

TO
THE SCIENTIFIC JURY
ON THE PROCEDURE FOR DEFENSE OF A DISSERTATION

OPINION

**by Assoc. Prof. Dr. Vasil Hristov Pandov, member of the scientific jury
on the procedure for defense of a dissertation for the acquisition of
the educational and scientific degree of "Doctor" by Kristian Plamenov
Raychev, appointed by Order No. RD-21-982 dated May 12, 2023, by
the Rector of "Paisii Hilendarski" University of Plovdiv**

for the public defense of a dissertation in the procedure for the acquisition of the educational and scientific degree of **"Doctor."**

Field of higher education: Social, Economic, and Legal Sciences

Professional field: 3.6 Law (Private International Law)

Author of the dissertation: PhD student Kristian Plamenov Raychev, regular form of education, Civil Law Science Department, Faculty of Law, "Paisii Hilendarski" University of Plovdiv

Topic of the dissertation: "Prorogation of International Jurisdiction"

Supervisor: Assoc. Prof. Dr. Dimitar Milchev Dekov

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By order of the Rector of "Paisii Hilendarski" University of Plovdiv dated May 12, 2023, I have been appointed as an external member of the scientific jury in connection with the defense of the dissertation of Kristian Plamenov Raychev, a regular form PhD student in the professional field of "Law (Private International Law)" for the award of the educational and scientific degree of "Doctor." At the first meeting of the academic jury, I have been assigned to provide an opinion on the work of the doctoral candidate.

PhD student Kristian Plamenov Raychev was born on October 8, 1993. From 2012 to 2017, he studied and obtained a Master's degree in Law from the Faculty of Law at "Paisii Hilendarski" University of Plovdiv. Since June 2020 until the present, he has consistently conducted seminar classes on private international law at "Paisii Hilendarski" University of Plovdiv, initially as an honorary lecturer and subsequently as a regular assistant. There is a strong interest in academic teaching and scientific development in the field of Private International Law.

In accordance with Article 6, Paragraph 3 of the Development of the Academic Staff of the Republic of Bulgaria Act (DASRBA) and Article 27, Paragraph 1 of the Rules for its implementation, the dissertation work should contain scientific or scientifically applied results that represent an original contribution to science. The dissertation work should demonstrate that the candidate possesses in-depth theoretical knowledge in the respective specialty and abilities for independent scientific research. According to Article 27, Paragraph 2 of the Rules for implementation of DASRBA, the dissertation work is presented in a format and volume determined by the primary scientific unit. It includes a title page, table of contents, introduction, exposition, conclusion - a summary of the obtained results with a declaration of originality, and a bibliography.

The requirements regarding the procedure have been followed.

GENERAL NOTES ON THE DISSERTATION WORK.

1. The subject of this opinion is the dissertation work presented by PhD student Kristian Plamenov Raychev on the topic "Prorogation of International Jurisdiction," consisting of approximately 200 substantial pages. The content and cited literature and bibliography are separated, as well as a list of cited case law and utilized normative sources. The scholarly apparatus consists of a total of 51 titles in Bulgarian and foreign languages. The footnotes amount to a total of 247. The dissertation does not include any other scientific publications published in Bulgarian legal journals or in collections of scientific papers for independent analysis. An abstract is also included, providing an accurate overview of the scientific research and its contributions.

RELEVANCE OF THE TOPIC AND RESEARCH THESIS.

2. The relevance of the topic is driven by the exceptionally dynamic development of the sciences related to the international dimension of Bulgarian law in recent decades. The genesis of this development lies in intensive international exchange, leading to a constant increase in the number of private law relationships with an international element. The regulatory function of private international law cannot remain passive in the face of such enriching subject matter. A key aspect in regulating procedural relationships with an international element is international jurisdiction, which determines the development of proceedings in international civil cases, the applicable substantive law, and the subsequent effectiveness of final judgments. In Bulgarian scholarship on private international law, there is no independent study specifically focused on the prorogation of jurisdiction, highlighting the relevance of the presented work for defense. Its purpose, regulatory framework, and application provide opportunities for the deployment of research potential and the achievement of valuable results from a practical standpoint. In this regard, the doctoral candidate Kristian Raychev has successfully captured important aspects in his scientific exploration, such as clarifying the similarities and differences between jurisdiction based on arbitration agreements and jurisdiction clauses, the evolution of procedural agreements in various sources of EU law and international treaties, tracing the regulation in different sources, and analyzing relevant case law of the Court of Justice of the European Union. The comparative presence of this procedural framework in the national sources of private international law undoubtedly demonstrates its successful functions in providing access to justice, legal certainty, and predictability. Its existence contributes to the development of contractual and commercial relationships with an international element, as it reflects the parties' will in the disputed substantive matter to the fullest extent. On the other hand, beyond its typical scope of application - contractual and commercial relationships - prorogation has gradually entered the regulation of non-property and property-related family and inheritance relationships with an international element. This is evident in the achieved consensus within the Hague Conference on Private International Law regarding the adoption of a so-called international treaty to regulate jurisdictional prorogation.

Unfortunately, there is no explicitly formulated research thesis in the introduction and conclusion sections. The reader must extract it from the exposition of the work and the conclusion. The author emphasizes, among the inherent characteristics of prorogation such as legal certainty, predictability, and procedural efficiency, that it is effective only within a supranational or international framework of private international law, which guarantees the free movement of judicial acts.

STRUCTURE AND DESCRIPTION OF THE WORK.

3. The structure of the exposition includes an introduction, four chapters divided into sections and subsections, and a conclusion. The work was composed following BSS ISO 7144:2011 for dissertation formatting.

