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Review Article

The Category of "Probability" in Civil Law: Concept and Legal Value

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Abstract

The article is devoted to the study of the probability as a civil category, reflecting a complex legal and social phenomenon. When studying this category in the article, the author studies the aspects of its definition in the fields of humanitarian, social and exact sciences. Special attention is paid to categories in which the term under study is displayed and through which, according to the author, its legal meaning is determined. In particular, this applies to the categories of "risk" and "case" which are quite often used both in the theory of jurisprudence and in legislative practice.

When studying the category of "probability" accents are marked to delimit the meaning of this category from similar, but not identical categories. These are both independent terms and those through which the meaning of the category under study is determined. In particular, this concerns the category of "uncertainty".

According to the results of the research, the author suggests the definition of the category of "probability", its attributes, the theoretical and applied possibilities of the use of this category in civil law, as well as the possible prospects for its further research through the lens of civil law methodology and the conceptual apparatus of civil law.

Keywords: *Civil Law Relations; Civil Law Methodology; Probability; Civil Law Movement; Civilistic Categories*

Introduction

Civil relations, in comparison with adjacent industry ones, have colossal dynamics. In this regard, we believe that the improvement of the legal regulation of separately taken civil relations determines the design of a system of means and methods not only in the present time, but also in the future. The objective factors that determine the improvement of the quality of legal regulation of a specific civil legal relationship for practical and theoretical purposes include, in our opinion, the factor of probability.

Indeed, civil law has always acted as that system of rules of conduct, thanks to which society sought to predict the maximum number of possible adverse actions and events awaiting (or that may be expected) of participants in civil legal relations in the future. For this reason, the institutions of civil law contracts, insurance, sub-institutions of related rights, patent law, it is no coincidence that they occupy one of the key places in the civil law system. In addition, the objective factor in the existence of law is the relative predictability of its development. All this forms in the theory and practice of civil law "legal backlashes", which at the legal level provide for several scenarios for the movement of certain civil legal relations. Thus, the study of "probability" as a civil law category and a legal phenomenon in civil law is the purpose of this article.

Main results

Analysis of the civil legislation of the countries of the territory of the former USSR testifies to the widespread use of the term "probability" in the texts of regulatory legal acts. So, according to Part 3 of Art. 1484 of the Civil Code of the Russian Federation [1], no one has the right to use, without the permission of the copyright holder, designations similar to his trademark in relation to goods for the individualization of which the trademark is registered, or similar goods, if as a result of such use there is a likelihood of confusion. In accordance with the provisions of Part 2 of Art. 131 of the Civil Code of the Republic of Tajikistan [2], a public fund can be liquidated if the fund's property is insufficient to fulfill its goals and the probability of obtaining the necessary property is unrealistic. This term is also used in branches of legal regulation of public relations related to civil law. In particular, in environmental legislation [3].

The considered category is often used in the texts of acts of the judiciary in the framework of civil proceedings in cases with different subject matter and content. In particular, this applies to civil disputes about paternity [4], about the exclusion of statements about the father from the record of the birth of a child [5], about the appointment of compulsory psychiatric assistance to an individual [6], etc. Analysis of court decisions in which the term " probability "indicates that the court is the final instance in establishing facts or truths that are not reliably known to the participants in certain legal relations, or there is an unreliable assumption of the truth of their prejudices, however, they are obviously not enough to obtain the desired civil law result in within these legal relationships. Thus, the category "probability" is universal, since is involved not only in the material, but also in the procedural spheres of civil law regulation.

According to the results of the study of acts of civil legislation of the countries of the post-socialist space, it seems possible to state that the category of "probability" in their content is not interpreted, which in turn creates an objective difficulty in its study.

In civil law, independent studies of the category "probability" are fragmentary today [7,8]. In most cases, researchers use it as a matter of course or as a characterizing element of a phenomenon, a social relationship. Consequently, the study of the category "probability" in this aspect is possible through its study in related fields of knowledge.

According to N.A. Kashchei, two different types of understanding of probability become the starting point of the analysis of probability: probability in the first sense is a quantitative concept, defined in one way or another with the help of mathematical calculus; the second type is a qualitative concept that expresses the degree of confidence, assessment, categoricality of a hypothesis or statement [9, p. 7].

