

ISSUES OF CIVIL-LEGAL RESPONSIBILITY FOR DAMAGE AND MORAL DAMAGE CAUSED TO THE HONOR, VALUE AND BUSINESS REPUTATION OF THE EMPLOYEES OF INTERNAL AFFAIRS BODIES

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Abstract

The article examines the basis and composition of civil liability for damage and moral damage caused by the dissemination of information damaging to the honor, dignity and professional reputation of the employees of the internal affairs bodies. Special attention is paid to the legal basis of protection, including the provisions of the Civil Code, legal documents on mass media, as well as special regulatory documents regulating the activities of law enforcement agencies. The elements of the offense necessary for civil legal liability are analyzed: untruthfulness of the information, the fact of its dissemination, the existence of damage and the causal relationship. The article also reveals the principles of compensation for material damage and compensation for moral damage, taking into account the individual circumstances of the case. The rights of internal affairs officers to protect their reputation, the possibility of rebutting false information and the mechanisms for compensation for damages caused by defamation are considered.

Keywords: civil liability, moral damage, honor, dignity, business reputation, internal affairs officers, defamation, compensation, protection of reputation, false information.

In determining the basis and structure of civil liability for the moral damage caused by the dissemination of information that harms the honor, dignity and professional reputation of employees of internal affairs bodies, the basis and structure of civil liability in civil law, the content, essence it is important to pay attention to the analysis. It is also important to consider the concept of moral damage and its determination in judicial practice. In legal sources¹, the bases, forms, and types of civil-legal responsibility were thoroughly studied and the following ideas were formed. In particular, as the bases and components of civil legal liability, the existence of damage, the causal connection

¹ Брагинский М.И., Витрянский В.В. Договорное право. Общие положения. - М.: Статут, 1998. - С. 567., Гражданское право. Часть I. Учебник / Под ред. Ю.К. Толстого, А.П. Сергеева. - М.: Издательство ТЕИС, 1996. - С. 491., Окюлов О. Фуқаролик ҳуқуқий жавобгарликни қўллаш асослари // Мустақил Ўзбекистон: ҳуқуқ фанларининг долзарб муаммолари. – Тошкент, 1999. – № 6. – 75–76 б., Эгамбердиева Н.Х. Фуқаролик ҳуқуқий жавобгарликнинг асослари ва шакллари. / Масъул муҳаррир.: ю.ф.д., проф. И.Б. Зокиров. - Тошкент. ТДЮИ, 2007. – 19–34 б., Мушинский В.О. Гражданское право. Учебное пособие. М.: Форум–Инфра, 2002. – 102–104 с., Хохлова Г.В. Понятие гражданско-правовой ответственности. // Актуальные проблемы гражданского права. Вып. 5. – М.: Статут, 2002. – 64–84 с.

between the illegal action or inaction, the damage caused by the illegal action or inaction, and guilt are listed. These components of civil liability are recognized in some legal literature as the basis or condition of liability, and the cases of its similarity with the components of criminal liability have been criticized in the theory of civil law, so today they are mentioned often defined as the basis and conditions of civil liability.

According to M.I. Braginsky, V.V. Vitryansky, the basis of civil legal responsibility is the violation of property and non-property civil subjective rights, because civil legal responsibility is the legal responsibility of a participant in property relations to the other party, and the damage caused as a result of the violation of these rights is the responsibility arising from damages and their restoration.

In addition, the main types of civil liability are divided into contractual liability and non-contractual liability, depending on the basis for the creation of civil liability. Contractual liability is also a sanction for breach of contractual obligations. In contractual liability, the debtor is obliged to pay the damage caused to the creditor due to non-fulfillment or improper fulfillment of the obligations assigned to him on the basis of the contract. Non-contractual liability is a sanction applied to the offender who has not entered into a contractual relationship with the victim.

It is known that the difference of civil legal liability from other types of legal liability is that it has a property nature, is related to compensation for damage, payment of damage, and its basis is always the equality of four elements. doesn't do it. It depends on the content of each relationship and the level of importance of obligations. That is why, as mentioned in the legal literature, violation of some contractual obligations, such as unlawful act or inaction, damage, causal connection between them, etc. the existence of one may also give rise to liability or the conditions for the application of civil liability are different in contractual obligations and non-contractual obligations.

Generally speaking, the civil liability for disseminating information damaging to the honor, dignity and professional reputation of the employees of the internal affairs bodies consists of the following components:

Illegal action: dissemination of information that harms the honor, dignity or professional reputation of internal affairs officers should be considered illegal. This may include publishing false information, defamation or other forms of defamation.

