R E C E N T I O N S

by Assoc. Prof. Dr. Petar Georgiev Bonchovski

Institute of State and Law at the Bulgarian Academy of Sciences and lecturer in Civil Procedure Law at the Chernorizets Hrabar University of Science and Technology, member of the Scientific Jury appointed by Order UMO 86 of 14.03.2023 of the Rector of Burgas Free University Prof. Dr. Milen Baltov

In connection with an open procedure for the defense of the dissertation thesis for the acquisition of the educational and scientific degree "Doctor" of Dessislava Burianova Kuzmanova, PhD student in the part-time form of study at Burgas Free University, Center of Legal Sciences, in the doctoral program "Civil Procedure", in the professional field sh. 3.6. Law

on the subject:

" Execution of money claims on shares in companies and commercial enterprise "

Scientific supervisor: prof. dr. Silvi Chernev

1. The procedure

1.1. No violations of the requirements of the legislation were found: the relevant provisions of the Law on Academic Staff Development of Burgas Free University.

1.2. The dissertation draft is submitted in due time. The length is 307 standard typewritten pages. The doctoral candidate has three five publications on the dissertation topic in scientific journals and one in print. He has submitted an abstract in Bulgarian and English.

1.3. The PhD student was discharged with the right to defend and with the decision of the Scientific Council of Burgas Free University to open a procedure for the defense of dissertation.

1.4. I am not aware of and find no evidence of plagiarism. The PhD student has also submitted a declaration of originality.

2. About the dissertation

2.1. I do not know the PhD student and I have no personal impressions.

2.2. It may be noted on the basis of the thesis that, without explicitly stating a career path in law, the doctoral candidate has developed habits and the ability to work with the law, case law and scholarly publications as a means of interpreting and understanding the law.

2.3. From the presented text it can also be immediately concluded that the PhD student handles the legislation in the field of civil enforcement and company law with sufficient fluency and has the possibility to present different practical hypotheses.

2.4. These two points are definitely a necessary minimum and completely in favor of the dissertation. The style is succinct and clear, with a tendency to go into excessive detail to some extent, which is not necessarily a disadvantage from the point of view of the research, but could be reconsidered in any publications aimed at a wider audience.

3. Conceptual apparatus. Citations

3.1. Adequate legal language is used throughout the dissertation. Terminology used is generally consistent with generally accepted requirements. The doctoral candidate takes care to express the various nuances of legal phenomena.

3.2. The quotations are relevant and not made as an end in themselves. Sufficient scholarly apparatus has been used from national (39 titles in Bulgarian) and foreign authors (21 titles in Latin). Nine internet sources were also used. An index of the judicial decisions used is also provided.

4. An analysis of the qualities of the dissertation.

4.1. For the purposes of the defence procedure, it may be noted that the study is the first of its kind. The choice of topic presupposes, in this case, a classical monographic significance with the presence of a distinct unified semantic and theoretical centre. The formulation of the topic is appropriate. The work presented is 307 pages in length, far exceeding the legal requirement for a monograph. The necessary scholarly apparatus has also been used.

4.2 The dissertation aims at a comprehensive study of the proceedings for the enforcement of monetary claims on shares in commercial companies and on a commercial enterprise. The problems associated with such a study are topical due to the fragmentary and contradictory regulation in the presence at the same time of serious practical problems related to the possibilities of creditors to obtain satisfaction of their rights without neglecting the interests of the debtors themselves, their creditors and, ultimately, the society and the state, insofar as it is a question of affecting the activity of organizational forms of commercial activity and its economic and social effect.

4.3 At the same time, there is a lack of focused research, as well as a lack of clear and coherent case law (with very few exceptions, which are reflected in the work). Therefore, such research would be beneficial both to legal scholarship and in terms of understanding and resolving specific issues and legislative texts in practice.

4.4. The work is conveniently divided into five parts: an introduction, three chapters and a conclusion. The introduction justifies the relevance of the study, formulates the aims and objectives of the work, and defines the scientific methods of research. Chapter One defines the general focus of the study, provides a historical and comparative legal analysis of the framework. Chapter two examines in detail the features of commercial companies and participation in them, as well as the commercial enterprise, in terms of the objectives of the study, namely in relation to the objects of implementation. The effects on these objects in liquidation and insolvency are analysed from the same perspective. In Chapter Three, the targeting of enforcement proceedings on shares, stocks and parts of a commercial enterprise are examined in detail.

4.5. The approach to the study as summarised in the previous paragraph is acceptable. It is also in line with the established approach to writing doctorates, which traditionally includes a historical and comparative law section. There is no obstacle to civil procedure law topics also having parts devoted to substantive legal issues, as long as they are not an end in themselves, but relate to the resolution of procedural issues. Such analyses are even desirable given the organic relationship sought between the legal form of the defence and the substantive rights exercised. Also, the modern trend in scholarship is towards interdisciplinarity.

4.6. In no small part, the research is focused on a thorough and conscientious examination of existing opinions on practical problems, finding their common points and contradictions. The author shows an understanding of the issues already raised and of the arguments of the scholars analysing them. In addition, she also analyses the results of the practical application of executive action/means and the related legal framework in detail, elaborating on the opinions thus put forward. After the detailed and correct exposition of others' opinions and arguments and the application of independent analysis, the author justifies her choice by providing her own reasoned opinion. This is a legitimate approach in defending a research and education degree.