Taking into account the above approach, the quantitative meaning of the category of probability is seen in its application and research within the framework of the exact sciences, where, as it seems, its original place is. So, the probability of a certain number falling on the face of a die is determined from the calculation of the face of this die, which are initially known. Similarly, this also applies to a coin tossed into the air [10, p. 9]. Considering the theory of probability in the exact sciences, and the possibility of its application in law, one should pay attention to the following aspect. The faces of the dice have a countable outcome - the number of faces, the quality of the numbers applied to these faces. It seems that civil law, law in general, also has an initial data system in the form of combinations of legal norms. However, the original number of such combinations does not have the same clearly marked coordinate system as, for example, the edges of a dice. The norms of law are divided into norms of substantive law and norms of procedural law. Consequently, the source material for the formation of the norms of civil legislation will be the norms of substantive law. However, this rule is not axiomatic, since there are exceptions. For example, the rules governing the institution of limitation of actions are enshrined in most of the Civil Codes of the countries of the post-socialist camp [1,2,11], etc., despite their primordially procedural nature. This principle applies to the design process of any act of civil legislation in general. The initial number of norms, their nature, is initially unknown to the team of authors of the draft normative legal act, since the center of their attention is the qualitative legal regulation of specific relations, but not the system of norms (and not their number), which will serve as the basis for this process, and which will subsequently lead to the desired result. Consequently, it is quite difficult to trace the probability of the onset/non-occurrence of certain legal phenomena, processes (for example, globalization,

modernization, transformation, etc.) in relation to the legal regulation of the currently existing specific legal relations in the future. This indicates the different nature of the category "probability" in law and in the natural sciences.

The category "probability" is actively used and studied in the humanitarian fields of knowledge. In particular, this applies to philology [12], psychologists [13], cultural studies [14].

In the encyclopedic literature, the term probability (probable) is defined as the same as possible, permissible [15, p. 161; 16, p. 492]. It is obvious that such an understanding of the studied category is quite abstract to understand its essence and the possibility of using it in civil law, in particular, in relation to certain civil legal relations.

Analysis of the literature of the humanities and social branches of knowledge indicates that the category of "probability" has rarely been studied on an independent level. So, in economics, this category is basically a kind of tool for conducting various kinds of research [17,18]. Thus, the use of the results of research carried out in the specified fields of knowledge is not enough to understand the essence of the category "probability" in relation to civil law relations and civil law in general.

Taking into account the above, we consider it possible to study the category "probability" in the aspect of its comparison with other categories used in civil law, in the content of which it occurs, or with which such categories are closely related and intersect in a semantic context. It seems that these are the categories "risk", "uncertainty", "case".

In the legal doctrine, studies devoted to the category of "risk" are quite common [19, p. 5; 20, p. 6]. In civil law it is defined as a category that expresses the subjective attitude of a person to the results of objective phenomena [21, p. 4]; the nature of probability and chance, which is associated with a causal relationship with the insured event (insurance risk) [22, p. 4]; an accidental circumstance included in the composition of aleatory contracts, which is due to the imbalance of rights and obligations with the degree of their legal protection [23, p. 5]; property of public relations, which are the subject of civil regulation, a distinctive feature of which is the potential for a negative result of the activities of subjects in the form of negative property consequences [24, p. 208]. Based on the above positions, it seems possible to state that "risk" is a polysemantic category, which is defined as a legal fact, a property of social relations, a person's subjective attitude to the results of objective phenomena, etc.

Analysis of the "risk" category indicates that the "probability" category is often used in its definition. The latter is used by researchers as a sign that characterizes the "risk" category or an element dependent on it. In this regard, we note the position of R.B. Sabodash, according to which only negative risk is subject to insurance, and positive risk ("chance") is not subject to insurance. That is why, according to the author, it is necessary to clearly distinguish between positive risk and negative risk [21, p. 4]. Thus, in contrast to the category "risk", the purpose of the category "probability" covers the assessment of the upcoming movement of a particular civil legal relationship, both negative and positive factors, conditions, processes. For example, this concerns the prospect of receiving an inheritance, winning under a betting agreement, etc. This is due to the universal nature of the category "probability" and the possibility of its use in relation to almost the entire spectrum of existing civil legal relations. On the contrary, the category "risk" is used in civil law in relation to legal relations with economic content (for example, aleatory contracts), in which there is deliberately instability of forthcoming events, processes, and the will of their participants is aimed at making a profit. Therefore, these categories are interdependent, but not identical. The category "risk" is narrower in volume than the category "probability" in relation to civil legal relations, other legal phenomena, and, as it seems, is a form of expression of the latter.

