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### **Constitutional and legal responsibility as a social institute for the regulation of public relations**

*Abstract:* Constitutional and legal responsibility as a type of legal responsibility is an important social institution not only in the Russian Federation, but also in the rest of the world. Domestic science of the theory of law has been considering and studying this institution for decades, arguing and discussing its various aspects. That is why further study of this type of responsibility, taking into account international experience, is relevant to this day. The main object of the article is to consider and analyze the constitutional and legal responsibility. The tasks are to disclosure of the concept and content of legal liability; study and analysis of scientific works of legal scholars in the field of research; designation of the main elements of legal responsibility in general and constitutional and legal responsibility, in particular; disclosure of the legal nature of constitutional and legal responsibility; identifying the features of the institution of constitutional and legal responsibility. Methodological basis constitutes general scientific methods of cognition: structural, logical, comparative legal, system-structural.

*Keywords:* responsibility, law, state, regulation, problems, constitutional.



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### **Конституционно-правовая ответственность как социальный институт регулирования общественных отношений**

*Аннотация:* Конституционно-правовая ответственность как вид юридической ответственности является важным социальным институтом не только в Российской Федерации, но и в остальном мире. Отечественная наука теории права на протяжении десятков лет рассматривает и изучает этот институт, споря и дискутируя о разных его аспектах. Именно поэтому дальнейшее изучение данного вида ответственности, с учетом международного опыта является актуальным и по сей день. Основная цель статьи- рассмотреть и проанализировать конституционно-правовую

ответственность. Задачи статьи – раскрытие понятия и содержания юридической ответственности; изучение и анализ научных трудов ученых-юристов в области исследования; обозначение основных элементов правовой ответственности в целом и конституционно-правовой ответственности, в частности; раскрытие правовой природы конституционно-правовой ответственности; выявление особенностей института конституционно-правовой ответственности. Методологическую основу составляют общенаучные методы познания: структурный, логический, сравнительно-правовой, системно-структурный.

*Ключевые слова:* ответственность, право, государство, регулирование, проблемы, конституционный.



## Introduction

Since ancient times, any state has striven and strives to maintain a certain order on the territory on which it is located, which makes it possible to successfully manage internal affairs and regulate relations between citizens and the state. It seeks to streamline these relationships, using the right and forcing out behavior that violates the order established in society. Thus, the state establishes responsibility for illegal behavior that undermines the legal regime, social relations and a stable way of life of citizens, causing enormous harm to the rights and interests of a person and a citizen.

Legal responsibility is of paramount importance among the institutions of any legal system, is one of the main elements of the mechanism of action of the rules of law. Therefore, the problem of defining and studying legal liability is still relevant today. The rapid development of the rule of law, focused on social policy and civil society, the development of democratic foundations leads to an increase in the responsibility of the state, all state institutions, as well as society itself, which is also an indicator of the relevance of studying this topic, which plays an important scientific and practical role.

The Basic Law of the Russian Federation, in accordance with Article 2, establishes rights and freedoms for every person, stating that the protection and protection of recognized human freedoms is one of the primary duties of the state acting as their guarantor. At the same time, the text of the Constitution contains the consolidation of the rule that the realization of the rights and freedoms of one individual should not interfere with the realization of the rights and freedoms of another, or in any way violate them. The main method of regulation in this area is legal responsibility, recognized as a measure of state coercion available in resolving issues of public life.

Among domestic legal scholars, the topic of legal responsibility was touched upon by D.N. Bakhranom, O.E. Leistom, Yu.A. Denisov, N.I. Matuzov, V.M. Manokhin, I.S. Samoshchenko, V.M. Baranov, S.S. Myalkovsky, E.V. Gryzunov, I.N. Tikhonenko and others. The works of the above scientists have not lost their significance to this day, but with the development of legal relations, the institution of legal responsibility also develops, so work in this direction should not stop. In addition, in the Soviet period, the interpretation of the institution of legal responsibility by learned lawyers within the framework of the state ideology and legislative norms of the political and legal regime of the USSR differed in many respects from the world scientific community. This gave rise to a certain backlog of the Russian science of the theory of state and law from the legal school of Western colleagues.