Damage caused: the injured employee of internal affairs bodies must have suffered damage in the form of mental suffering, loss of reputation, lowering of professional status, etc. This damage can be proven through case materials and psychological expertise.

Causal connection: a causal connection must be established between the dissemination of untrue information and the damage to the honor, dignity and professional reputation of the employee of the internal affairs body.

Fault: The damage must be caused by the fault of the person disseminating the information. The tort may be an intentional misrepresentation (negligence) or an intentional defamatory act.

Compensation for damages: the final element of liability is the obligation of the person who disseminated illegal information to compensate the injured employee of internal affairs.

We will try to analyze these elements. Including:

According to N.Kh. Egamberdieva, illegal inaction is not a simple state of passiveness of the subject, but on the contrary, it is seen as a failure to perform an action imposed in its legal relationship, the failure to perform of which creates a certain legal consequence. According to I.I. Nasriev, the object of illegal actions (inaction) in causing moral damage is the intangible interests (life, health, personal dignity, business reputation) that belong to the citizen from the moment of birth according to the law. attention, privacy, personal and family secrets), personal property rights (right to use one's own name, copyright and other non-property rights (legal protection of the results of intellectual activity according to laws) and property rights (inviolability of housing, property rights, etc..².

According to Article 1021 of the Civil Code of the Republic of Uzbekistan, one of the basic conditions for the origin of responsibility for causing moral damage is the fault of the person causing the damage. These include:

- ✓ if the damage was caused by a source of excessive danger to the life and health of the citizen;
- ✓ harm to a citizen by unlawfully convicting him, bringing him to criminal liability, unlawfully applying detention as a preventive measure or obtaining a receipt for good behavior, applying administrative punishment and unlawfully detaining him, as well as if it was committed as a result of torture and other cruel, inhuman or degrading treatment and punishment;
- ✓ if the damage was caused due to the dissemination of information insulting the honor, dignity and business reputation.

The peculiarity of the damage caused as an important element of civil liability is that in the case under consideration, moral damage, loss or damage is caused as a result of the dissemination of information that harms the honor and dignity of the internal affairs officer.

It should be noted that the legislation of Uzbekistan does not provide a legal definition of the concept of non-pecuniary damage, although some provisions on non-pecuniary damage, instructions and requirements for determining its amount are established.

²Насриев И.И. Маънавий зарар, уни қоплашнинг айрим муаммолари // Ҳуқуқий тадқиқотлар журнали. Журнал правовых исследований. Journal of Law Research. 2017. - №3. – С. 69–70. / www.tadqiqot.uz

In legal literature, moral damage is defined as non-material damage in the form of inflicting mental or physical suffering on the victim³.

According to B. Mariskal, moral damage can occur as a result of violation of any human right, except the right to property. In the jurisprudence, it is indicated that there is moral damage in the following cases: damage to honor and reputation; sufferings experienced as a result of invasion of physical integrity; injury to human organs⁴.

As noted by I.I. Nasriev and N.I. Egamberdieva, moral damage is the mental and physical pain suffered by the victim as a result of the criminal act (inaction) committed against the victim⁵.

According to R.A. Khannazarov⁶, moral damage is suffering caused by property or non-property damage caused as a result of action (inaction).

According to B.M. Khamrokulov⁷, the concept of moral damage can be understood and interpreted in a narrow and broad sense. In a narrow sense, moral damage is understood as damage to the immaterial interests of a person or his mental anguish and moral suffering, while in a broad sense, moral damage is the range of rights that a person can claim as a result of any violation of the rights and legal interests of a person. understood as In the first case, moral damage is understood only as damage caused to a person as a result of illegal (and in some cases legal) behavior, his mental suffering, physical and moral suffering. For example, the distribution of information that harms the honor and dignity of a person, insulting him, causing damage to his health, and in similar cases, moral damage is caused to him. In the second case, a person with the status of a victim in a legal relationship can demand from the offender, in addition to compensation for the material damage caused to him, as well as moral damage. For example, when an employee is fired, he can demand compensation for lost wages due to unjustified dismissal, as well as moral damages, or the victim may demand payment of moral damages from the criminal. In other words, as a broad understanding of moral damage, it is possible to understand the death of a close relative, damage to one's place and reputation in society, or any negative changes in a person's psyche, and in this case, compensation for moral damage to the offender the right to make a demand arises.