The study of the categories "risk" and "probability" shows that their use by participants in civil legal relations is reduced to the need to predict/predetermine the course of the legal relationship, to obtain certain information in the process of their use, evaluate this information and warn, if possible, adverse factors and consequences. upcoming in the future. We think that the ultimate goal of its application is to obtain certain information, analyze and evaluate it. This suggests that the main functions of the category "probability" in relation to civil relations are predictive, preventive, informational and evaluative.

Based on the provisions of the legal doctrine regarding the understanding of the "risk" category, the approach of R.B. Sabodash, which was already mentioned above. The essence of this category is characterized by the fact that it reflects not the real reality, processes and phenomena that are currently taking place in a specific space, but the mental perception of the quality of the legal relationship by its participants at the time of the existence of this legal relationship in space and time, the prospect of its dynamics, transformation, modernization in the future... Intellectual predestination about the presence, for example, of an event on the way of civil legal relations is associated with a specific period of time, which will take place (may/may not take place) in the future in a certain place (space). Consequently, the category "probability", as well as the category "risk", does not exist independently in space and time, since subordinates to itself in a separate moment the categories of space and time and vice versa - these categories determine the essence of "probability", defining the moment and place of its application. This is explained at least by the fact that at a particular moment in the movement of civil legal relations, for example, a critical moment will be crossed (the deadline for the fulfillment of the main obligation, the moment of accepting the inheritance, etc.), which will determine the essence of its existence in the future. This moment will remain in the past, which will reduce the need to apply probability and any assessment to naught in general. Something similar is distinguished in linguistics and is defined as "mental representation" - an actual image of a particular event, a subjective form of seeing what is happening; an operational form of mental experience, they change as the situation changes and the subject's intellectual efforts, being a specialized mental picture of the event [25, p. 11]. Based on this, one can hardly agree with the approach according to which the category "risk", and, consequently, the category "probability" is a property of social relations. First, the property (quality) of a civil legal relationship is inextricably linked with it and also characterizes it. Secondly, in our opinion, the property (quality) of legal relations is a relatively stable and habitual state of each element of this legal relationship for society, which is not typical for the categories considered in our case. These categories also cannot be defined as a legal fact. The latter, within the framework of, for example, insurance legal relations, is determined by the moment of the real occurrence of an event that signifies the onset of negative property consequences for the participants in these legal relations. So, in accordance with the approach of A.V. Bonds, confiscation in itself is not a legal fact. Termination in the event of confiscation occurs immediately from the moment of issuance of the corresponding administrative act; terminating legal fact is a certain circumstance of reality (action or event), which causes legal consequences [26, p. 160; 163]. Consequently, legal facts are "measuring links" on the path of civil legal relations and appear in a certain space with the regular course of the corresponding processes (transformation, modernization, etc.) at a certain time.

Analysis of the "risk" category in law and related fields of knowledge indicates that it is based on a factor (category) of uncertainty. So, N.A. Vlasenko notes that legal uncertainty is a sign of law, manifested in the vagueness of the form and content of legal phenomena, is a property of law, which has both positive and negative meanings, the pattern of transition from the quality of uncertainty to the quality of certainty [27, p. 43]. A.V. Demin defines the concept of "uncertainty in tax law" as a lack of clarity, clarity, accessibility, completeness, reasonable balance [28, p. 44-45]. Consequently, the term "uncertainty" reflects the essence of a complex legal phenomenon. We believe that uncertainty accompanies absolutely all types of civil legal relations that do not yet exist, but about which there is some information; elements of which exist, but significant legal facts, processes will occur in the future. The coincidence at a certain point in space and time, on the way of the movement of civil legal relations, with a specific legal fact or process (transformation, modernization) eliminates any uncertainty that could exist up to that moment. This means that uncertainty characterizes only a segment of the movement of a legal relationship, in particular a civil one, in space and time with respect to upcoming or possibly upcoming legal facts and processes. The defining categories in this case are the categories of "space" and "time". Yu.A. Tikhomirov raises the question of the need to search for a measure of uncertainty [29, p. 150]. We consider this position to be rational, since relative uncertainty, as a "shade" of this evaluative concept, carries information about a smaller number of unknown outgoing elements when calculating the probability of non-occurrence, for example, of an insured event on the path of a legal relationship arising from an insurance contract. In turn, this reduces the likelihood of payment of insurance premiums by the insurer under the contract in the future, which can contribute to successful financial planning and cost savings by the insurer in the present. Consequently, the presence of initial information about the measure of uncertainty automatically predetermines the measure of probability - "less likely", "more likely", which, in turn, improves the quality of the mental perception of reality and the future (upcoming actions and events) by participants in civil legal relations. Thus, the studied category is characterized by the

measure of the category "uncertainty". The very same category "uncertainty", as it seems, cannot be the defining element of the category "probability" in relation to civil legal relations in a particular case.