At the legislative level, issues of constitutional and legal liability are regulated by decrees of the President of the Russian Federation, resolutions of the State Duma of the Federal Assembly of the Russian Federation, resolutions and rulings of the Constitutional Court of the Russian Federation related to issues of constitutional and legal liability.

In our time, at a time when the Constitution of the Russian Federation is the main element in the formation of a legal, socially oriented state, constitutional responsibility for offenses attracts everyone's attention.

The need for high-quality and effective protection of constitutional principles poses new challenges for science in developing problems of legal liability.

The study object is constitutional and legal responsibility in Russian legislation.

The study subject is the specifics and features of constitutional and legal responsibility.

The study purpose consists in opening a detailed picture of the legal institution of constitutional and legal responsibility operating in the Russian Federation.

Scientific novelty of the research consists in a comprehensive analysis of constitutional and legal responsibility in the Russian Federation. The paper reveals the main characteristics, principles on which the legal institution is based, the functions and tasks that the state sets for itself, introducing the institution of constitutional and legal responsibility. Individual features are determined that allow distinguishing constitutional and legal liability from related forms of legal liability. The modern problems of the legal institution and the implementation of its main functions in the system of law are indicated.

Methodological basis constitutes general scientific methods of cognition: structural, logical, comparative legal, system-structural.

Article structure defined by its purpose and objectives, includes an introduction, two chapters, divided into paragraphs, revealing the essence of the research topic, a conclusion and a list of sources used in the work.

### **Concept and content of legal responsibility**

The rights and freedoms of a person and a citizen of the Russian Federation, recognized as fundamental and guaranteed by the state, should not only be normatively fixed in the country's fundamental law, but also in practical activities should be provided and protected by the state. It is also necessary to have a mechanism to ensure their implementation. For the successful implementation of the designated state functions, it is necessary that a functioning institution of legal responsibility be created in the state. This legal institution acts as a protective mechanism for human rights and freedoms and is a link between society and the state, guaranteeing constitutionality, law and order.

Responsibility is the main element used in law enforcement practice; responsibility has always been determined taking into account historical, economic, social, political, ideological factors (*Vengerov, 2019*). This is a separate connecting link of the elements of society, one of the initial institutions for the organization of social life.

Analyzing the concept of responsibility, we can conclude that this term is used in the legal sphere in a variety of senses. Legal responsibility is usually divided into political, social and moral.

The term social responsibility is used to refer to the totality of all types of legal responsibility. Social responsibility has the following forms of its implementation: moral and legal, religious and political.

Research in the definition of the concept of legal responsibility has been carried out by scientists and philosophers since ancient times.

The general theory of legal responsibility helps to study in more detail and fully the social nature of legal responsibility as one of the types of social responsibility within the framework of relationships in society, subjects of public relations and the state, and also contributes to the disclosure of the purpose and features of legal responsibility that distinguish it from other similar legal institutions.

In the legal literature, the authors provide various definitions of the institution of legal responsibility. So, M.N. Marchenko proposes to consider legal liability as an obligation for citizens and legal entities to comply with legally established regulatory requirements, for failure to comply with which the state provides for the onset of negative consequences for the violator, expressed in property deprivation or relating to personal freedoms (*Marchenko, 2018*).

V.S. Narsesyants, speaking on this topic, proposes to consider legal responsibility as a state mechanism of coercion, which is implemented in cases of offenses and in the forms provided for by the relevant legal norm on a particular legal relationship and in accordance with the procedural order established by law. As the main principles of the mechanism under consideration, the author names legality, legitimacy, legal expediency, validity, inevitability, fairness and inadmissibility of repeated liability for one offense (*Nersesyants, 2014*).

Another definition of legal liability is offered by N.I. Matuzov, designating this institution as the presence of an inevitable need established at the state level for a person guilty of committing offenses to be involved in certain measures of influence and the onset of negative consequences for him in the form of depriving the guilty person of the benefits provided for citizens and the individual. Among the basic principles, the author includes legality, justice, humanism, validity, inevitability, and supplements the presumption of innocence as a mandatory condition (*Kozhevnikov, 2021*).

O.E. Kutafin defines the type of responsibility under consideration as a negative form of feedback from the state in response to an offense committed by the subject, which is implemented in the form of measures of influence provided for by the state (*Kutafin, 2017*).

