



**PLOVDIV UNIVERSITY
“PAISH HILEENDARSKI”**

**FACULTY OF LAW DEPARTMENT
OF CIVIL LAW SCIENCES**

**TERMINATION AND CONCLUSION OF THE
ENFORCEMENT PROCESS**

**ABSTRACT
OF THE DISSERTATION**

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Introduction: The political events in Bulgaria over the last 34 years and the consequential significant changes in socio-economic relations in the country have had a considerable impact on all spheres of public life. This inevitably impacted the legal framework in the country. The need for the swift adoption of numerous laws to respond to the new social realities unavoidably lead to changes in procedural laws.

After numerous amendments to the Civil Procedure Code, in force since 1952, the legislative authority in the Republic of Bulgaria decided that there was a call for the adoption of an entirely new procedural law. Thus, in 2007, the current Civil Procedure Code was adopted. Although it repeats, to some extent, the regulation of its predecessor, it introduces many new elements. The adoption of the new Civil Procedure Code aimed, on the one hand, to improve regulation by addressing the numerous criticisms of the slowness and inefficiency of proceedings. On the other hand, the procedural law was intended to correspond more closely to European law, considering the accession of the Republic of Bulgaria to the European Union.

Due to the sharp transformation of the country's economy from planned to market-oriented and the overall reorientation in foreign trade, a large part of society found itself in a financially difficult situation. Many people were unprepared for the new socio-economic realities and were not accustomed to taking personal responsibility for their obligations. The significant indebtedness of subjects in civil turnover has made the enforcement proceedings under the Civil Procedure Code increasingly important. A decisive step towards more effective

enforcement was the introduction of the figure of private judicial enforcement agents in 2005. Despite some of them tarnishing the reputation of this profession in society, their emergence significantly contributed to a higher rate of collection of unsatisfied claims.

Considering that more than fifteen years have passed since the adoption of the current Civil Procedure Code, there has been a sufficient accumulation of legal literature and case law to highlight the main problems in the enforcement proceedings. The frequent legislative amendments to the texts in this part of the Civil Procedure Code are an unequivocal indication that there are quite a few imperfections in the regulation of enforcement proceedings.

Relevance of the Study:

The problems in the enforcement procedure often come to the forefront in legal circles. The frequent legislative changes are a solid testament to the continuous efforts to improve the proceedings for individual enforcement under the Civil Procedure Code (CPC). The relevance of the issues in the enforcement procedure is also evident from the multitude of interpretative decisions issued by the Supreme Court of Cassation in the field of enforcement proceedings over the last 10 years.

Among the most discussed issues, which have undergone fundamentally opposing interpretations in recent years, are those related to the limitation period in the enforcement process and peremption. Despite legislative interventions, numerous interpretative acts, and the rich causal practice

of various courts in the territory of the Republic of Bulgaria, many controversial and unclear questions remain in the proceedings until now.

The existence of a series of contentious issues that are not definitively resolved either in legal science or in case law underscores the relevance of this dissertation. At the same time, the research offers solutions to questions of great practical importance. The conclusions drawn in the dissertation can be utilized to find practical resolutions to contentious issues, both at the legislative level and in jurisprudence.

Subject of the Study:

The research focuses on the termination and conclusion of the enforcement process. In the academic investigation of the formulated topic, a detailed analysis of various hypotheses regarding the termination and conclusion of the enforcement process will be conducted, with a special focus on distinguishing the meanings of the terms "termination" and "conclusion" of the enforcement process. The dissertation will address significant problems observed in different hypotheses related to the termination of the enforcement process.

My research will devote close attention to the contentious issues associated with the limitation period in the enforcement process, as well as the concept of "peremption." I believe that the concepts of limitation period and peremption are often confused, especially in Bulgarian case law, where a clear distinction between the procedural nature of peremption and the substantive legal nature of the limitation period as a material legal term is not always made.

In my opinion, although these two legal concepts certainly share similarities, there are significant differences between them that should be clarified both in legal doctrine and in case law. I argue that, under the current regulatory framework in Bulgarian legislation, legal facts leading to the interruption of the peremption period do not always have a corresponding impact on the limitation period, and vice versa.

Throughout my academic research, I will present detailed arguments supporting the view that a strict equivalence should not be established between the two institutes, as they differ fundamentally in their nature and legal consequences.

AIM:

The practical orientation of the dissertation is evident in its aim to contribute to improved solutions by combining a comprehensive theoretical exploration of the issues with a detailed and critical analysis of the emerging court practices. The dissertation strives to shed light on and address key challenges associated with concluding and terminating enforcement proceedings, ultimately aiming to provide valuable insights and recommendations for the enhancement of the enforcement process under the CPC.