Certain legal categories are often applicable in theory and practice regarding the provision, implementation or protection of the subjective rights of participants in civil relations. For example, this concerns the category of property rights in a situation of alienation of an object of property rights and determining the likelihood of a new owner (terms, a specific subject of legal relations, etc.) Therefore, the category "probability" in the aspect under study is applicable only to specific civil relations with the corresponding composition of it participants.

It seems that the use of the category "probability" to the aspects of assessing the security, implementation or protection of objective rights is not logical for the category of "probability" in relation to civil legal relations. The use of probability in law, in particular, civil law, requires the presence of some amount of initial clarifying or detailing data. Otherwise, the probability will be absolute, making its use meaningless.

In mathematics, researchers pay attention to the fact that the subject of probability theory is the general regularities of random phenomena of a mass nature, which have statistical stability of frequencies, regardless of their specific nature [30, p. 3]. In this regard, we present the position of V.V. Zalessky, according to which accidents introduce essential elements of disorder into the emerging and established relations of subjects of civil legal relations, making it impossible or postponing in time the achievement of the set goals (acquisition of property, completion of work, transportation of a passenger, etc.). The author emphasizes the need to resist accidents, to reduce the degree of their impact on legal relations" [7, p. 126]. Yu.V. Sachkov notes that "... a new vision of the world meant that the idea of chance was essentially included in the structure of the basic models of the world and its cognition in an immanent, essential way; the concept of randomness is included in the very definition of the theory of probability" [31]. Consequently, the category "probability" in law also "subordinates" to itself the category "case".

The category "case" is currently used in the texts of regulatory legal acts [32,33], in the legal doctrine. In particular, this concerns the terms "accident", "industrial accident", "incident". Without going deep into the analysis of this term, we note that the case has various forms of manifestation. This is due to the unconsciousness of the external and internal expression of civil law in certain situations in practice. So, the result of the accident, in our opinion, is most of the road traffic accidents, tk. the participants in such an incident mutually did not want the onset of negative consequences and, in general, could not foresee them. On the contrary, the chain of socio-political events that will (may lead) to global changes in civil legal relations and society as a whole cannot, in our opinion, be designated as random. It seems that in such situations, the actions of participants in legal relations, processes (transformation, modernization, etc.) lead to a chain of events (expected, partially expected and absolutely not expected).

T.I. Sultonova, when studying aleatory contracts, where the category of the case manifests its legal significance, notes that "... when a case occurs, the consciousness of a person generates a certain attitude to what happened, characterized by a lack of understanding of the properties of the actions performed and the desire for their consequences" [34, p. 6]. Thus, it is not the case itself that determines the chain of events that determine the emergence of legal facts and other accompanying processes (transformations, modernizations, etc.) in the course of the civil legal relationship, but the awareness of what happened by the participants in the civil legal relationship. The case, as a category that is used in civil law and law in general, is indeed characterized by an intellectual component. Nevertheless, the inability to realize the results of what happened (or not desire), in our opinion, will not always be a factor excluding the occurrence / non-occurrence of legal consequences within a specific legal relationship (for example, exemption from legal responsibility), or a factor excluding the very probability of occurrence case. So, for example, a person's inability to understand the consequences of an accident does not change the quality of a legal fact, and, accordingly, negative legal consequences. Consequently, the content of the category "probability", in relation to civil legal relations, should not depend on the intellectual component of the category of the case, but, it seems, should take it into account.