Taking into account the various options for determining legal liability offered by the authors in the scientific literature, it can be concluded that, as a general rule, legal liability should be understood in a combination of approaches:

- 1) consider the phenomenon from the point of view of the response of the state to the offenses committed by the person;
- 2) study the institution of responsibility as a special form of legal relations that develops in the event of a violation by the subject of legal norms and is realized in the form of negative consequences for the violator.

There is no legislative definition of this concept, and a large number of points of view on the topic of its definition is explained by “a variety of methods in the study and analysis of the phenomenon of legal liability, in emphasizing any individual properties or signs of legal liability in general or its individual types”. Based on the foregoing, it is considered appropriate to

formulate a definition of legal responsibility in the form of an individual's obligation to undergo hardships, adverse consequences determined by law, for their own unlawful behavior through the use of coercion by the state, which is expressed in the form of some kind of hardship for the offender, designated by law as acceptable.

Legal responsibility is also considered in two aspects: positive and negative.

In the literature, legal responsibility is more often defined as negative (retrospective) responsibility, despite its various interpretations: this responsibility cannot be defined otherwise than as an offender experiencing adverse consequences, an established form of state coercion. The application of the sanction of a normative prescription to a person who has violated the requirements of the norm is identical with the onset of a legal obligation for him, and holding him accountable for the committed act, expressed in the deprivation of the offender of benefits of a property or psychological nature.

Positive legal responsibility comes from the legal obligation of a person to observe positive behavior that is beneficial to society and receives implementation in regulatory legal relations, where the person is controlled and accountable. In other words, in a positive sense, legal responsibility comes from the fact that a person is aware of his duty to society, the state and assumes responsibility for the consequences of his lawful behavior.

Legal liability arises as a result of a person committing an offense. Violation of the right is a fact that puts a person in a certain legal relationship with the state, where the state represented by state bodies is the authorized party, and the person who committed the offense is the obligated party. In these relations, the parties act within the framework established by regulatory enactments, and the application of legal liability to participants in legal relations is implemented in accordance with the rules of law and the specific sanctions contained therein.

Legal liability is terminated on the basis of a certain legal fact, this fact may be the completion of punishment, the expiration of statute of limitations, amnesty, etc.

### **Features, principles, objectives and functions of legal responsibility**

The characteristic features of the institution of legal responsibility include: coercion by the state apparatus, public condemnation of criminal behavior and the subject whose guilt was established, the irreversibility of adverse consequences for the offender. This type of liability is associated with deprivations specified in the rule of law, and which the offender is obliged to endure for his illegal actions. These can be property deprivations (fines, etc.), personal deprivations (imprisonment).

The foundation of legal liability is its principles:

- principle of justice: responsibility and coercive measures implemented in relation to the offender must be fair, that is, depending on the degree and type of the offense, correspond to the circumstances under which the crime was committed and be consistent with the personality of the guilty subject, however repeated prosecution for the same act is allowed;
- the principle of legality: liability arises only for those illegal acts specified in the law and for which the law provides for liability, the application of measures of influence is implemented in strict accordance with the rules for conducting legal measures that are part of the institution of legal liability, and the fact that a person has committed a criminal act must be established in accordance with the procedural requirements of the law;

- responsibility for guilt;
- the principle of expediency: giving coercive measures of an individual character in accordance with the severity of the committed criminal act, the characteristics of the personality of the perpetrator, establishing options for mitigating punishments or waiving sanctions in cases where it is impossible to achieve justice in any other legal way;
- the principle of the inevitability of responsibility: no violation of the law should go unnoticed, the application of measures of state coercion should be carried out quickly and efficiently;
- the principle of timeliness – the execution by a person who has violated the law of liability measures and bringing the subject to legal liability is possible only within the period established by law. Legislative regulation of the periods of bringing subjects to responsibility increases the efficiency of the entire institution of legal liability, determining the most effective period for the execution of sanctions orders.

An analysis of the legal doctrine allows us to conclude that there is no consensus among jurists regarding the goals of implementing legal liability. So, among the goals of the institution of legal responsibility, domestic civilists include the establishment of the rule of law in the state, the prevention of offenses in various spheres of public life, and the reduction of the degree of damage caused to the state and society by the illegal actions of violators.