Methods of Research:

The dissertation utilized various academic research and methodological approaches, deemed necessary due to the comprehensive nature of the issues under consideration. The research methodology includes normative, historical-chronological, logical-analytical, and systemic approaches, supplemented, where necessary, by a comparative

legal analysis. The problems have been analyzed from both a theoretical standpoint and in consideration of practical intricacies observed in legal applications, with corresponding conclusions and generalizations made.

Contribution of the Research:

The dissertation represents the first in-depth study in Bulgarian legal literature on the issues of the termination of enforcement proceedings under the Civil Procedure Code (CPC). While certain aspects of this topic have been explored by other authors, this work marks the first structured and comprehensive analysis of individual aspects of the problems, arranged in a logical sequence. Some of the theoretical investigations are grounded in existing doctrine, but the originality lies in proposed solutions and advancements beyond the achievements of previous authors. As a completely novel aspect I consider the analysis and rejection of the understanding that executed enforcement actions are retroactively invalidated until the termination of the proceedings under certain hypotheses. A wholly new approach has been suggested in applying the grounds for terminating enforcement cases for maintenance based on Article 433, paragraph 1, item 1 of the CPC. The dissertation also introduces innovative proposals for improving legislation regarding the regulation of various institutes in the enforcement process.

Volume and Structure:

The volume and structure of the dissertation reflect its content. It consists of an introduction, exposition in four chapters, conclusion,

bibliography, and a list of referenced precedents. Each chapter includes separate sections, subsections, and sometimes subpoints. The main body of the work comprises 190 pages, and, including the title page, table of contents, bibliography, referenced precedents, the total volume amounts to 205 standard typewritten pages.

Summary of the dissertation:

Chapter One is titled "Termination of Enforcement Proceedings Due to Extinguishment of the Enforceable Right or Procedural Inadmissibility." The first section of the chapter clarifies the concept of "termination" of enforcement proceedings. In **Section 2**, the issue of terminating enforcement proceedings based on Article 433, paragraph 1, item 1 of the Civil Procedure Code (CPC) is examined. The initial part provides general remarks on the content and significance of the amendment, after which the study proceeds to an in-depth analysis of the most significant problems and contentious issues addressed in legal literature and observed in its application.

In Section 2.2.1, the first contentious issue regarding the termination of enforcement proceedings on this ground is analyzed. Specifically, it explores whether the enforcement agent is authorized to terminate the case by acknowledging extrajudicial settlement, extinguishing the creditor's claims under the enforcement order. After examining this controversial issue and presenting relevant achievements in legal scholarship and judicial resolutions, the conclusion is drawn that the enforcement agent does not have the authority to terminate the pending proceedings based on Article 433, paragraph 1, item 1 of the CPC by

acknowledging extrajudicial settlement. An exception to this stance is identified in cases where the creditor explicitly recognizes the extinguishing effect of the claimed settlement. The expressed position is justified by the powers and inherent functions assigned to enforcement agents. Enforcement agents do not have the authority to adjudicate on disputed substantive legal issues, as is the matter under consideration.

In **Section 2.2.2**, the second contentious issue is addressed, which is related to the application of Article 433, paragraph 1, item 1 of the Civil Procedure Code (CPC) in the case of unpaid voluntary payment by the debtor due to the creditor's fault. Through an analysis of the current regulations, the author concludes that the legislator's intent is for enforcement proceedings to be terminated based on Article 433, paragraph 1, item 1 of the CPC when the amount has been deposited for the creditor before their initiation, regardless of whether it has been accepted or not, as long as the lack of execution is due to the creditor's non-acceptance. A proposal *de lege ferenda* is made to amend the text, specifying that the sole basis for terminating the proceedings is the payment received by the creditor. Simultaneously, it is recommended *de lege ferenda* to regulate an explicit provision foreseeing the application of the rule in Article 78, paragraph 2 of the CPC in enforcement proceedings or an interpretative decision by the Supreme Court of Cassation (SCC) providing a mandatory interpretation that this rule applies in enforcement proceedings. I make the claim that this approach would achieve the original goal of the law, relieving the bona-fide debtor from unnecessary expenses in the proceedings while sanctioning the

mala-fide creditor. It is clarified that, according to the author, there is no obstacle for the rule in Article 78, paragraph 2 of the CPC to apply in enforcement proceedings, as the amendment is systematically placed in the general part of the CPC and should be applicable to all proceedings as long as it does not contradict specific provisions. In conclusion, it is pointed out that such an approach would completely resolve the presented problem.