The predetermination of a case by probability in law, in particular civil law, unites the meaning of the category "probability" in the humanities and exact sciences. At the same time, we believe that the definition of a case by scientists in the exact sciences basically does not have a strong-willed basis. That is, researchers do not always expect the appearance of a "desired" or "undesirable" result. This is explained by the nature of the objects studied in such sciences, the impossibility of thorough control over them and the corresponding processes (chemical reactions, physical elements, natural phenomena, etc.). It seems that the vector of the studied category in civil law is aimed at predetermining not only undesirable, or negative by the nature of the assessment by the participants of the legal relationship, events, but, on the contrary, quite desirable, predictable and positive ones. Moreover, we believe that the latter are central to the content of the category "probability". So, in order to predetermine the desired course of civil relations, its participants will seek to determine the likelihood of the execution of the contract at the right time, in the right place, by the right person, or all of these options in combination. In this regard, we note the approach of V.V. Zalessky, according to which "... when concluding an agreement, the parties (as a rule) are confident in achieving a legal result. In reality, there is only the likelihood of their intentions being realized. The desired legal result can be achieved with a certain degree of probability, the definition of which is extremely difficult due to the impossibility of foreseeing various random phenomena that can cause fluctuations in the emerging "contract-legal relationship"" [7, p. 129]. Consequently, the category "probability", as applied to civil legal relations, is a way (means) of predicting not only not expected, but also quite expected cases, legal facts and/or processes (transformation, modernization, etc.) that may take place on the way the movement of this legal relationship.

It should be noted that the case is not the only factor encountered in the movement of civil legal relations in space and time. We think that the case is most likely the exception to the rule in this aspect. When using the category of "probability", participants in civil legal relations will be primarily interested in the predetermination of what appears to be expected factors, namely, forthcoming legal facts, processes (transformation, modernization, etc.). Consequently, the reduction of the essence of the category "probability" to the predetermination of only the case, in our opinion, significantly narrows its scope.

In accordance with the approach of Yu.V. Sachkova "… the specificity of statistical systems lies in the fact that integrity, the presence of internal stability are given to them by external conditions, external environment, external, and not internal forces. …. the definition of probability always presupposes an indication of some conditions" [31]. It seems that this position is rational in the study of the category of "probability" in relation to civil relations. Thus, the analysis of modern civil law indicates that many of the limits of freedoms and permissions, taken as initial and traditional for civil legal relations, have been rethought in civil law over the past fifteen years. For example, this concerns the property rights of individuals in civil law [35], property rights [36], freedom of contract [37], etc. The essence of these studies, in our opinion, is united by the fact that the current state of civil legal relations pushes researchers to a new view on the spatial boundaries of the existence of civil legal relations and civil law in general. We believe that one of the reasons for identifying such boundaries in civil law is the intellectual perception by researchers of the probabilistic characteristics of the movement of civil legal relations in time and space, the system of external factors that affect a given course of legal relations (for example, this concerns transformations and modernizations of civil legal relations as independent processes).

V.D. Levin, in the study of aspects of the interpretation and application of evaluative concepts in law, gives a system of their characteristic features [38, p. 10]. Taking this approach as a basis, we note that the category "probability" in relation to civil legal relations is not fixed at the legal level; characterizes the generalization system based on a variety of phenomena, actions, processes; the result of its application is the analysis and assessment of such phenomena, actions and processes by participants in civil relations; characterized by the mentality of perception by participants in civil legal relations of reality and the future. Thus, it seems that the studied category occupies an independent place in the system of evaluative concepts used in law, including in civil law.

The category "probability" is universal and can be applied in almost all branches of national law, since the presence of a case is characteristic both for law in general and for the movement of most legal relations in time and space. Nevertheless, we believe that this category

is most typical for civil law and branches of law of the subsystem of private law in general. This is explained by the dispositive method, which dominates in the civil law regulation of civil legal relations. The latter are characterized by legal "backlashes" that determine at least several scenarios for the movement of civil legal relations and the appearance in the future of relevant legal facts, processes, and cases. As a rule, they manifest themselves in the practical aspects of contract law, inheritance law, property law and other civil law institutions. Including, "probabilistic backlashes" were originally incorporated into separate civil law constructions at the legal level. For example, this concerns analogy in civil law.

The study of the category "probability" draws attention to the fact that it is often used in the exact, natural sciences, for example, in economics. The reason for this, in our opinion, lies in the specifics of the methodology of these branches of knowledge. Consequently, the insufficient study of the category "probability" in relation to civil law relations is due to the insufficient study of the methodology of civil law in terms of the ratio of its elements (specific methods, their groups or systems) with elements of methodology, for example, mathematics and economics. At least to date, individual studies carried out in this direction by legal scholars are fragmentary [39]. That is, the methodology of the branch of knowledge determines the peculiarities of using the category "probability" in relation to specific scientific and practical spheres, in this case - civil law and the corresponding relations. And vice versa. We believe that the main role of the studied category is manifested in the fact that it, as it seems, can be an objective condition for the optimal use of methods of civil law. With the help of the probabilistic characteristics of the occurrence/non-occurrence of a particular legal phenomenon in the future, theorists or practitioners can more carefully approach the choice of the required method in the present tense, which, in turn, will make it possible to predetermine undesirable consequences in the future, to predict their scale in relation to individual legal relations or their system, to eliminate them at the stage of inception.