A.M. Speaking about spiritual damage, Erdelevsky emphasizes that it manifests itself in the form of negative mental reactions, physical and internal experiences. The author divides moral damage into primary and remote types, and if the psychological experiences caused by untrue

³ Малеин Н.С. Гражданский закон и права личности в СССР.- М.: Наука, 1981. –С. 163, Шевченко Г.Н. О возмещении морального вреда. //Проблему современного законодательства и перспективу его развития. – Владивосток, 1991. – С. 79.

⁴ Bernard Mariscal. Indemnités pour préjudice moral : souvent requalifiées mais pas toujours // <http://www.iec-iab.be/fr/membres/Documents/Indemnites-pour-prejudice-moral-souvent-requalifiees-mais-pas-toujours-3680.pdf>

⁵ Насриев И. Маънавий зиён (тушунча, таклиф, мулоҳаза). // Хўжалик ва ҳуқуқ. – Т.: - №2. – 2003. 17-б. Эгамбердиева Н. Маънавий зиён қандай қопланади?. // Хўжалик ва ҳуқуқ. – Т.: -№11. – 2003. 24-б.

⁶Хонназаров Р.А. Номоддий неъматларга етказилган зарарни ундиришининг фуқаролик-ҳуқуқий муаммолари: юрид. фан. номз. дис. ... – Тошкент: 2011. 9-б.

⁷Хамракулов Б.М. Маънавий зиённи қоплаш асосларини такомиллаштириш. Юр.ф.доктори (Doctor of Science) илмий даражасини олиш учун тайёрланган диссертация. Т.2020 й. 68-б.

information distributed in the primary damage are considered, the physical changes caused by the remote primary damage can be diseases⁸.

A.A. Vlasov believes that spiritual loss should be understood as internal spiritual experiences, regardless of social suffering⁹.

Disputes have also arisen among scientists about not connecting physical suffering with spiritual damage¹⁰.

According to the Decision No. 7 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated April 28, 2000 "On some issues of application of the laws on moral damages"

¹¹, moral damage means mental and physical (humiliation, physical pain, damage, inconvenience, etc.) sufferings experienced by the victim as a result of the criminal act (inaction) committed against the victim.

Immaterial interests (life, health, personal dignity, professional reputation) belonging to a citizen from the moment of birth and in accordance with the law as the object of illegal actions (inaction), privacy, personal and family secrets), personal property rights (the right to use one's own name, copyright and other property rights to the results of intellectual activity according to the laws legal protection) and property rights (inviolability of housing, property rights, etc.) may be violated.

Spiritual damage, including spiritual grief due to the loss of a close relative (his death), inability to continue active in social life, loss of work, disclosure of family and medical secrets, honor of citizens, disseminating untrue information that harms dignity and business reputation, temporarily restricting or depriving any other rights, causing damage or other harm to health due to physical pain, it can manifest itself in other diseases caused to health or caused by mental suffering¹².

In the above-mentioned decision of the Plenum¹³, moral damage caused by the dissemination of untrue information shall be borne by the person who disseminated such information, if this information is contained in the relevant documents, the commission that approved it. It is indicated that it should be collected from each of the (group) members¹⁴.

When determining the amount of moral damage, the courts consider the victim's subjective assessment of the severity of the moral damage caused to him, as well as objective data indicating the level of moral and physical suffering caused to the plaintiff, the object of the

⁸Эрделевский А.М. Моральный вред и компенсация за страдания. Научно-практическое пособие. —М.: Издательство ВЕК, 1998. С.188.

⁹ Власов А.А. Проблемы судебной защиты чести, достоинства и деловой репутации. —М.2000, 344 с.

¹⁰ Андреев Ю.Н. Механизм гражданско-правовой защиты. М., Норма, 2013. 463 с., Кузнецова Н.В. Проблемы компенсации морального вреда в уголовном процессе. Ижевск, 1999. 174 с., Шичанин А.В. проблемы становления и перспективы развития института возмещения морального вреда автореф. дисс... канд. юрид. наук. М., 1995. С.34, Тархов В.А. О возмещении морального вреда//Вестник Саратовской государственной академии права. 1996. №1. с.6.

¹¹ <https://lex.uz/acts/1449509>

¹² <https://lex.uz/acts/1449509>

¹³ <https://lex.uz/acts/1449509>

¹⁴ <https://lex.uz/acts/1449509>

assault importance for life, benefit (life, health, dignity, personal freedom, integrity of housing, property of great value, etc.), severity and consequences of the offense (murder of close relatives, physical injury resulting in disability, deprivation of liberty, deprivation of work or residence, etc.), the nature of embarrassing false information and the extent (scope) of its distribution, living conditions of the victim, personal characteristics (job, family, household, financial aspects, state of health, age, etc.), the degree of guilt of the person causing the harm and the victim, the financial condition of the person causing the harm, and other noteworthy circumstances should be taken into account¹⁵.