The third contentious issue, examined in the first chapter of the dissertation, is outlined in Section 2.2.3. This concerns the applicability of the provision in Article 433, paragraph 1, item 1 of the Civil Procedure Code (CPC) in enforcement proceedings for the collection of alimony claims. The author expresses the opinion that this basis for terminating the enforcement proceedings should apply to alimony cases. The author's view contradicts the opposing position held so far in legal doctrine and case law on the matter. The author shares the concerns expressed by representatives of legal theory and jurisprudence regarding the creditors in alimony cases. The opposing position is argued on the grounds that the holder of the claim or their legal representative can initiate a new enforcement proceeding even with a one-day delay, and the claim will be collected if the debtor has sufficient income to cover the alimony or movable or immovable property. Execution can be directed against any claims of the debtor, including travel allowances, unemployment benefits, pensions, etc. Additionally, the criminal liability that the debtor bears for deliberately not paying the owed alimony is clarified, including intentional dissipation or concealment of their property to avoid

payment. The thesis is substantiated that the only possibility for alimony to remain unsatisfied is the complete absence of the debtor's assets, in which case the pending enforcement proceeding would not help. To achieve a balance between the parties and prevent potential abuses, it is proposed de lege ferenda to the existing version of Article 433, paragraph 1, item 1 of the CPC to include a provision stating: "Proceedings initiated for the collection of alimony shall not be terminated again on this ground if, after the initial termination, the debtor has delayed one or more payments." The opinion is expressed that the proposed approach aligns more closely with the goals of the enforcement process. An additional analysis is made of the privileges provided by the legislator for individuals entitled to alimony, and it is noted that no exception to the rule in Article 433, paragraph 1, item 1 of the CPC is envisaged for these individuals. In light of the detailed considerations presented, the thesis maintained by the author, albeit contentious, deserves attention and should be considered in case law.

In **section 2.3**, some essential issues related to the termination of the enforcement proceedings under Article 433, paragraph 1, item 4 of the Civil Procedure Code (CPC) are discussed. It is explained that in this terminating ground, the legislator has encompassed cases where it should be assumed that the enforcement order has been legally deprived of its force due to the annulment of the enforcement basis that served for its issuance. The hypotheses under which the terminating ground provided in Article 433, paragraph 1, item 4 of the CPC is realized are presented during the investigation. Weaknesses in the legislative regulation of some

of them are pointed out, and proposals for its improvement are made. The question of the retroactive nullification of the legal consequences of actions taken during the enforcement proceedings is raised again. A special issue pertaining to the limitation period in claims under Article 422 of the CPC for establishing a claim under an order for immediate enforcement is thoroughly examined. After analyzing the current legal framework, case law, and opinions expressed in legal doctrine, the following proposals are put forward:

1) The first proposal, suggested *de lege ferenda*, is to limit the scope of the fiction in Article 422, paragraph 1 of the Civil Procedure Code (CPC) only to orders for immediate enforcement under Article 410 of the CPC. It is explained that the envisaged legal fiction makes sense for them, as the court is duty-bound to perform actions related to serving the order on the respective debtor. Additionally, it is clarified that the creditor who filed the application is deprived of the opportunity to act during the period between filing the application and receiving instructions from the enforcement court for filing a claim under Article 422 of the CPC. The situation is entirely different for a creditor who has obtained an order for immediate enforcement under Article 418 of the CPC. Due to the highly simplified procedure by which the path of enforcement is revealed to the creditor, it is incumbent upon them to show active behavior. There are no obstacles for them to initiate enforcement actions, unequivocally interrupting the limitation period for the claim. Another argument in favor of this legislative solution is the systematic place of the regulation of the enforcement proceedings. The author has concluded that a

systematic interpretation of the procedure necessitates the inference that the enforcement proceedings should comply with the rules of the enforcement process. With the proposed solution, the court considering the positive declaratory action will have to assess whether, in the course of the enforcement proceedings initiated based on the order under Article 418 of the CPC, timely enforcement actions have been taken to interrupt the limitation period. The positive consequences of adopting the proposed solution are highlighted. It should be noted for comprehensiveness that, besides through legislative means, a similar solution can be introduced through the adoption of an interpretative decision by the Supreme Court of Cassation (SCC) on the matter.

