural legal relations must be taken into account. Thus, if we consider them independent, then logically we will also recognize the independence of the subjects of these relations.

Regarding the correlation between the substantive and the procedural legal relationship, attention must be paid to the concrete correlation between the substantive and procedural subjective rights. At the moment of initiating the case, the substantive subjective right is delimited from the procedural one. Subjective substantive law is the object of judicial defense, and subjective procedural law is the way to achieve this goal; the existence of the former is assumed, and the existence of the latter is certain and real because it acts. This relationship between the substantive and procedural subjective law is maintained throughout the judicial process, until the adoption of the court decision [14, p. 94].

In this way, the subject of the substantive legal relationship of legal liability is exclusively the person who committed the illicit deed. The subject of the procedural relations of legal liability can be the suspect, the accused, the defendant, the convict, the person in relation to whom the procedural actions are carried out, etc.

One of the *criteria for classifying the subjects of legal liability* can serve, the very delimitation of the forms of legal liability.

The most traditional is the classification of the subjects of legal liability according to the type of violation. In this sense, the subjects of criminal, contraventional, civil, patrimonial, disciplinary liability are identified. Currently, many authors also identify the subjects of constitutional liability [15, pp. 23-27].

*Criminal and contraventional liability* are always characterized by their negative side as in each case, the subject has to bear the negative consequences of the committed wrongful act. They are the worst forms of liability that involve repression and punishment. They are regulated by the criminal and contraventional law applicable in the situation of committing the most dangerous illicit deeds. The given forms of liability occur in relation to the concrete person who committed the crime or contravention and who has reached the age prescribed by law.

*Civil legal liability* arises as a result of committing a civil offense or violating contractual rules. Its essence consists in forcing the person to bear negative patrimonial consequences. The measures specific to civil liability are applied to the person as limitations of the exercise of his legitimate rights and interests. Thus, such limitations may be manifested by acquiring an additional obligation of a legal-civil nature, or by depriving the subject of some right of a legal-civil nature.

Also, the *patrimonial liability* as a form of legal liability can be conceived by other criteria, such as the legal status of the subjects of law, manifesting itself in a) the patrimonial liability of the employees; b) the patrimonial liability of the employers; c) the patrimonial liability of the civil servants; d) the patrimonial liability of the judges; e) the patrimonial liability of the persons practicing free professions; f) the patrimonial liability of the military, etc.

*Disciplinary liability* occurs as an effect of committing disciplinary offenses, ie violation of military, work or education discipline. This form of liability applies to those who have committed

illegal acts in the work process. The specific character of this form of liability is that it can be applied to the subordinate subject by the administration of the institution, the state body, etc.

*Constitutional liability* is a specific and less widespread form. The delimitation of the constitutional liability from other forms of liability is dictated by the specificity of the constitutional status of the subjects of law, by the specificity of the legal nature of the behavior contrary to the law - of the constitutional crime.

The main difference between constitutional liability and other forms of legal liability is that the subjects that can be brought under constitutional liability have a specific constitutional legal status. At present, the field doctrine is actively discussing the issue of constitutional liability and there is no single opinion on this category.

Regarding the first criterion for classifying the subjects of legal liability according to the form of liability, we want to make some clarifications. In the legal literature are used both the notion of subject of the illicit deed (subject of civil, criminal, disciplinary, constitutional crime), and the notion of subject of criminal, civil and contraventional liability, etc. Usually, by using the term subject of legal liability, the subject of the illicit deed or the subject of the crime is taken into account. At the same time, in some cases it is necessary to distinguish the subject of legal liability from the subject of the wrongful act, referring to the very concept of legal liability.

If legal liability is defined as an obligation to bear the consequences of the sanction of the legal rule, the notion of subject of the wrongful act coincides with that of subject of legal liability. In most cases these notions are identical.

We can also *classify the subjects of legal liability* based on the general criteria for classifying the subjects of law used by the General Theory of Law.

In the doctrine, the subjects of law are divided into 2 categories: *individual subjects* and *collective subjects*, based on the numerical criterion such as the will expressed, in the name and in the interest of those who act, and who directly participate in the legal relationship [16, p. 323] .

In accordance with the above, we propose the delimitation of two categories of subjects of legal liability: individual subjects and collective subjects. In the same context, we are to delimit as a separate category of subjects of liability - *the state and its subjects* (autonomous units), since by virtue of several specific elements, this category of subjects cannot be categorized as either individual or collective [17, p.18-22].

The differences between legal responsibility and legal liability allow this fact to be considered as a classification criterion also for the subjects of legal liability. Consequently, we distinguish between *subjects of legal responsibility* and *subjects of legal liability*.

From the above, it can be concluded that the subjects of legal liability (individual or collective, of criminal, civil, contraventional, disciplinary law, etc.) have several peculiarities: first, they are participants in the legal relations of public and private law, ice have legal tortious capacity; secondly, they are obliged to answer for their conduct, i.e. to bear the consequences of non-compliance with the sanction of the legal rule; thirdly, in the process of the evolution of legal liability, is provided the possibility of bearing certain limitations in the exercise of certain rights and freedoms, ie changes in the initial legal status of the subject of law.

**Chapter 3 “The legal status of the subjects of legal liability”** differentiates different legal statuses: general, special and individual. Section 3.1. "*The concept of the legal status of the subject of legal liability*" elucidates a characterization of this legal category from the General Theory of Law and our doctrine and comes with authentic definitions.

The legal doctrine distinguishes the general legal status of the person, the special legal status and the individual one [18, p. 90]. In real life these categories do not manifest separately and independently, they are in a continuous and permanent interconnection and interaction. The general legal status reflects the most important legal connections between the state and society on the one hand, and between citizens on the other. This category includes everything that is specific to everyone, without including what is particular.



The characteristic of the legal status is not limited to the knowledge about the general status of the person, the diversity of social relations gives rise to various legal situations, individual and special legal statuses.

As a result of taking into account the particularities that generate the special statutes, this category of statutes is characterized by a lower degree of generality, as it refers to a smaller group of people united by a common distinctive sign (in our case - committing an illicit deed).