Based on this, it is not possible to determine the amount of compensation for moral damage depending on the size of the claim for recovery of property and other material damage. The requirements of fairness and reasonableness must be taken into account when determining the amount of compensation (Article 1022 of the Criminal Code).

As a means of protecting the right to honor and dignity, compensation for moral damage is applied on the basis of the conditions established by law. First of all, it includes illegal actions expressed by the actions or inaction of the person who caused moral damage. Such behavior includes violations of human rights to honor and dignity, such as spreading false and defamatory information, physical violence (including beatings, torture) or invasions of privacy. takes

The second condition involves the victim's emotional harm, which causes negative changes in his mental sphere due to the physical and spiritual suffering he experienced¹⁶. The characteristics of the expression of these experiences may depend on the individual characteristics of the affected subject. In legal sources¹⁷, taking into account that the absence of external manifestations of suffering does not mean its absence, it is proposed to combine the principle of "presumption of moral damage".

At the same time, there is a point of view that the same action can affect different people in different ways. In this regard, difficulties arise in determining an objective criterion independent of the plaintiff, which allows the court to determine the presence or absence of the victim's suffering and its degree. This issue requires careful consideration to ensure a fair resolution of court cases.

As for the establishment of a causal connection between the action and the negative result, it seems to be a difficult task to determine and confirm its existence in such cases as the third condition for the compensation of moral damages. The reason for this is that a person is always affected by many factors, both positive and negative, and it is not always possible to say with absolute certainty that a certain disease (for example, heart attack, stroke, mental illness, hypertensive crisis). etc.) caused by a specific situation.

¹⁵ <https://lex.uz/acts/1449509>

¹⁶ Эрделевский А.М. Ответственность за причинение морального вреда // Российская юстиция, 1994. №7 с.35.

¹⁷ Кузнецова Н.В. Проблемы компенсации морального вреда в уголовном процессе. Ижевск. 1999.174 с.

In accordance with the existing legal documents, compensation for moral damage is carried out only in the form of material compensation. Currently, the use of other forms of compensation is prohibited, although this practice is not clearly supported by all experts. Some scholars have suggested looking at methods such as public apologies or publishing advertisements highlighting the victim's virtues. O.E. Chonovol disagrees with this approach, arguing that an apology without financial compensation is not compensation. At the same time, he emphasizes the need for the legislature to recognize the apology as a general method of protecting civil rights.

Determining the amount of compensation for moral damage is one of the most difficult questions, and neither legislation nor judicial practice has a clear answer to it. This is not surprising, because "to this day, no one has come up with the measure of human suffering, and there are no ways to compensate for it"¹⁸.

However, compensation for non-pecuniary damage is different from compensation for pecuniary loss, as the exact amount of the damage often cannot be determined. Consequently, there is a need to develop a methodology for calculating moral damages. Today, there are different views on how to determine the amount of compensation for moral damage.

A noteworthy proposal from the point of view of determining the amount of moral damage compensation is M.N. Maleina stated that she believes that it is necessary to take into account three specific criteria for compensation for the violation of the right to honor and professional reputation. First of all, it is necessary to take into account the public opinion about the nature and content of the information being distributed. Second, whether on the Internet, in a private company presentation, or in conversations with neighbors, the scope of the distribution of defamatory information serves as a criterion for determining compensation, and its amount depends on the number of people who are aware of the information. possible Thirdly, it is necessary to pay attention to the status of the persons who became the owners of the information damaging their honor and business reputation¹⁹.

In other legal literature, it is emphasized that it is appropriate to base on the following when determining the amount of moral damage²⁰:

- level and nature of physical and/or spiritual suffering;
- ownership of mass media editorial offices and journalists;
- degree of guilt;
- requirements of reasonableness, fairness and proportionality;

¹⁸ Ключков А.В. Компенсация морального вреда как мера гражданско-правовой ответственности: автореф. дисс... канд. юрид. наук. Волгоград. 2004. 24 с.

¹⁹ Малеина М.Н. Система критериев определения компенсации неимущественного вреда как способа защиты гражданских, семейных и трудовых прав граждан// Журнал российского права 2015. №5. С. 65-66.