It seems that the central place in the system of the expediency of establishing and implementing legal liability is occupied by the correction of the behavior and life of the offender, his view of illegal actions. The goal should encourage the offender to change for the better, since offenses in general cannot be eliminated by compensating for the damage caused, the legal consciousness of offenders should be changed, this is the only way to prevent a violation of the law.

Basically, the opinions of scientists agree that the primary goal of legal responsibility is the protection of state law and order, as well as the prevention of crime in society and the education of citizens in respect for the law.

In accordance with the named goals of the legal institution of legal responsibility, its main functions are formed:

- 1) repressive-punitive – the use of special forms of state coercion, this function is important in the prevention and fight against the most serious offenses;
- 2) preventive-educational – the use of measures of a coercive-educational nature, the influence of public censure of offenses plays an important role for this function;
- 3) remedial and compensatory – restoration of the violated rights and interests of a person and a citizen, compensation for losses.

The law enforcement agencies of many states pay considerable attention to the policy of intimidation (the function of intimidation). The policy of deterrence should perhaps be considered as a separate function (function of deterrence) because all procedures related to legal liability have a psychological impact on the offender.

It should be noted that when analyzing the types of legal responsibility, in two of them (disciplinary and material), state coercion in its usual sense as the impact of state bodies is absent. This can be explained by the fact that the state, although it fixes such norms and types of

responsibility as disciplinary and material, but the external influence of state bodies is not carried out, this function rather falls on the shoulders of the employer.

The opinion of some scholars that legal responsibility is to some extent a punishment seems reasonable, if we conclude that the institution of legal responsibility is one of the types of state coercion.

Many states go the way of intimidating offenders, but, in my opinion, it would be much more effective to use the educational function of legal responsibility, to find a connection between the responsibility that has come and the person's internal attitude to the deed, to awaken sincere repentance.

*Thus*, further activities should be carried out to improve the system for applying legal liability. The main task of the institution of legal responsibility is to protect the rights and freedoms of man and citizen, to ensure public order, the achievement of which requires regular improvement of the methods of applying responsibility.

### **Theoretical aspects and basis for the origin of constitutional and legal responsibility**

One of the varieties of legal liability is constitutional and legal liability, which differs from other types in a number of features.

The basis of constitutional and legal responsibility is one of the main features. The reason is an indent, non-observance of a directly defined model by constitutional and legal norms. In order for the foundations of constitutional and legal responsibility to arise, certain circumstances must exist.

In the scientific literature, the following three grounds for constitutional and legal responsibility are distinguished: normative grounds, factual grounds, procedural grounds. If there are all grounds, then constitutional and legal responsibility comes in strict sequence. There must be a legal act that has a rule of law, which specifies certain conditions and legal consequences. Further, the factual basis in which the subject of public relations commits an actually unlawful act that runs counter to the norms of constitutional law.

In modern times, there is an active formation of the institution of constitutional responsibility, which is facilitated by the decisions taken by the bodies of the Constitutional Court of the Russian Federation, as well as by the bodies of constitutional and statutory courts of the constituent entities of the Federation. At the same time, there is no specifics in this issue at the moment - there is no consolidation of specific legal normative issues of the basis of constitutional and legal responsibility. Constitutional and legal responsibility is reflected in the regulatory legal acts of the federal and regional levels; unfortunately, there is no law that unites all the grounds. As for the legal acts of the constituent entities of the Russian Federation, they are based on the norms of the Constitution, federal laws, thus, follow from the foundations of the constitutional system, a number of constitutional norms, on which the principle of federalism is built.

Constitutional and legal responsibility, as a kind of legal responsibility, is characterized by the specificity of the actions of the subject of the relevant legal relations, whose behavior violates the normative instructions governing constitutional and legal relations.

Scientists also use the term "constitutional delict", which is used to define the unlawful behavior of the subject, the consequences of which violate the constitutional and legal

prescriptions, harm society, and for the commission of which the state provides for the onset of measures of constitutional responsibility.

The object of a constitutional and legal tort is a violation of established social relations, which are regulated by the norms of constitutional law (*Nechkin, & Kozhevnikov, 2020*). The objective side is the unlawful behavior of the subject of public relations, which does not comply with the norms of constitutional law.

The presence of guilt acts as a subjective basis for the onset of constitutional and legal responsibility. It should be noted that the content of guilt in constitutional and legal torts is distinguished by characteristic features.