*The legal framework of the author of the illicit act, his rights, obligations, guarantees guaranteed by substantive law, represent the special legal status of the subject of legal liability. The status of the subject of legal liability represents to some extent the transformation of the general legal status of the subject following the commission of the wrongful act and, accordingly, the birth in relation to him of specific rights and obligations [19, p. 49-53].*

Analyzing the *legal rights and obligations* included in the special status of the subject of legal liability, we mention, from the beginning, that he has the *obligation to bear the negative consequences* regulated by the sanction of the legal norm that was violated, ie to bear legal liability. The negative consequences are expressed in *limitations of the rights, freedoms, legitimate interests* of the perpetrator.

A significant limitation of the rights and freedoms of the person who committed the wrongful act is also identified in the simple fact that he has no right to decide whether to bear or not bear the negative consequences arising from the application of the legal sanction for the act committed. In addition, strict observance of all the limitations imposed represents an additional obligation arising from the legal situation of the perpetrator. For example, the execution of the detention sentence in special places, the payment of the fine in terms set by law, etc.

Along with the substantive obligation to bear the consequences of the committed illicit act, the subject is charged with another obligation of a procedural nature - that of acting as a subject of procedural relations as regulated by law. This indicates to us that, although substantive and procedural legal relations represent distinct legal phenomena, they cannot evolve separately in the case of legal liability realization, on the contrary, they are interconnected and interdependent.

The cumulation of the specific rights of the subject of legal liability, as well as the volume of obligations incumbent on him depend on the form of legal liability attributed to the subject, however, in parallel we must take into account the existence of *such rights that fundamentally form the legal status* of the subject of any form of legal liability, which reflect the general principles of legal liability and intermediate the most important connections between the subject of the wrongful act and the state.

To this category of rights of the subject of legal liability we ascribe:

1. *The right that the limitations imposed on him should fully respect the legal limits and the law.* This right is linked, first of all, to the principle of legality, which characterizes the legal regulation of social relations arising in the context of committing the wrongful act and the birth of legal liability for committing it.

2. *The right to a liability proportional to the wrongful act committed.* This proportionality is based on the principles of equity, opportunity and individualization.

3. *Another right is the right not to suffer physical torment and humiliation of human dignity through the application of the sanction.* It corresponds to the principle of humanism, which implies in itself: moral requirements included in the letter of the law, which ensure the application of concrete measures on the person, measures that exclude cruelty, contribute to the defense and development of society's interests.

The essence of the principle of humanism, in the opinion of R. Munteanu lies in the fact that the state ensures the fundamental rights and freedoms of citizens, protects the dignity of the person, guarantees his freedom and inviolability [20, p. 73].

4. The next one is *the right to defense*, which presupposes that the subject of legal liability should dispose of all rights that provide him with the possibility to protect himself against coercive measures, to identify and explain the circumstances that justify his actions or mitigate his liability, to defend his legitimate interests.

5. *The right to release from legal liability or punishment* in the presence of circumstances expressly regulated by law. This is the result of the application of the principles of legality, humanism, fairness, celerity and individualization. Release from legal liability means the exclusion of the negative consequences regulated by law for committing the illicit deed vis-à-vis the perpetrator's person [21, p. 36]. The low degree of social danger of the act, the low degree of social danger presented by the perpetrator, the socially acceptable behavior of the perpetrator after committing the wrongful act, the expiry of the limitation period, amnesty and pardon may serve as grounds for release of liability.

*In conclusion, we mention that the legal status of the subject of legal liability finds its expression in the legal norms and the legal relations de facto regulated by these norms. Through the legal status are regulated the legal relations between the perpetrator and the state, arising precisely by the virtue of the committed wrongdoing.*

By proclaiming in the Constitution and affirming in laws the rights and freedoms of the person circumscribed to his legal status, the state establishes the limits of its competence. At the same time, it assumes the obligation to ensure, protect, guarantee and promote the legal status of the person, creating, for this purpose, effective institutional mechanisms and legal procedures. A particularly important role is played by legal guarantees.

As the legal status of the subject of legal liability is a special one, legal liability also represents a special legal relationship.

In section 3.2. "*The liability legal relationship – a complex of substantive and procedural rights and obligations*" we state that legal liability represents a complex of legal rights and obligations arising from the special legal status of the subject of legal liability

In an attempt to go beyond the scope of definitions that limit liability to a relation and a simple obligation to bear a legal sanction, Mircea N. Costin demonstrated that legal liability, having its basis in the wrongful act, and the consequence in the application of the legal sanction, represents a complex of rights and obligations that form the content of the legal relationship of constraint that binds the state, as the only active subject, and the perpetrator of the illicit deed, as passive subject of the respective legal relationship. The object of this legal relationship is the legal sanction, which the perpetrator of the illicit deed bears, in order to restore the rule of law, with the supreme purpose, that of ensuring the observance of the legal order [22, p. 27].

In our view, the correspondence between rights and obligations in legal liability is possible only by taking into account the fact that this legal relationship is not bipartite as some authors have previously mentioned, but is tripartite. In the most general way, we can say that, after committing the wrongdoing, the liability initially manifests itself as follows: *the injured party* has the right to notify the state and ask for damage repair and punishment of the guilty person, the correlative obligation is to limit the claim for damages and the limit of the punishment in accordance with the law; *the perpetrator*, has the right to give explanations to the state regarding the committed deed and the correlative obligation is to appear before the authorities in order to solve the problem; *the state*, in turn, in relation with the injured party has the obligation to clarify the fact of the committed illegality and the right to obtain truthful information on this fact, and in relation to the perpetrator the state has the obligation to listen and take into consideration all the information brought by him but also the right to ensure his participation in the process, including with the application of coercion.

However, the tripartite model presented by us is more specific to civil legal relations, but different branches of law have their own particularities. For example, in labor law the state may not be a party to the relationship between employer and employee, in criminal law the damage may be caused simultaneously to all members of society, and the actual injured party may be absent, situation in which the state participates simultaneously on the side of the injured party. Details regarding these situations are presented in the following sections.