²⁰ Диффамация в СМИ. / Авт.- сост. Г.Ю. Арапова, М.А. Ледовских – 2-е издание, переработанное и дополненное - Воронеж: ООО Фирма «Элист», 2012. – 43-44 с. – (Справочная серия. Юристу и руководителю СМИ).

- character and content publications;
- the level of spread of incorrect information;
- voluntary publication;
- must meet the objective of compensating the victim for the physical or mental suffering he suffered.

Based on the above, we found it necessary to quote the author's definition as follows: "Moral harm is emotional and mental harm caused to a person or a group of persons as a result of the actions or inaction of other persons that violate established social, moral or cultural norms. a concept related to."

REFERENCES:

1. Bernard Mariscal. Indemnités pour préjudice moral : souvent requalifiées mais pas toujours // <http://www.iec-iab.be/fr/membres/Documents/Indemnites-pour-prejudice-moral-souvent-requalifiees-mais-pas-toujours-3680.pdf>
2. Andreev Yu.N. Mexanizm grazhdansko -pravovoy zaщitы. M.,Norma,2013.463 s.,
3. Braginskiy M.I., Vitryanskiy V.V. Dogovornoe pravo.Obщie polozeniya.-M.:Statut, 1998.-S.567.,
4. Vlasov A.A. Problemy sudebnoy zaщitы chesti, dostoinstva i delovoy reputatsii. – M.2000, 344 s.
5. Grajdanskoe pravo. Chast I. Uchebnik /Pod.red. Yu.K.Tolstogo, A.P.Sergeeva.- M.:Izdatelstvo TEIS, 1996.-S. 491.
6. Kuznesova N.V. Problemy kompensatsii moralnogo vreda v ugovnom protsesse. Ijevsk,1999.174 s.,
7. Malein N.S. Grajdanskiy zakon i prava lichnosti v SSSR.- M.: Nauka, 1981. –S. 163,
8. Mushinskiy V.O. Grajdanskoe pravo. Uchebnoe posobie. M.:Forum–Infra, 2002.. – 102–104 s.
9. Nasriev I. Ma’naviy ziyon (tushuncha, taklif, mulohaza). // Xo‘jalik va huquq. – T.: - №2. – 2003. 17-b.
10. Nasriev I.I. Ma’naviy zarar, uni qoplashning ayrim muammolari // Huquqiy tadqiqotlar jurnali. Jurnal pravovыx issledovaniy. Journal of Law Research. 2017. - №3. – S. 69–70. / www.tadqiqot.uz
11. Oqyulov O. Fuqarolik-huquqiy javobgarlikni qo‘llash asoslari // Mustaqil O‘zbekiston: huquq fanlarining dolzarb muammolari. – Toshkent, 1999. – № 6. – 75–76 b.
12. Tarxov V.A. O vozmещenii moralnogo vreda//Vestnik Saratovskoy gosudarstvennoy akademii prava. 1996.№1. s.6.
13. Xamrakulov B.M. Ma’naviy ziyonni qoplash asoslarini takomillashtirish. yur.f.doktori (Doctor of Science) ilmiy darajasini olish uchun tayyorlangan dissertatsiya. T.2020 y. 68-b.

14. Xonnazarov R.A. Nomoddiy ne'matlarga yetkazilgan zararni undirishning fuqarolik-huquqiy muammolari: yurid. fan. nomz. dis. ... – Toshkent: 2011. 9-b.
15. Xoxlova G.V. Ponyatie grajdansko–pravovoy otvetstvennosti.//Aktualnye problemy grajdanskogo prava. Вып.5. –М.: Statut , 2002. –64–84 s.
16. Shevchenko G.N. O возмещении морального вреда. /Проблему современного законодательства и перспективу его развития. – Владивосток, 1991. – S. 79.
17. ShichaninA.V. проблемы становления и перспективы развития института возмещения морального вредаавтореф.дисс...kand.yurid.nauk. М., 1995.S.34,
18. Egamberdieva N. Ma'naviy ziyon qanday qoplanadi?. // Xo'jalik va huquq. – T.: - №11. – 2003. 24-b.
19. Egamberdieva N.X. Fuqarolik huquqiy javobgarlikning asoslari va shakllari. /Mas'ul muharrir.: yu.f.d., prof.I.B.Zokirov .-Toshkent . TDYuI, 2007. –19–34 b.
20. Erdelevskiy A.M. Моральный вред и компенсация за страдания. Научно-практическое пособие. –М.: Издательство VEK, 1998. S.188.