The subjects of constitutional and legal responsibility are both individuals and collective entities. The subjects of public relations regulated by constitutional law include:

1. People of the Russian Federation. According to Article 3 of the Constitution of the Russian Federation, the bearer of sovereignty and the only source of power in the Russian Federation is its multinational people. The legal personality of the people as a participant in constitutional legal relations is determined by its sovereignty, which is based on a special legal mechanism that includes a number of constitutional rights and freedoms.
2. Citizens of the Russian Federation, foreign citizens, stateless persons.
3. The Russian Federation. According to Art. 71 of the Constitution of the Russian Federation, the Russian Federation is the subject of relations arising in the framework of protecting the rights and freedoms of man and citizen, managing federal state property, ensuring defense and security, etc.
4. Subjects of the Russian Federation.
5. State authorities of the Russian Federation
6. Officials, deputies of legislative (representative) bodies. The legal personality of persons holding state and municipal positions is determined within the competence of the relevant body. The activities of these subjects mediate the powers of state authorities and local self-government, in connection with which laws and other regulatory legal acts impose certain rights and obligations on them, provide the necessary guarantees.
7. Public and religious associations, groups and meetings of citizens.

Legislatively, the concept of constitutional and legal responsibility is not fixed, in connection with which it is possible to formulate the definition of the institution of constitutional and legal responsibility by combining different points of view of jurists into a single set.

Summarizing the opinions of scientists, it is possible to define constitutional and legal liability as an exclusive form of legal liability for violations of the provisions of constitutional law, which the state considers to be the most significant. The concept itself comes from the general concept of legal responsibility.

The institution of constitutional legal responsibility in a general sense is an independent form of legal responsibility, which is realized through the onset of adverse consequences for participants in constitutional legal relations (negative responsibility), as well as through the legal state of a person, which is characterized by his due participation in public law relations and performance in proper form of their civic duties (positive liability).

Constitutional and legal responsibility, as a form of legal responsibility, is characterized by specific features. It differs from other forms of responsibility in that in the process of considering

the need to apply measures of constitutional and legal responsibility, the state does not take into account the issues of personal freedom of the person guilty of an offense, and the property rights of the individual are not affected either. Constitutional and legal responsibility extends to the public rights of citizens and limits the public freedoms of the individual (*Komkova et al., 2020*).

It should be borne in mind that only if there is a factual basis for constitutional and legal liability, the subject of constitutional relations who committed an offense can be brought to this legal liability.

### **Goals, functions and modern problems of constitutional and legal responsibility**

The institution of constitutional and legal responsibility occupies a dominant place in the system of methods of state legal regulation. First of all, the reason for this can be called the function of responsibility to ensure the implementation of constitutional and legal prescriptions and norms. Also, a central place in the regulatory mechanism is given to this institution in connection with an increase in the effectiveness of the implementation of constitutional norms, an increase in the degree of influence of constitutional legislation on public life in the state and an increase in the population's respect for the Basic Law of the state.

Another specific feature of constitutional and legal responsibility is the degree of its impact on society. It acts as a restraining mechanism, which ensures constitutional unity in the state and supports the status of the rule of law state and the regime of legality in the field of lawmaking and law enforcement determined by the Constitution of the Russian Federation.

Considering constitutional and legal responsibility in a narrower sense, it is possible to formulate its definition through the totality of its goals and objectives. Thus, it is expressed in the implementation by authorized representatives of the state or in some cases of the people in relation to the subjects of constitutional and legal relations of measures of state coercion.

Based on the definition, the following signs of constitutional and legal responsibility can be distinguished:

- use of measures of state coercion;
- a confirmed fact of violation of constitutional provisions;
- negative consequences for the perpetrator of unlawful acts of the subjects of constitutional and legal relations, expressed in the form of legal sanctions;
- a special implementation procedure established by the legislator.

The most common consequence of the measures of the type of legal liability under consideration seems to be in the application to the subject of constitutional and legal relations, endowed with a specific volume of legal personality in this area, coercive measures of state influence, expressed, as a rule, in the form of the performance of a specific duty by him. In some cases, sanctions can be implemented through the deprivation of the subject of his status or certain constitutional rights.