*In conclusion, we deduce that legal liability is a variety of the social responsibility [23, pp. 76-84], which arises as a consequence of a wrongful act commission and which represents a legal relationship established between the perpetrator, the state and the injured party. It aims to restore*

*the rights of the injured party and compensate for the caused damage, but also to prevent the commission of new illegal acts, which is achieved through the intervention of the state coercive force.*

Researchers in the field attach great importance to the investigation of the system of rights and obligations of the subjects of legal liability arising as a result of committing illegal acts. The incessant study of this problem derives first of all from the large number of illicit deeds committed, from the forms of liability applied but also from the numerous legal relations that spring specifically from the realization of these rights. The topicality of the subject is also supported by the existence of the conflict between the interests of the parties of the legal relationship of liability that realize their rights and are constrained to the execution of the obligations within the limits of this relation.

In section 3.3. "*The system of rights and obligations of the subjects of legal liability in different branches of law*" we research this issue because there is no right of one without an obligation of another. In order to prove this truth of great importance, we will continue with the research of the subjective rights of the subject of legal liability in different legal relations of criminal, contraventional, civil, disciplinary liability, etc.

The subjective right is vulnerable if it does not correspond to a correlative obligation of the other party, and the obligation loses its meaning of existence if no subject is entitled to request its execution. Characterizing, as an example, *the essence of criminal liability*, we mention that criminal liability is intended to undermine the authority of the subject of the crime by convicting him for the wrongful act committed. It is absolutely logical that criminal liability is approached as a legal means of preventing and resolving the conflict between society and the person, a means of ensuring order in social life.

Criminal liability is defined by the authors C. Bulai and C. Mitrache, as the criminal legal relationship of coercion born as a result of committing a crime, between the state, on the one hand, and the offender, on the other hand. It is a complex relationship, whose content highlights the right of the state, as a representative of society, to hold the offender accountable, to impose the sanction provided for the crime committed and to force him to execute it, as well as the offender's obligation to answer for his deed and to be subject to the sanction applied in order to restore the rule of law and restore the authority of the law [24, p. 176].

Unlike the order of realization of the rights and obligations of the subjects of criminal liability, in the case of civil liability, its subject does not have the obligation to answer for his actions. Thus, the plaintiff does not have the right to demand accountability for the defendant's actions, the former has only the right to bring the action, and third parties can join the action by making other adjacent claims.

The role of civil liability is that the main purpose is not to sanction the perpetrator, but to restore the violated patrimonial and non-patrimonial rights. Although this aspect has been studied in doctrine as a function of civil liability [25, p. 503], its research should not be limited to this perspective. Namely, the reparation of the damage stimulates the subject obliged to execute these obligations in accordance with the legal or contractual regulations. The sanction within the civil liability applies not only to the one who commits the illicit deed but also to the one who is subsidiary and jointly liable, and in addition there is also the civil liability insurance.

Civil liability and legal liability in general have identical fundamental characteristics. State coercion is specific to both categories. However, with regard to civil liability, the only state constraint specific to it is the constraint to bear negative consequences resulting from the compensation for damage caused by non-execution, improper execution of contractual clauses or non-execution of other non-contractual obligations.

The system of rights and obligations of the subjects of legal liability is not specific exclusively to the fields of civil and criminal law, on the contrary it complements perfectly a whole system of other rights and obligations, such as those of *the subjects of contraventional liability*.

In the literature, the syntagm "the subject of the contravention" is often associated with the syntagm "the perpetrator of the contraventional illicit", which is, at least, debatable. We consider that any subject of the contraventional law has, practically in each case, a concrete quality determined by law.

As mentioned, however, the quality of subject of law cannot be identified with that of subject of contraventional or legal liability. Indeed, the subject of the contravention can only be a subject of contraventional law, but this does not mean that all subjects of contraventional law are also active subjects of the contravention. Such a quality, in the opinion of C. Manda, is acquired only by those who commit illicit deeds [26, p. 384].

A multitude of rights and obligations of the subjects of legal liability are also found in the sphere of labor relations related to labor discipline. With regard to the rights and obligations of the *subjects of disciplinary liability*, they should be given the necessary attention, especially from a theoretical perspective.

Based on the results of theoretical research we can afford to say that the rights and obligations of the subjects of legal liability appear as a complex system, formed or based on two components: objective and subjective. The objective component is represented by the illicit deed, which cannot be sufficiently grounded without the subjective component - the psychic attitude of the subject. The latter includes the guilt of the subject, i.e. the mental attitude of the subject at the time of the commission of the wrongful act and other relevant legal signs. We mention that the objective component is not always provided in detail by law, and its interpretation depends on the will of the law enforcement officer.

The investigation of the rights and obligations of legal liability in different branches of law must be realized in tandem with the *special rights and obligations of the subjects of legal liability*, which have been exposed in section 3.4. Lately, the special rights and obligations of the subjects of legal liability have begun to be examined as a complex phenomenon. The analysis of the evolution trends of the special rights and obligations will allow us to build the models for the development of legal liability.

There are multiple perspectives of approaching the special rights and obligations of the subjects of criminal legal liability.

The study of the special rights and obligations of the subjects of criminal liability is not possible without taking into account the process of realization of this liability. O. E. Leist points out that if a large number of theorists examine criminal liability from the perspective of the obligation to answer for the crime committed, then the prosecutors unanimously recognize the right to defense of the accused as a fundamental principle of criminal proceedings, a special right in which criminal liability is realized. From the point of view of the general theory of law, these two positions cannot be unified in any way, since the substantive obligation cannot be compatible with the procedural law neither from a theoretical nor from a practical point of view [27, p. 492].

Along with the right to defense as special right, as mentioned, we can also highlight the right of the accused to know the accusation, the right to keep silence and non-incrimination, the right of the accused to be informed about his rights and procedural guarantees and so on.

The *special rights and obligations of the subjects of legal liability* are also found in the *civil legal liability reports*.