4.7. I may note that I support the final conclusions thus drawn, for example in relation to Art. 96 para. 1 Commercial Law and Art. 517 para. 1 and 2 of the Code of Civil Procedure, Article 517, paragraph 4, clause 2 of the Code of Civil Procedure, the necessity and a specialized

entity to exercise the organizational rights in connection with the membership when the claims on shares are seized, etc.

4.8. The judgments used are also correctly analysed. They also correctly support their conclusions on the interpretation of legal rules. Examples are the adopted opinion on the manner of determining the equivalence of shares in the company (Article 126(3) of the Commercial Code), the binding nature of the time limit under Article 517(4)(2) of the Civil Procedure Code, as well as the correlation between the provisions of Article 515(4) of the Civil Procedure Code and Article 517(4) of the Civil Procedure Code. 3(1) and (2) CCP. The opinion on the hypothesis in which the courts terminate the proceedings on the claim under Art. 517 par. 3 of the CCP or dismiss the claim as unfounded when the liabilities of the company exceed the assets.

4.9. In relation to limited partnerships and limited partnerships with shares, where there are no existing developments, the author sets out her own analysis, systematising in detail the possible hypotheses and proposing relevant solutions. The same can be said for the section on execution on separate parts of an enterprise.

4.10. In the end, by its essence, the work systematically analyses the specificity of the enforcement methods concerning the peculiarities of the objects of enforcement as material property rights, the possibilities for imposing securities and their consequences, the prerequisites for directing the enforcement according to the different types of objects and the consequences for the different types of companies, including in the determination of liquidation share and insolvency.

4.11. In so framing the exposition, the specific problems in relation to the appropriateness of the possibilities of implementation as provided for in the regulations, the problems in relation to the analysis of the precise meaning of the texts, and those suggested by the development of practice are revealed. The work is based on an analysis of existing developments and the author's own analysis of the texts and case law, and independent solutions are proposed accordingly.

4.12. In the light of this, it can be assumed that the possible hypotheses have been exhausted in general, and the arguments in support of the views and conclusions of the dissertation have been presented in sufficient depth and detail. In the analysis and argumentation, the balance of interests of all subjects affected by the implementation has been sought. This starting point is successfully applied. There are no gross unjustified contradictions with established legal scholarship.

5. Notes

5.1. The author goes into unnecessary detail. The legal-historical and comparative-legal parts are too extensive, without any direct relation to the objectives of the study. Only results from German and Czech law are used in the analysis and conclusions. I make these remarks only in connection with the need for scientific editing if publication is envisaged.

5.2. In addition to excessive detail, phenomena that require specific knowledge should not be commented on lightly and without appropriate reliance on specialized research. The rules of European civil procedure are a complex set of provisions of the founding treaties, EU law instruments, ECJ decisions, and national provisions. I will only point out that there is also provision for the recognition and enforcement of judgments not yet in force in the home State, which is not reflected in the theoretical construction proposed by the PhD student.

5.3. There is no in-depth analysis or any omission at all of the specific litigation issues of claims under Article 517 of the CCP, which are organically linked to the enforcement of the claim itself, as well as the range of specific enforcement actions and the possibility of defending against them. The topic of the study also suggests that.

5.4. There should also be an analysis of the appropriateness in principle and the approach chosen by the legislator to leave enforcement on a share of a trading company within the fully individual approach. In the case of enforcement over shares, it is pertinent to point out, based on research that has been done, that a more differentiated option is possible.

5.5. An analysis of the possibility of claims similar to Article 135 of the Obligations and Contracts Act has been initiated. A comparison is made with avoidance actions in insolvency proceedings, but without definitive conclusions on the appropriateness of the application of the

claim under Article 135 of the Obligations and Contracts Act, which is a more than serious issue in the field of commercial law in particular.

5.6. The suggestions de lege ferenda (made in the final part of the paper and in the abstract) are generally acceptable and applicable. I have reservations about the proposal to provide for a stand-alone action for forfeiture of securities. This cannot be shared, at least on the basis of the arguments put forward. The proposal to define a separate part of a commercial undertaking should be reconsidered. The proposal to regulate the sale of a commercial undertaking would make sense if hypotheses were presented as to when it would be necessary and justified to resort to such a method.

6. Conclusion

As I pointed out, the study is the first in volume and with the value of a monograph. This in itself is a scientific contribution. Moreover, the doctoral student has not limited himself to a text that has mainly commentary value. At the same time, the current provisions with which comparison has been made are poorly and fragmentarily formulated. This suggests ample scope for creative research and suggestions for changes in the legislation.

Taking into account the above, I consider that the dissertation, in accordance with the requirements of the Academic Staff Development Act in the Republic of Bulgaria, testifies to the candidate's theoretical knowledge of the relevant scientific specialty, sufficient ability for independent scientific research and their transformation into a text that meets the requirements for a dissertation for the award of the scientific and educational degree "Doctor" in accordance with modern standards and practices in the field of law.

I agree in general with the scientific contributions defined in the abstract, and I find the de lege ferenda proposals generally relevant. Therefore, the thesis project has the necessary qualities and scientific merits of a doctoral thesis for the degree of Doctor of Education and Science.

*The findings are the basis for **me to propose the** members of the Scientific Jury, as a reviewer, to **declare successfully defended the dissertation** of Dessislava Burianova Kuzmanova entitled "**Execution of monetary claims on shares and stocks in commercial companies and on a commercial enterprise**" for the acquisition of the educational and scientific degree "**Doctor**" in the doctoral program "Civil Procedure", in the professional field Sh.3.6. "Law", scientific specialty "Civil Procedure".*

Sofia, 05.05.2023. .....

/Assoc. Prof. Dr. Bonchovsky/