If the onset of legal liability in most cases requires the direct participation of subjects in legal relations and violation of legal requirements by their actions, then in the case of constitutional and legal liability, the most common condition for its occurrence is, on the contrary, the inaction of the state system of authorities, its individual element or a specific official.

Many domestic civilists agree that the type of legal liability under study should be defined as an independent individualized variety of the institution of legal liability.

According to N.V. Vitruk, the main goal of the type of responsibility under study is to, through the development and application of effective mechanisms for protecting the constitutional order established in the state, maintaining and strengthening the values approved by the Basic Law of the country, ensuring law and order in society and maintaining the legal regime of society and the state (*Afanasiyeva et al., 2019*).

It seems possible to formulate the main tasks, the achievement of which is entrusted to the institution of constitutional and legal responsibility:

- protection of the legal status of the state and strengthening the supremacy of the Constitution of the Russian Federation and the rights and freedoms of citizens established by its norms;
- implementation of protective mechanisms aimed at preventing infringement of the interests of subjects of constitutional legal relations;
- restoration of the violated rights of participants in constitutional and legal relations;
- creation of mechanisms for influencing society and preventing encroachments on the state order and the Basic Law of the state that regulates it;
- control over the activities of the country's legislative power and bodies implementing law enforcement processes, excluding violations and excesses of official powers of federal authorities, subjects and local self-government;
- timely and proportionate punishment for the guilty subjects of legal relations in case of violation of the boundaries of permitted constitutional behavior.

The institution of constitutional and legal responsibility is also characterized by a number of distinctive functions.

Its leading function is the restorative function, which is associated with the elimination of violations of the law, the restoration of violated rights, the return of violated social relations to their original position, it is aimed at correcting the behavior of subjects of constitutional legal relations.

The punitive function is realized exclusively in the case of a constitutional tort, it consists in condemning a person, punishing (recovering) for violating the norms of constitutional law, and occurs at the time of the sentencing (decision).

The regulatory function is to consolidate and implement the legal status of the President of the Russian Federation. Also, the regulatory function has its own peculiarity, which lies in the fact that this function affects the activity of the legislator in establishing other types of legal liability. The regulatory function is one of the tools for the qualitative organization of the work of the competent state bodies, officials, ensures the proper behavior of the subjects of constitutional and legal relations.

The preventive function lies in the fact that constitutional obligations and prohibitions exclude the occurrence of non-normative behavior and prevent an offense. The implementation of preventive influence may also consist in the threat of application of a constitutional sanction, in addition, such influence should also be associated with a clear formulation of the obligation that encourages the subject to proper behavior.

One of the objects protected by the norms of constitutional law is the electoral rights of citizens. Violation of these rights provides for the onset of constitutional and legal liability. In the light of the widespread introduction of electronic, digital, information and other means into the electoral process in Russia, the issues of protecting electoral rights in the application of modern electoral technologies and the development of the information and digital space are of particular relevance. Thus, following the results of the first experiment on the organization and implementation of remote electronic voting in the elections of deputies of the Moscow City Duma of the seventh convocation (*Federal Law No. 103-FZ*). Significant shortcomings of electronic voting were discovered that affect the observance of the principles of the electoral law and the legitimacy of the voting results. Even at the stage of approval of the decision of the Moscow City Electoral Commission on the use of remote electronic voting, the first litigation related to the validity of the use of DEG (remote electronic voting) and compliance with the principles of electoral law arose.

So, the candidate for deputies of the Moscow City Duma I.V. Ulyanchenko, through court proceedings, defended his position that the use of remote electronic voting violates the principles of secret voting and equality of suffrage. In addition, the plaintiff argued that the use of special software that is not part of the unified system of the state automated system “Vybory” is a contradiction to federal legislation on the unified system of the State Automated System “Vybory”.

The plaintiff's claim was denied. The Appellate Board for Administrative Cases of the Supreme Court of the Russian Federation also left the decision of the court of first instance unchanged, pointing out that when using remote electronic voting, the voter is given the right to choose the format of participation: traditional voting at a polling station or by submitting an application for voting using the DEG. Also, the Supreme Court did not find any signs of violation of the secrecy of the vote by the Prince, appealing to the fact that during the voting, special software was used in the “Personal Account” subsystem of the mos.ru Portal, which ensured the secrecy of the vote by means of data encryption. After the voter expressed his will, the data was encrypted and displayed on paper and in electronic form on the printers and display panels of the PAK. This mechanism allows you to ensure security in case of unauthorized access to the system (*Appeal ruling of the Judicial Collegium for Administrative Cases of the Supreme Court of the Russian Federation*).