These special rights and obligations of the subjects of civil liability are to be investigated in the tripartite legal report, as it is very well expressed in the civil process. The question if the participation of the parties in the trial is a real right or a subjective obligation, is always a subject

of doctrinal discussions. We consider that special subjective rights differ from subjective obligations, namely by the possibility of exercising them or not exercising them. Where there is no freedom of choice, there can be no rights, they being replaced by subjective obligations.

O. E. Leist points to an essential procedural indication of the rights and obligations of the subjects of civil liability. Investigating them, he mentions that the specificity of the civil illicit act consists in the fact that by committing it a concrete right of an equally concrete subject is violated, and for this reason the one whose right is violated also participates in the civil liability report. [28, p. 492].

A specific characteristic of the special rights and obligations of the subjects of civil liability consists in the possibility of their realization in the procedural-criminal form. In criminal proceedings, the person who has suffered material damage as a result of the crime may file a civil action. The claims in the civil action are solved according to the civil norms, following that the criminal punishment to be cumulated with the civil sanction through which the repair/compensation of the caused damage is pursued. We consider that this possibility of cumulation allows in turn the cumulation of the special rights and obligations of the subject who has suffered material damage with the special rights and obligations of the state.

*The special rights and obligations of the subjects of legal liability* can also be realized in the administrative-contraventional activity of the state, also within a legal relationship through the procedural form. L. L. Popov shares this view, noting that administrative liability is a combination of substantive and procedural relationships [29, p. 339].

A peculiarity of the special rights and obligations of the subjects of administrative liability is that some of them can be realized in procedural-civil order, fact confirmed by the existence of the Administrative Code of the Republic of Moldova, with a compartment dedicated to the administrative contentious [30].

Specific difficulties also arise in the process of assigning *special rights and obligations of the subjects of disciplinary liability*, especially since special procedural rules in this regard do not exist, and the process of achieving disciplinary liability has recently begun to be studied. We highlight the difficulty of determining the branch affiliation of some categories of legal liability relations, as the normative construction of liability consists of procedural norms and substantive norms.

The detection of disciplinary violations and of the subjects guilty of their commission can serve as a premise for the birth of the special rights and obligations of the subjects of disciplinary liability. We mention that the consolidation of legal responsibility is one of the main conditions for strengthening state and work discipline, and the main way to identify the subjects liable to disciplinary liability is usually the control.

Particular attention should be paid to the exercise of the special rights and obligations attributed to employee's financial liability towards the employer. The notion of patrimonial liability, in the opinion of T. Stahi, is not unequivocally treated in the doctrine [31, p. 17].

Analyzing the works found in the legal doctrine, we conclude that a problem identified in this regard refers to the lack of terminological uniqueness of the notion of "patrimonial liability", a lack that becomes obvious no matter from which angle we look at this issue, either from the perspective of General Theory of Law where things, in our opinion, are better, either from the perspective of branch sciences. The use in the literature under different names of the notions of "patrimonial liability", "material liability", "civil liability", "liability for damages" leads to a misinterpretation of the legal norms and to the inevitable risk for the sanction to be applied incorrectly [ 32, pp. 17].

The lack of scientific research and the lack of knowledge on the topics of liability in labor law generate ambiguities and difficulties in applying the rules of law and in this context the author

T. Stahi [33, p. 15], comes with several arguments for the research of material liability and patrimonial liability in the General Theory of Law.

Based on the results of theoretical research, we came to the conclusion that the rights and obligations of the subjects of legal liability appear as a complex system formed and based on two components: objective and subjective. The objective component is represented by the illicit deed, which cannot be a sufficient ground for liability without the subjective component - the psychic attitude of the subject. In public law, the latter includes the guilt of the subject, ie the mental attitude of the subject at the time of committing the wrongful act and other relevant legal signs, which are lacking in civil law. We mention that the objective component is not always in detail provided by law, and its interpretation depends on the will of the one who applies the law.

From a philosophical point of view, legal liability, as a dimension of the legal phenomenon, represents the unity between content and form, liability is not only a static state of fact, but also a dynamic procedure, because with the application and execution of the legal sanction the legal status of the delinquent also changes.

Since the form is the way of existence and expression of the content, the form of legal liability is what expresses, manifests and encompasses the content of the liability [34, p. 68-78].

From this point of view, in **Chapter 4** of the thesis “**Substantive and procedural stages of legal liability**”, the dynamic procedure of legal liability evolution is investigated.

Section 4.1. “*Spatial-temporal and structural-systemic construction of the phenomenon of legal liability*” investigates the spatial and temporal concept, as well as the structure and system. This helps us to better understand which are the stages in the evolution of legal liability.

Examining legal liability as a legal relationship of substantive law in development we deduce the staged approach to legal liability.

Highlighting the stages of legal liability and studying their content allows the investigation of legal liability as a dynamic system in which changes that affect a separate default element lead to changes that operate the entire system. Not in vain, the General Theory of Law tends to study different legal phenomena, namely in their dynamics and not only as static phenomena. For example, it is known and unanimously accepted the staging of the application of law, it is interesting to look into the stages of manifestation of subjective law, also something new for the doctrine is the staging of legal conflict [35, p. 363].

As a basis for the staging of legal liability, we will take the criterion related to the correlation between the discovery by the state bodies of the illicit act and the changes that take place in the legal status of the perpetrator. We came to this conclusion, stating that legal liability will achieve its objectives when the competent state bodies determine the specific volume of rights and obligations of the perpetrator after establishing all the relevant circumstances in this regard.

In this way, *the stages of legal liability are specific phases in which the correlation between the volume of rights and obligations of the subject who committed the illicit act and the activity of the competent state bodies in the investigation of the wrongful act is reflected. From this, we deduce that, as the law enforcement bodies advance in the sense of knowing and investigating the illicit deed, the status of the perpetrator also changes, by becoming a special legal status* [36, p. 9-15].

The changes in the legal status of the perpetrator also produce changes in the legal relationship of liability, which evolves. This process will only be completed when the purpose of legal liability is achieved.

Regarding the approach of the stages (phases) of legal liability, this subject is less discussed in the doctrine, as there is no single criterion based on which certain concrete stages of legal liability could be distinguished [37, pp. 271-280]. We mention that the General Theory of Law

does not pay enough attention to this subject so important from a theoretical and practical point of view.

