THE LEGAL STATUS OF COMPLEMENTARY CONCEPTS OF FREEDOM AND LIABILITY

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Abstract
The different meanings of freedom lead to exacerbated events, thus there were required legal, at conceptual level administrative and social corrections, also. Consequently, the concept of liability was imposed in the legal practice to counter the grand demand of freedom, defined, at a certain moment, as assumed and implemented responsibility in the social practice. Their complementarity should be reconsidered regarding from the perspective of contemporary mentalities.

Keywords: exacerbation; liability; coercion; citizenship.

Introduction
The analysis and research in relation to concepts as freedom and legality, responsibility or liability are of interest both from a legal perspective, in terms of protecting and guaranteeing the rights and fundamental freedoms in the light of current legal civilization. Considered “a ball of confusion and misunderstandings” (Karl Jaspers) freedom is interconnected with the juridical world and generates throughout intense legal debates a great number of views, nuances and clarification of terminology and practical approaches in the various branches of law. In this paper we intend to highlight the link between the concepts of legality, freedom and responsibility from a legal perspective, taking into consideration the multiple valences of the individual’s social manifestation.

1. Legality - correlative concept to freedom and responsibility
We live in a society in which the human existence stands forefront individual autonomy and free will. Setting the limits and reporting on individual freedom is a subject that raises the attention in several ways, based on cultural awareness and culminating with their manifestation in any other circumstances. Freedom is a synthetic concept regarding only the human being unconditionally this meaning not the possibility to choose without condition but the choice as an expression of a will endowed with unlimited and arbitrary powers, but in the rule of law, the duties associated with the organic society members of the community they belong to in all areas of social life. In Heidegger’s opinion: "The supremacy of law in most of social life manifestations, including the conquest of science, is a goal for the rule of law, particularly today, when technological age led to a" twist " in the vocation of the true human spirit.

In order to approach the concepts of freedom and responsibility, we must first explain the concept of legality.

The legality of the doctrine was defined as a fundamental principle of law under which any subject of law must respect and enforce laws and other normative or individual acts. This way, legality assumes respecting of the prescribed conduct by complying with the rule of law, providing a climate of respect for values and of the social rules.

Citizens are free to express and undertake any kind of acts, except the ones prohibited by law. Mandatory compliance with legal normative takes primarily the form of constitutional principle, but takes and specific features from each branch of law.

Compliance with the law is imperative for both individuals and legal entities within a society.

The guarantees of legality consist of a number of factors which ensure the compliance with the law. These guarantees can be objective or subjective, general or special, operating cumulatively and ensuring the rule of law, promoting legality.

The society as a whole cannot exist without the rule of law, without the need for security and justice, but in order to achieve this goal, the fulfilment of conduct laid down by legal rules should be complemented by the compliance with moral, religious, political, reaching thus what we call social harmony.

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6 Humă, Ioan, Teoria generală a dreptului, „Danubius” Academic Foundation Publishing House, Galați, 2009, pp. 150-152.
The legality of legal acts must ensure hierarchy and the supremacy of the fundamental law inside this hierarchy and its finality is respecting the rights and freedoms of citizens.

Freedom means to allow people within a society to choose consciously to comply or to violate a rule, a rule of law. Conduct’s legal limits are determined by rules of law, each individual being able to understand the importance of legal prescription and to adopt a certain behaviour depending on its content, freely and consciously.

2. Freedom

In the current social context is obvious that the two concepts: freedom – responsibility are virtually impossible to separate responsibility because "a free society will not function and will not survive without its members to have the position resulted from their actions and to accept it as such".3

Freedom, the foundation of the human condition, is an element of maximum philosophical, social and political resonance presenting at the same time profound implications in the legal issues. Generically, liberty goes beyond the area of freedom, but the most pertinent of its forms usually take the form of legal aspects. Funding this legal concept is and will be determined by the great changes which of the human society, especially the European space and the last two centuries.

The logical-legal sphere of the concept perceived as the foundation of law, the principle of liberty, includes individual freedom, the protection and safeguarding fundamental rights and freedoms, the interdependence of freedom and democracy, achieving a state of freedom of oneself and at the same time, the freedom of all other individuals. The relation between freedom and the human being was highlighted in a noteworthy opinion: "It requires freedom to be treated according to its purpose, and not as something that has nothing to do with the essence and existence of the human being".

Along with the natural social, political, moral, religious, conceptual constraints of human experience, the concept raised the question if the man can be free: "Who amongst us can say that he is really free in all his actions? But inside each of us lives a deeper entity, in which the free human being expresses".

Result of a long and complex process of social evolution, the individual freedom is the quintessence of the values established and promoted by the contemporary society. The principle proclaiming individual freedom as a fundamental condition for its access to an authentic human essence emerges from Greek antiquity, being present at Socrates, Plato and Aristotle.10

Unlike Plato for who the problem of freedom is analyzed in terms of the possibility of its manifestation, Aristotle will report freedom to the man’s status of moral being and to the responsibility incoming from his acts.11 Its research is mainly to clarify the relationship between will and freedom, between free will and subject to external constraints. This way, are considered voluntary actions depending in one way or another of our decision, whose principle is in ourselves. Involuntary actions are “acts committed under constraint or in ignorance”.12 Aristotle considered that “the act is committed by constraint is the act whose principle is outside, being of such nature that the one who gives or the one who supports do not contribute to it in any way.”13

The will be reported only to action, but only to that committed by human beings. Any action aims a specific purpose and is done by several means. Our goals are considered to be a certain good, but not always what the individual considers to be good is a real good.