Conclusion

Based on the conducted research of the category "probability", in relation to civil legal relations, it seems possible to identify the following features: 1) is an evaluative category; 2) determines the quality of the mental perception of reality by the participants in the civil legal relationship in terms of predetermining and assessing the possible place and time of the appearance on the path of the civil legal relationship of an action, event, case or process (transformation, modernization, etc.); 3) does not exist independently in space and time; 4) determines the perception by researchers of the spatial boundaries of the existence of individual civil legal relations in time; 5) its main functions are predictive, preventive, informational and evaluative; 6) is applicable within the framework of specific civil relations and the corresponding circle of its participants; 7) the ultimate purpose of its application is to obtain certain information, its analysis and evaluation.

Based on the foregoing, "probability" in relation to civil legal relations, it seems possible to define as an evaluative category that determines the quality of mental perception by the participants of the current civil legal relationship, the predetermination and assessment of possible options for the movement of this legal relationship in the future, as well as the prospects for the onset/not the onset of individual cases, legal facts and processes on the way of its movement.

Thus, the category "probability" in relation to civil legal relations has both theoretical and applied character. The value of this category in the theoretical aspect is manifested in the possibility of its application to the research of specific civil law categories and legal phenomena.

The practical aspect of using the category "probability" in relation to civil legal relations is, in our opinion, objective and subjective. The objective nature of the practical aspect is seen in the possibility of using this category in legislative activity, as well as in the process of designing and concluding civil contracts, when registering ownership of movable and immovable property, inheritance, etc. The subjective nature of the practical aspect, in our opinion, is lies in the fact that in the process of applying the category of "probability" for the

participants of specific civil legal relations, a separate way of thinking is formed, which determines the system of civil law acts they commit and the choice they make.

The immediate goal of law is not only to regulate and organize legal relations, but to predict them, to prevent negative (unfavorable) legal consequences. We believe that civil law is not an exception in this aspect. Nevertheless, despite all the possible mechanisms that have been studied and will be studied by legal scientists for these purposes, chance and unpredictability will always accompany the movement of any legal relationship in space and time. So, A.V. Demin notes that the uncertainty in tax law manifests itself both negatively (omission of the legislator) and positively (as a set of specific legal means and technologies purposefully used in the processes of law formation and law enforcement) [28, p. 12]. This position seems to be fair and in relation to civil relations. In our opinion, there is also a positive aspect in the unpredictability of the movement of civil legal relations in time and space. For example, the axiom about human mortality as a physical carrier of subjective rights and obligations is irrefutable. However, being informed about the place and time of death of each individual would mentally change the consciousness of individuals as participants in civil legal relations and, as a result, the usual order of movement of the corresponding legal relations, the order of existence of things in society as a whole. Consequently, the absolute predictability of the order of movement of civil legal relations is also potentially negative for civil law.

The category in question is inherently evaluative. Evaluative concepts are often found in normative legal acts of civil legislation, and, as a rule, are used in the legal regulation of individual civil legal relations or their system. In this regard, we present the approach of O.E. Fetisov, according to which at the present stage of development of society it is already impossible not to use evaluative concepts in law. According to the author, this is due to dynamically developing social relations, developing processes of globalization and integration of the Russian legal system into the global legal space, and secondly, with the objective impossibility of establishing clear boundaries and definitions of concepts that have a general social orientation [39, p. 11]. Taking this approach as a basis, we believe that the content of the Civil Code, as the leading act of civil legislation of the state, the legal system of which is part of the Romano-Germanic legal family, today must necessarily include an article (chapter) entitled "Basic concepts and definitions". The provisions of such an article (chapter) must contain basic civil law categories, including evaluative ones. Consequently, the category "probability" in this case is no exception.

It seems that the allocation of "probability" in relation to civil legal relations as an evaluative category is only one of the possible facets of its essence. An in-depth study of the forms of manifestations of this category, aspects of its relationship with the categories "version", "assumption", "presumption", etc., and constitutes the prospect of further research.

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