As mentioned, in the literature there is no single criterion for highlighting the stages of legal liability and their continuity in time and space.

Summarizing the opinions regarding the stages of legal liability, we came to the conclusion that legal liability in dynamics goes through several stages.

The *first stage* of legal liability starts when the illicit act is committed and lasts until it is detected by the competent bodies. We call this stage the *emergence or birth of legal liability*.

The *second stage* begins with the *detection of the illicit act* by the competent bodies and ends at the time of entry into force of the law enforcement act, by this recognizing the commission of the wrongful act by a specific person. This act individualizes the sanction that will embody the measure of legal liability applied to the perpetrator. This stage can be also correctly called the *concretization of the legal liability* by the competent bodies. The content of this stage is represented by the qualification of the illicit deed. Already at this stage the perpetrator may be limited in certain rights and freedoms, such as the right to free movement, the right to manage property, etc. The measures applied to the perpetrator have a preventive and stopping character.

The *third stage of liability - its realization*, starts with the entry into force of the law enforcement act that recognizes the wrongful act committed. The realization of the liability within this stage is manifested through the actions undertaken by the competent bodies in order to apply the concrete measures indicated in that act. Thus, legal liability, which initially existed as a link between the rights and obligations of the parties to the legal relationship of liability, is now manifested through the actions of the parties that make it possible to achieve these rights and obligations.

This stage also reveals the essence of the existence of the legal relationship of liability. The limitations that the person bears, express the special legal status of the perpetrator until the execution of the sentence. The execution of the sentence also represents the completion of the realization of the legal liability.

It should be mentioned that this development of the legal relationship of liability can be concluded at any of the stages preceding the realization of legal liability, if the norms governing the release of legal liability will be applied.

All the *mentioned stages* represent different stages of evolution of the legal liability relationship, which also have different content and continuity, but which together represent a unique phenomenon of legal liability. By highlighting the stages of legal liability, we emphasize that the application of the sanction does not follow immediately after the commission of the wrongful act.

4.2. "*Dynamic procedural phases of the evolution of legal liability*". As mentioned above, legal liability in its evolution goes through several stages, which lead to changes in the legal status of the subject of legal liability. This process ceases when the purpose of legal liability is achieved by sanctioning the perpetrator. Each stage of the development of the substantive legal liability corresponds to a distinct procedural form or each stage of liability has a sequence of procedural activities specific to it.

Legal liability and legal sanction are two different notions, the first being the legal framework for the realization of the second, constituting at the same time a *legal relationship of constraint*. Regarding the relationship "*legal liability*", "*legal relationship of coercion*", the author L. Barac mentions, as I pointed out earlier, that legal liability cannot be reduced to a simple obligation, and it is not sufficiently defined even by its association to the notion of legal relationship of coercion [38, p. 155].

The analysis of different forms of legal liability, in different fields of law, both in terms of concept and in terms of their content, their materialization, inspires our idea and leads us to understand that legal liability is more than a complex of correlative rights and obligations, the coercive legal relationship being likely to facilitate the understanding of the content of the legal liability relationship, rather than to define its essence. Therefore, we will admit the idea that *legal liability is a legal institution that includes all the norms of substantive and procedural law, which refer to legal relations that arise in the sphere of the specific activity carried out by public authorities along with the birth, concretization, qualification, materialization of legal liability, against all those who violate the rule of law; it is a legal institution with all the consequences arising from it, namely: systematic organization and its own principles, which govern the entire institution, therefore the spatial and temporal elements [39, p. 10-15]* .

As we see, discussions around this issue are associated with different conceptions of the nature of the essence and content of legal liability. In this regard, we consider it necessary to distinguish between *prescriptive legal liability (normative liability)*, referring to the guidance of human behavior and the functionality of legal relations according to all the prescriptions of legal norms (desirable legal liability, but never fully realized) and *subjective legal liability*, which designates the liability actually realized by means of the prescriptions of the substantive and procedural legal norms.

*The legal liability at prescriptive level*, i.e. the normative, abstract liability is the liability provided by the sanction of the legal norm for committing certain crimes from different branches of law.

*Subjective legal liability*, in our opinion, means the obligation of the person who violated a legal norm to bear the consequences of non-compliance with the rules of conduct, an obligation imposed on the perpetrator of the wrongful act and which always bears the imprint of social disapproval of such conduct. In this interpretation, *subjective legal liability* is defined as the obligation of the person who violated the rule of law to bear a legal sanction.

It is important in our research and the *delimitation of the phases of the legal process*, of its spatial-temporal, dynamic characteristics. The purpose, content and composition of the procedural phases are sufficiently well presented within the branch procedural studies. In the general theory however, the problem is less addressed. In our opinion, we can delimit two major phases of the legal process: *the phase of logical consecutiveness* and that of *functional prescription*.

The *phase of logical consecutiveness* is based on the logical consecutiveness of the undertaking of actions for the application of the rules of law. The first sub-stage, hence, - is to identify the *de facto* circumstances of the act; the second – the identification of the legal basis of the case: the third - the settlement of the case. Thus, the stage of logical consecutiveness is a system of rational operations, aimed at resolving the existing situation.

The *functional prescription phase* is a part of the legal process characterized by specific procedural conditions and relationships. Each sub-stage has concrete tasks to solve and ends with the adoption of a concrete act of law enforcement. We mention that the stage of functional prescription is a dynamic accumulation of means, methods, forms regulated by law that express or determine the realization of strictly procedural procedures that ensure the logical-functional consecutiveness of concrete actions aimed at achieving the final procedural result conditioned from a substantive point of view.