By reporting freedom to the main factors of social constraint another perspective of it is borne. Thus starting from accepting the idea that a certain constrain is absolutely necessary regarding individuals from the institutions involved in the maintenance of order and social peace, the question will be how far this constraint to go is and what its rational limits are.

3. Legal liability

Responsibility involves compliance of social normative freely, not complying with the prescribed conduct generating liability. Social liability takes into consideration the human behaviour when they have the liberty to act and choose freely.

Any deviation from the normative entails a liability. The nature of the rule violation determines the nature of liability form: moral responsibility, religious, political or legal means for the individual to bear the consequences of failure to comply with those rules of conduct.

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1 Hayek, Friedrich A. Constituția libertății, European Institute, Iași, 1998, p. 93.
7 Bobică, N.N, op.cit, p. 97.
Legal liability is therefore a specific form of social responsibility and is directly related to other forms of liability. It attracts an obligation to support a legal sanction for violation of a rule of law and the framework through which state coercion is performed.

Legal liability is thus a special legal relationship (constraint) whose content is state law to hold accountable who violated the rule of law applying the sanction provided for standard duty violated and the guilty person to respond to crime and to submit to the penalty imposed by law. This form of liability is the most serious form of social responsibility involving all the rights and correlative obligations that are emerging, according to the law, with violation of legal rules in force, violation of which entails legal sanction, the latter being subject to liability even legal.

The antisocial phenomenon generating breaches has various causes, which are often the causes of economic, social, influence of a certain social environment, lack of education, attitude and psychological causes. Most violations of laws and regulations have economic motivation, however, poverty is one of the triggers of such behaviour. Generally, poor economic situations almost always generates another very important factor in terms of breach of law, it is lack of education.

Also, there are psychological factors not to be neglected. They, of particular importance in terms of social importance. In many cases, it was found, for example, that crime is not only based on the low level of living, but also psychological problems, offenders with a “historical” trauma (physical, mental, etc.).

Liability is based on a number of principles applicable to all forms of liability. These are: the principle of liability for acts committed with guilt, the principle of personal responsibility, the principle of fairness of the sanction, the principle of accountability celerity.

The condition for the legal liability to exist is that a normative of law to be broken with guilt. Only in the conditions when the limits established by social normative the problem of juridical liability can be raised.

The guilt is a subjective condition of liability, this assuming the ability recognition of those concerned to act with discernment, to act consciously, knowing the limits of freedoms imposed by the rule of law.

The guilt involves two forms: the intention and fault. The intention may be direct, when the person acts deliberately to produce the effect, or indirect, when the person knows the consequences that entails violation of the rule of law, but not given importance.

The fault is the guilt of the person who does not foresee the consequences of his act, but ought to know it. However, legal liability may be removed in certain situations. There are situations where, because of their particularities, remove liability: self-defence, state of emergency, physical and moral constraint, if fortuitous, irresponsibility, drunkenness involuntary minority perpetrator, error of fact.

Depending on the purpose, liability may be meant to sanction or to restore. It also may take the form of property liability. It operates when prejudices the physical or juridical individuals (contractual liability) or by committing a wilful injury causing prejudice (civil offense) to each other and outside any contractual (tort liability or contractual).

The purpose is to protect social values. The purpose of the legal system is the enhancement of human conduct, as a subject of law, having as landmarks values as liberty, equality, justice, etc.

The limits of the social existence of the human being are determined by liberty, as social value, from two angles. On one hand, the human being has the power to act freely, limited by the understanding of the necessity to establish some possible goals. On the other hand, the personal liberty is limited by the liberty of the other.

Freedom, social human value, is at the confluence of human relationships. The personal freedom of each individual, as subject of law, is influenced and constrained by the amount of rights and freedoms of others, but also the limits set by the rule of law.

Legal aspects of freedom is shown as a prerogative which the law gives to the holders of law, under which the individual - as a subject can have a certain conduct and may require certain conduct from another entity under the protection of legal norms, the trichotomy hypothesis-available -penalty serving to maintain the state of freedom in communion.

Conclusions

Freedom of individuals to choose their behaviour depending on the limits imposed by law generates two types of behaviour. The one in which the individuals accept their liberty limits, respecting the social model, or the case when the individuals choose consciously to break the social rules, entailing criminal liability.

Being responsible means understanding and respecting the legal limits, not for the desire to comply with certain rules or norms, but of understanding the social order, in understanding the need for order and safety that is society. Without this order, how can a society grow?

Violation of social norms can be based on economic factors, psychological, lack of education, social environment. Regardless of the factors that led to the decision of individuals to violate social norms, it will be, will have to answer for his deed. Thus, liability justifies its existence in relation to legality.

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Liability is more than required to support a legal sanction; it is to achieve the state constraint.
We conclude that social harmony is based on free-legal-liability relationship.

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