In the **Introduction**, the author convincingly and specifically justifies the need for research on issues related to the rules of international jurisdiction for choice of court in international civil proceedings. The author formulates research objectives focused primarily on practical and applied aspects of studying choice of court agreements.

The first chapter is dedicated to a more general analysis of the essence of choice of court agreements. To some extent, it is unnecessary to provide a general indication of the types of sources and trace common issues regarding their relationship, which is typical for all subject matter related to procedural or substantive legal relationships. An interesting and useful comparative analysis is made between arbitration agreements and choice of court agreements. The author highlights specific points of comparison between the two types of procedural institutions in private international law in terms of form, consequences, and enforceability.

The following three chapters are constructed based on the origin of sources regulating the prorogation of international jurisdiction. The second chapter presents the subject matter and regulation in international treaties, with the author selecting two multilateral international treaties: the 2005 Hague Convention on Choice of Court Agreements and the 2007 Lugano Convention. The presentation covers the subject matter, scope of the agreements, requirements for formal and substantive validity, and methods of exercising the right to choose a court. Other multilateral international conventions regulating choice of court exist, such as the 1996 Hague Convention, but due to their complementary nature, they are not included in the structure of the exposition. The third chapter, which is the most substantial and extensive in content, traces the regulation of prorogation agreements in sources of EU law. Key attention is given to the main source of regulation for procedural relationships and prorogation, namely Brussels Ia Regulation. The exposition also includes other regulations that contain provisions on procedural relationships in the field of parental responsibility, inheritance, alimony, and property relations between spouses. In the fourth chapter, a more limited analysis of prorogation of jurisdiction according to the norms of the Private International Law Code is included.

SCIENTIFIC AND SCIENTIFIC-APPLIED CONTRIBUTIONS OF THE WORK.

4. The contributions of the reviewed work have a predominantly practical-applied character, based on the author's solid theoretical preparation. Without repeating the characteristics mentioned above, the following significant contributions should be outlined:

First and foremost, I would like to draw attention to the fact that this work is the first and currently the only comprehensive and specialized study focused **solely** on international jurisdiction based on party autonomy. In this sense, the dissertation itself is a contribution to Bulgarian science in the field of private international law. The practical-applied value of the work is demonstrated by the daily relevance of the question of establishing this type of international jurisdiction by Bulgarian authorities, particularly within the framework of the Area of Freedom, Security, and Justice of the European Union.

Secondly, the author has conducted a comparative analysis of the prerequisites, subject matter, and consequences of prorogation of international jurisdiction in relation to the comparison with arbitration agreements. In this way, specific aspects of the institution of jurisdiction arising from party autonomy are elucidated.

Thirdly, there is an analytical presentation of the regulation of prorogation of international jurisdiction in the 2005 Hague Convention on Choice of Court Agreements. Publications in Bulgarian legal literature on this significant multilateral international treaty are scarce. At the same time, it constitutes a basis for the development of commercial relations with third countries, including the United Kingdom.

Fourthly, the author presents the differences in requirements for the conclusion and form of choice of court agreements according to different sources of origin.

Fifthly, the author does not hesitate to engage in debates regarding the current state of positive legal regulation in defense of the motives presented by him, which serves as a starting point for the proposals he formulates *de lege ferenda* (for the law to be established).

5. Regarding the dissertation, I have formulated critical remarks that have a constructive nature aimed at reassessing the work and its potential future revision with specific goals, as follows:

The presentation does not sufficiently cover the jurisprudence of the Court of Justice of the European Union (CJEU), as there are other relevant decisions regarding the regulation of court prorogation. The presented judicial decisions are not cited according to the accepted method of referencing CJEU acts. A significant drawback is the complete absence of jurisprudence from Bulgarian courts.

The position stated on page 26 of the work, that the choice of court does not establish international jurisdiction but represents the selection of a specific court, cannot be accepted. The choice of court agreement precisely establishes the connection between the court of a particular state and the dispute. This is inherent to the concept of international jurisdiction.

In some places, the presentation mainly consists of statements about the existing regulation, while the contributory aspect from a theoretical perspective is underestimated.

There is no analysis of the form for concluding a choice of court agreement according to the accepted practice in international custom. There is a practice of the CJEU in interpreting Brussels Ia Regulation that examines how international custom is proven and who bears the burden of proof.

The definition that the Lugano Convention is an "independent" source of regulation for court prorogation cannot be shared. It is applied in relation to sources of EU law and

in consideration of the relevant territorial connections of the dispute. A more appropriate expression would be "separate source."

When presenting the effect of the choice of court agreement on third parties, most notably the factual situation arising from assignment, important conclusions are missing, which can be drawn from the practice of Bulgarian courts and the CJEU. This topic requires further development given its significant importance from both a practical and theoretical perspective.

The possibility of raising lis pendens objections in the presence of a prorogation agreement in favor of a court of a third country, according to the regulation in Brussels Ia, is not presented.

When discussing prorogation involving a weaker party, the practice of the CJEU, which introduces a binding effect even in the case of choosing a court of a third country (ECJ Case C-154/11 Mahamdia), has not been examined.

CONCLUSION.

6. A comprehensive reading of the dissertation leads to the conclusion that the doctoral candidate possesses theoretical knowledge in the field of private international law and the ability to conduct independent scholarly research. The results achieved in the dissertation represent a contribution to Bulgarian legal science, and therefore, a fully **positive** overall assessment should be given.

In conclusion, it should be emphasized that the dissertation fully meets the requirements of the Development of the Academic Staff of the Republic of Bulgaria Act and of the Rules for its implementation. Therefore, by giving a comprehensive **positive assessment of the work, I propose that the scientific jury to award Kristian Plamenov Raychev of the educational and scientific degree of "Doctor."**

Sofia, June 8, 2023.

Assoc. Prof. Dr. Vasil Hristov Pandov