Finally, regarding the stages and phases of the evolution of legal liability, we propose the following stages of legal liability. The stages of the evolution of legal liability are: 1) *the emergence or birth of legal liability* by the commission of the illicit deed. At this stage takes place the transformation of the legal liability at prescriptive level (provided by law) into the subjective liability of the perpetrator; 2) *the disclosure of the legal liability*, which includes the moment of



starting the investigation until the completion of the investigation. This stage begins with the emergence of the procedural relations between the perpetrator and the competent body of the state; 3) *concretization and qualification of legal liability* - this stage is a continuation of the previous one and is summarized by choosing the appropriate, fair and proportionate sanction for the actual wrongdoing. Consequently, the act of enforcing the law is adopted (for example, the court decision); 4) *the realization of the legal liability*, which begins with the application of the sanction and ends with its execution and 5) *the control of the execution of the sanction*. At this stage, the rights and obligations of the state and the perpetrator are manifested through real actions aiming to materialize the sanction [40, p. 10-15].

Depending on the advancement of legal liability through the stages and phases previously exposed, as well as the efficiency of the activity of law enforcement bodies, we can highlight *two new ways of legal liability*:

- *realized legal liability* - this method of liability takes place when the perpetrator has been found, he is held legally liable for his deed, and is forced to bear the consequences of the sanction of a personal or patrimonial nature;

- *unrealized legal liability* - when the perpetrator of the illicit act is not identified or has disappeared from the sight of the competent bodies. The share of unrealized legal liability depends on the efficiency of the activity of the bodies meant to hold the perpetrator accountable [41, pp. 300-304].

4.3. *"Release of legal liability"*. The evolution of legal liability may cease at any stage following the intervention of the institution of release from legal liability. The social purpose of this institution is to not admit unjustified sanction: it is incorrect, inhuman and unfair to sanction the one who does not deserve it with the only purpose of generating fear in other members of society. This institution applies in the law of the Republic of Moldova in connection with the realization of fundamental law principles such as legality, equity, humanism, individualization of legal liability. In addition to the above, Prof. N. Vitruk mentions that the first principle that should be invoked is that of legality, as its realization also involves the achievement of others. The content of legality is formed not by the existence of laws, but by the Constitution, which adequately implements the principles of law, general-human ideals and values, human needs and interests, objective trends of social progress [42, p. 523].

In this way, the achievement of legality in *the release of legal liability* is reflected in the following requirements: firstly, the existence of the normative basis of this institution and secondly, the implementation of the principles of equity, humanism, individualization of legal liability in the construction of the institution of legal liability [43, p.10-11].

The notion of release of liability must include two moments: the existence of circumstances that would allow the deduction regarding the possible existence of legal liability, therefore the qualification of the deed as illegal, but at the same time there should be circumstances that justify the release of liability. Thus, *the release of liability* could be defined as the exclusion, under the law, of the negative consequences of the application of state coercive force on the subject who committed the wrongful act.

The above mentioned indicate the need to delimit the institution of release of legal liability from other similar institutions, such as the cessation of legal liability, the circumstances that exclude legal liability, unrealized legal liability.

The above allows us to draw the following conclusions:

The release of legal liability can be defined as *the exclusion, under the law, of the negative consequences of the application of state coercive force on the person who committed the illicit act. The existence of this institution expresses the realization of the fundamental principle of legality. The institution of release of legal liability is to be differentiated from that of cessation of legal*

*liability, circumstances that exclude legal liability, unrealized legal liability. Delimiting the notions of release of liability and release from punishment we come to the conclusion that the latter is a part of the former [44, p.10-11].*

The grounds for release of legal liability are: the low degree of social danger of the deed; the low degree of social danger of the perpetrator: the socially favorable behavior of the perpetrator following the commission of the illicit act; expiry of the limitation period for the application of legal liability; acts of amnesty and pardons.

The evolution of legal liability may cease at any of its stages by virtue of the application of the legal rules governing the institution of release of legal liability. This confirms our previous deduction regarding the fact that legal liability is a substantive legal relationship of protection that is constantly evolving.

Delimiting the release of legal liability from the release of punishment, we highlight *two stages* of release of liability: *pre - judicial* and *judicial*. We mention that in the first stage it is possible to release of liability, and in the second stage release from punishment. We consider that these stages of release of liability are interconnected with the very stages of the evolution of legal liability. For example, at the stages of the emergence and disclosure of legal liability, release of liability is possible by virtue of the expiry of the limitation period and on the basis of the amnesty act; at the stage of concretization and qualification of legal liability it is possible both release from punishment and release from liability; at the stage of liability realization, only the release of the punishment is possible, since already at this stage the perpetrator executes the punishment.

## **GENERAL CONCLUSIONS AND RECOMMENDATIONS**

**The scientific results obtained** following the conducted study are reflected in: the complex analysis of the institution of legal liability in various branches of law; the determination of the correlation and classification criteria of the subjects of legal liability; the formulation and definition of the concept of legal status of the subject of legal liability, the detection of the connections between changes that occur in the special legal status of the subject of legal liability and the stages of evolution of liability, the staged approach to legal liability through specific dynamic phases; the highlighting of the doctrinal and normative gaps of the stages of legal liability regulation and the formulation of proposals in this regard; identifying the conditions for the release of legal liability together with the release of legal punishment at all stages of its manifestation.

Based on the objectives of the thesis and the fact that the topicality and major importance of the current scientific problem has been demonstrated in relation to the research hypothesis, we come with the following conclusions:

1. At present, the doctrine does not have a concrete answer to the question about what we have in mind when we refer to the category of legal status of the subject of legal liability and its logical connection with the dynamic stages of evolution of legal liability. The doctrine knows several tendencies in the determination of different stages of application of the law, as also the stages of legal liability, which derive from the tendency to know the law as deeply as possible. Highlighting these substantive or procedural stages is determined by factors such as: the logical consecutiveness of certain actions related to legal liability; changes that occur in the legal status of the subject of law at different stages of legal liability; the functional phases of the legal process. We insist on the idea that the development of legal liability in stages is directly proportional to the actions of legal subjects in the process of investigation of the wrongdoing, carried out by the competent bodies and the changes that occur in the legal status of the subject of legal liability (Chapter 1 (2.1)).