Analyzing the problems of the formation of constitutional and legal responsibility as an independent type of legal responsibility, it should be noted that just the unresolved number of theoretical issues related to the implementation of constitutional and legal responsibility provokes difficulties in creating a legislative model of responsibility of various subjects of constitutional and legal relations and conflicts in law enforcement. practice.

### **Discussion**

An analysis of the current legislation demonstrates that the institution of constitutional and legal responsibility in Russia is only at the initial stage of its development. Moreover, singling it out as an independent type of legal liability is difficult for a number of reasons.

For example, one of the most discussed issues of constitutional and legal responsibility in the doctrine is the lack of a legal definition of the concept under study, as well as the lack of consolidation of the institution of constitutional and legal responsibility as such.

Thus, the Constitution of the Russian Federation, despite the presence of the wording “responsibility” in a number of articles (*The Constitution of the Russian Federation*), does not contain a direct indication of the existence of special constitutional and legal responsibility. The absence of the category under study in the legislation makes it impossible to specifically establish the composition of the constitutional offense, as well as to determine the circle of subjects that may bear this type of responsibility.

Constitutional and legal responsibility predetermines the activity of the legislator in establishing various types of legal responsibility, affects the formation and functioning of the institution of legal responsibility as a whole, affects the development of the legislative system and ensuring the highest legal force of the Constitution of the Russian Federation, affects legal relations, enabling subjects to act lawfully, allows them to demand performing the necessary actions on the part of other persons, contributes to the restoration and development of constitutional and legal relations.

### **Conclusion**

The problems of legal liability appear to be one of the most complex and at the same time discussed in legal science. Legal responsibility in the system of domestic law is a legal institution, which is an essential element of law, on which the functioning of the entire mechanism depends.

Despite the lack of mention of the term “constitutional and legal responsibility” in Russian legislation, it can be noted that the domestic legal system contains the grounds for constitutional and legal responsibility, a special procedure for applying measures of such responsibility, as well as sanctions that are absent in other branches of law, for example, repudiation positions, dissolution of the body, federal intervention.

Constitutional and legal responsibility is an independent type of legal responsibility; a similar position is held by most modern jurists. The Constitutional Court of the Russian Federation also in its acts indicates the existence of constitutional and legal responsibility in the Russian legal system

In practice, the implementation of the norms of constitutional and legal responsibility encounters the problem of imbalance in the interaction between the legislative and executive branches of power, the indication of uncertain grounds for constitutional and legal responsibility, and the opposition of expediency and legality.

For the commission of a constitutional offense, the introduction of constitutional and legal sanctions against the subject who committed the offense on the part of the state by decision of the appropriate authority is envisaged. Constitutional legal sanctions, being a necessary component of constitutional law, do not play a leading role in it, since coercion is not the dominant way of constitutional influence on social relations.

Modern science does not contain a regulated definition of the concept of “constitutional and legal responsibility”, the legislator has not established the composition of an act recognized as a violation of the constitutional foundations, and the concept and content of a structural and legal sanction have not been formulated at the legislative level. Based on this, it seems necessary

to work on the development of a unified terminology and content of the concept under consideration, as well as its inclusion in the text of regulatory legal acts.

At the same time, it should be noted the high importance of the decisions of the Constitutional Court, and, consequently, the need to increase the role of the named judicial body in the application of measures associated with constitutional and legal responsibility. An example of the implementation of this project could be the transfer to the jurisdiction of the Constitutional Court of the Russian Federation of the possibility of determining the presence in the actions of representatives of state bodies of the composition and signs of a constitutional offense.

The Constitution of the Russian Federation limits the possibilities for the functioning of constitutional and legal responsibility, since it does not provide for the possibility of creating a specialized body, nor any significant powers of the Constitutional Court in this area.

Attention should also be paid to the fact that among jurists there is no consensus on constitutional and legal sanctions. This is due, first of all, to the fact that the constitutional and legal norm does not have a standard model, that is, it does not contain a set of familiar elements: a hypothesis, a disposition, a sanction.



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