2. Determining the meaning of the subject of law, we are to correlate this notion with that of the subject of the illicit deed and the subject of legal liability. The subject of law is the human

being who has the relative freedom of will, i.e. the ability to be aware and control its own actions which finds legal reflection in its endowment by the state with a legal status, that of subject of law. For these reasons, the quality of subject of law cannot be identified with that of subject of legal liability or subject of the illicit deed. We use the concept of subject of legal liability to characterize the person who committed the illicit act and is held accountable, while the subject of the illicit act is represented by the person capable to answer for the committed deed in the case of commission of an illicit act by intention or imprudence. In this context, if the notion of subject of the illicit act is linked to the settlement of the problem related to the identification of the basis of legal liability, then the concept of subject of legal liability is related to specific rights and obligations of the state and the perpetrator in the legal relationship. We conclude that the tortious capacity of the subject of law characterizes the person as a potential perpetrator of a crime, and another side of this capacity is the one which presupposes the ability of the subject to answer to society for the wrongful acts committed as the sole ground of legal liability (Chap. 2 (2.1)).

3. *The issue of classifying the subjects of legal liability* is important both theoretically and practically. Based on the research conducted, we propose the following classification criteria: the criterion of forms and modalities of legal liability, according to which we identify the subjects of constitutional, civil, criminal, administrative, contraventional, labor, family law, etc.; the general criterion for classifying the subjects of law from the General Theory of Law: individual subjects and collective subjects of legal liability. The first category refers to individuals, the second category refers to organizations, associations, legal entities, the state and state bodies (Chapter 2 (2.2)).

4. *The legal status of the subject of legal liability* is expressed in the rules and *de facto* legal relations governed by those rules. This status regulates the legal relations between the perpetrator and the state, arising from the commission of the wrongdoing. Based on the above, we propose the definition of the legal status of the subject of legal liability, *as a legal framework of the perpetrator, containing the rights, obligations and guarantees governed by substantive law, a status which represents the transformation of the general legal status of the subject following the commission of the illicit act and, accordingly, the birth in relation to it of specific rights and obligations*. The foundation of the legal status of the subject of legal liability is a complex of specific rights, which reflects the general principles of law and, as well, the principles of legal liability: the right that the imposed limitations should fully respect the legal limits and the law; the right to a liability proportional to the wrongful act committed; the right not to suffer physical torment and humiliation of human dignity through the application of sanction; the right of defense; the right to release of legal liability in the presence of the circumstances expressly provided by law (Chapter 3. (3.1)).

5. Despite the considerable number of scientific papers dealing with the issue of legal liability, there are quite a few issues that have been less emphasized. One of these problems is the general theoretical definition of the syntagm spatial-temporal and structural-systemic construction of legal liability. Like any reality, legal liability exists in time and space, i.e. it goes through certain temporal and spatial stages. Along with temporality and spatiality, as attributes of the existence of the construction of legal liability, a fundamental property of it is represented by its structurality. For, if space shows us the extent and arrangement of liability processes, and time makes known the stages of legal liability, their duration and succession, the structurality is the one revealing the ability of different elements and forms of legal liability to interact, and the way the constantly evolving legal liability stands the infinite changes that tell us about the content of this phenomenon. Thus, during the study of legal liability, from the point of view of establishing its essence and content, it is rational to apply the spatial-temporal and structural-systemic analysis (Chapter 4 (4.1)).

6. Examining legal liability as an evolving substantive legal relationship, we deduce that this relationship has certain phases in its development. *We define the phases of legal liability as dynamic stages in which it is reflected the correlation between the volume of rights and obligations of the subject who committed the illicit deed and the activity of the competent state bodies in the investigation of the wrongful act.* So far as the state bodies advance in their investigation of the illicit deed, the legal status of the subject of legal liability also changes, becoming a special legal status. The changes in the legal status of the perpetrator propose changes in the legal liability relationship, which evolves. This process is completed when the purpose of legal liability is reached (Chapter 4 (4.23)).

7. The evolution of legal liability may cease at any stage by virtue of the *institution of release of legal liability*. This institution cannot be confused with other similar institutions such as termination of legal liability, unrealized legal liability and circumstances that exclude legal liability. The grounds for release are: the low degree of social danger of the subject following the commission of the illicit act; expiry of the limitation period for the application of the sanction of liability; acts of amnesty and pardons (Chapter 4 (4.4)).

**Personal contributions to solving the problem addressed in the thesis** are materialized in: the complex research of legal liability in dynamics, designed to supplement the system of substantive and procedural guarantees so as to provide the legal protection of the existing rights, freedoms and legitimate interests of individuals and legal entities in the phase of the legal liability realization. For the first time in the national doctrine the issue of identifying relevant concepts of legal liability in the General Theory of Law was raised: the special legal status of the subject of legal liability and the dynamic stages of evolution of the substantive legal relationship of liability, indicating the vector of direction in the regulation of the respective institution in the legislation of the Republic of Moldova. The substantive content and the procedural form of legal liability were subjected to a multi-aspectual analysis. Out of the need to connect these concepts to existing ideas and theories, we have formulated some definitions, classifications, recommendations and relevant conclusions.

**The theoretical significance of the thesis.** The paper elucidates various doctrinal approaches of different forms of legal liability in the realization of legal rights and obligations specific to certain phases of its materialization. From a theoretical perspective, the aim is to analyze and explain different elements of the legal status of the subject of legal liability, the stages of initiation, disclosure, concretization and realization of liability, so as to better operate with these categories introduced in the scientific circuit of General Theory of Law.

**The applicative value of the thesis.** It results from the impact of the elaborations determined by the fact that the results and conclusions of this paper can be used by legislators, judges, lawyers and other participants in the process of enactment and materialization of legal liability, contributing to the standardization of legal practice. Also, the practical reflection of the concepts elaborated in the text of the thesis, will certainly inspire other studies aiming at detailing certain aspects presented in the paper. The ideas and judgements of the thesis can be useful, also for the studies dedicated to the General Theory of Law, and studies that focus on the institution of liability in different branches of law.

Based on the findings of the research conducted and aware of their impact on the doctrinal framework of the General Theory of Law, as well as appreciating their theoretical and practical value, we make the following **recommendations**:

1. We consider necessary to introduce in the vocabulary of the General Theory of Law of new concepts and definitions with scientific and didactic impact such as:

- *the legal status of the subject of legal liability*, as a totality of specific rights and obligations included in the content of the legal relationship of liability, according to which the individual, as a subject of legal liability, establishes his social behavior;

- based on the essence and content of legal liability, we consider that it is necessary to distinguish between *legal liability at prescriptive level (normative liability) and subjective legal liability*, which designates the liability actually realized by means of the prescriptions of substantive and procedural legal norms;

- based on the normative regulations of legal liability, we propose the following *stages of evolution of legal liability*: the emergence or birth of legal liability, disclosure of legal liability, concretization and qualification of legal liability, realization (materialization) of legal liability; control over the execution of the legal sanction.

- depending on the advancement of legal liability through dynamic stages, we highlight two new ways of legal liability: *realized legal liability* (occurs when the *offender is found, held liable and forced to bear the consequences of the sanction*) and *unrealized legal liability* (when the perpetrator of the illicit act is not identified or has disappeared from the sight of the competent bodies);

- legal liability may cease at any stage by virtue of the *institution of release of legal liability*. The given institution cannot be confused with other similar institutions, such as: *termination of legal liability, unrealized legal liability and circumstances that exclude legal liability*. Release of legal liability can be defined as procedures that provide the exclusion, under the law, of the negative consequences of the application of coercive force of the state on the person who committed the illicit act.

We consider that the inventory and definition of the stated concepts is an important step for the legal community, due to the overwhelming importance of the concept of legal liability in the regulation of social relations. Even if there are still discussions or opinions on this topic, we consider that they have not exhausted the issue, leaving room for further academic and scientific discussions.

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

- the legal status of the subjects of legal liability;
- the substantive and procedural normative stages in the development of legal liability;
- subjects of legal liability in various forms of legal liability;
- responsibility and legal liability as distinct categories of law.

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### 1. Articles in scientific journals:

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- 1.2. DOBÎNDA, V. Some considerations regarding the correlation of legal liability with social liability in the General Theory of Law. In: Law and life, 2019, no. 11, pp. 15-19. ISSN 1810-309X.
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- 1.4. BALTAG, D., **DOBÎNDA, V.** The philosophical categories of essence, content and form in the theory of legal liability. In: University Legal Studies, 2019, no.3-4, pp. 68-78. ISSN 1857-4122.
- 1.5. DOBÎNDA, V. The concept and classification of the subjects of legal liability. In: National Legal Journal: Theory and Practice, 2020, no.6, pp. 18-22. ISSN 2345-1130.
- 1.6. DOBÎNDA, V. The concept of legal status of the subject of legal liability. In: Law and life, 2020, no.6-7, pp.49-53. ISSN 1810-309X.
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- 2.5. DOBÎNDA, V. The Dynamics of Legal Liability and its Development Stages: some Key Considerations. În: European Interaction Realities and perspectives. The 16 Edition of the International Conference. ELBR 2021. Galați 2021, p. 471-476. ISSN 2067-9211.
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## ANNOTATION

### **Dobînda Vasile, The legal status of the subject of law at different stages of legal liability. PhD Thesis in Law, Specialty 551.01 - General Theory of Law, Chisinau, 2021**

**Thesis structure:** Introduction, four chapters, general conclusions and recommendations, bibliography of 275 titles, 194 basic text pages. The obtained results are published in 17 scientific papers, the total volume of publications on the topic is 14,9 c.a.

**Keywords:** legal liability, subject of legal liability, legal status, stages of legal liability.

**Field of study:** General Theory of Law.

**Aim of the paper** is to investigate the legal status of the subject of legal liability, recognizing the existence of normative, substantive and procedural stages in the development of legal liability, the evolution of the special legal status of the perpetrator and the problem of its normative regulation, the need to operate with these syntagmas both at the level of the general theory of law and branches of law.

**The objectives of the research:** anchoring the concept of legal liability across the strict boundaries of the branch legal sciences, investigating the spatial-temporal and structural-systemic construction of this notion; determining the meaning and defining the categories of subject of legal liability, subject of illicit deed, tortious capacity of the subject of law in the paradigm of the general conditions of legal liability; classification of the subjects of legal liability based on the criterion of the forms of legal liability and of the general criterion of classification of the subjects of law; identifying and defining the concept of legal status of the subject of legal liability, analyzing the specific rights and obligations within the special legal relationship of liability; elaboration and complex analysis of the concept of spatial-temporal and structural-systemic construction of legal liability; presentation and analysis of the dynamic phases of the evolution of legal liability and their impact on the change of the legal status of the subject of legal liability; complex analysis of the construction of the release of legal liability in the process of the evolution of legal liability.

**The scientific novelty and originality** are determined by the insufficient research 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 results obtained that contribute to solving an important scientific problem** lie in the formulation of modern and timely concepts, the legal status of the subject of legal liability and the substantive and procedural stages of the evolution of legal liability, as concepts that verify the authenticity and fairness of legal liability in different branches of law. This led to the elaboration and inclusion in the vocabulary of the General Theory of Law of the concept of legal status of the subject of legal liability and its materialization at different stages of legal liability, in order to establish the elements, specific features of this status and the dynamic phases of evolution and manifestation, the orientation of practitioners who apply different forms of legal liability in legal relations of substantive and procedural law.

**Theoretical significance.** The paper elucidates various doctrinal approaches of different forms of legal liability in the realization of rights and legal obligations specific to certain phases of its manifestation. From a theoretical perspective, the aim is to analyze and explain various elements of the legal status of the subject of legal liability, the stages of initiation, disclosure, implementation and realization of legal liability, so as to operate with these categories introduced in the scientific circuit of the general theory of law.

**The applicative value of research.** The emergence and evolution of legal liability is organically linked to the legal rights and obligations of the subject of legal liability at various stages, which in their entirety form the special legal status of the legal subject based on its general legal status. The research results of this subject have not only theoretical but also practical importance for legislators, judges, lawyers, but also other participants in the process of legal liability realization.

**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.

Dobînda Vasile

Statutul juridic al subiectului de drept la diferite etape de răspundere juridică

Specialitatea: 551.01 – Teoria Generală a Dreptului

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