2) The second suggested proposal for improving legislation in this area is in the hypothesis that the fiction regarding the moment of filing the claim will apply to orders under Article 418 of the Civil Procedure Code (CPC) as well. In this case, *de lege ferenda*, it is advisable to introduce a reasonable preclusive period, for example, three or six months, during which the applicant must provide evidence that they have initiated proceedings before the judicial enforcement agent based on the orders for immediate enforcement under Article 418 of the CPC and the enforcement order. As a sanction for the creditor's inaction in this scenario, the administrative nullification of the issued orders for immediate enforcement and the enforcement order should be regulated. Such a legislative solution is beneficial as it achieves the initial goal of the legislator, namely to provide creditors with a streamlined alternative to the lawsuit process, while ensuring that if they truly need immediate

enforcement actions, they will not have the opportunity to indefinitely extend the limitation period for the respective claims.

The question of the possibility of challenging the enforcement order with a negative declaratory action instead of an objection has been examined. Reasoning has been provided regarding the competition between the proceedings obtained in this case. The conclusion is drawn that it is more effective to formulate a provision that gives priority to the interests of creditors, with a corresponding proposal. It is summarized that the problem is multifaceted, and the author expresses hope that there will be a debate among representatives of legal scholarship on the issue to reach the most correct resolution.

In **section 2.4.** of the first chapter of the dissertation, the grounds for terminating the enforcement process under Article 433, paragraph 1, item 7 of the Civil Procedure Code (CPC) are examined. A distinction has been made between claims under Article 439 and Article 440 of the CPC and their respective legal consequences. General characteristics of both claims are presented. In the successful pursuit of either of these claims, the judicial enforcement agent will be obligated to terminate the proceedings or, respectively, the enforcement on the property not owned by the debtor. The correct understanding of the termination of the enforcement process by operation of law in these cases is emphasized. When presented with a certified copy of a legally effective decision that upholds any of the claims, the judicial enforcement agent has no right to decide whether to terminate the case or not. Material unlawfulness constitutes an absolute procedural obstacle to conducting the

enforcement process. All enforcement actions taken after the effective date of the decision will be invalid, as they lack a legal basis. Regarding this ground for termination, the question of retroactively invalidating enforcement actions performed before the decisions on claims under Articles 439 and 440 of the Civil Procedure Code (CPC) entered into force is examined once again. A negative answer is provided to this question, with arguments explaining why the author disagrees with this understanding of the considered termination ground. If material unlawfulness occurs at some point after the initiation of the enforcement proceedings, for example, if the claim has become time-barred during the process, then the execution will be unlawful from the date of the expiration of the limitation period. There is no reason for the actions taken up to that point to be retroactively nullified. They have had a legal basis, being lawfully carried out based on an enforceable act establishing the existence of an unsatisfied claim. This is particularly significant in cases of partially upheld claims under Article 439 of the CPC against only part of the claims in the enforcement order. The proceedings will remain pending for the forced satisfaction of the unpaid portion of the claims.

In **section 2.5**, the grounds for termination under Article 433, paragraph 1, item 3 of the Civil Procedure Code (CPC) were examined – when the enforcement order is invalidated. The hypotheses for which the legislator envisaged the invalidation of an issued enforcement order were discussed. Brief notes were made on cases where the enforcement order should be considered invalidated as a matter of law. As a result, it was

clarified that in the considered termination ground under Article 433, paragraph 1, item 3 of the CPC, the legislator considered only cases in which the court expressly issues a dispositive decision to invalidate the enforcement order.

The penultimate **section 2.6** explores the question whether the decision to terminate, based on the examined grounds for termination of enforcement proceedings, has a declarative or constitutive effect. The author adopted the view that this question should be answered differently regarding the grounds for termination discussed in the first chapter of the dissertation. It was concluded that the decision to terminate the enforcement proceedings based on Article 433, paragraph 1, item 1 of the CPC has a constitutive effect. The main argument in this regard is the recognition of the judicial enforcement agent's right to determine whether to accept the document presented to him, in which the debtor claims to have fulfilled the conditions of the amendment. The judicial enforcement agent has the right to assess both the compliance of the amounts in the enforcement order with those certified in the respective document under Article 433, paragraph 1, item 1 of the CPC, and whether the action was taken before the initiation of the enforcement case. The author also referred to the fact that the judicial enforcement agent should not terminate the proceedings when the creditor opposes it, arguing that their claim has not been satisfied. An additional argument in favor of the stated conclusion is that the provision regulates the termination of proceedings based on the presentation of a document, which is generally a private document. A private document cannot be attributed such a

strong effect, namely the termination of proceedings by operation of law. Based on these considerations, it has been concluded that the decision of the judicial enforcement agent to terminate the proceedings on this ground should be recognized as having a constitutive effect.

In the next part of the section, it is explained that the situation is entirely different for the grounds under Article 433, paragraph 1, items 3, 4, and 7 of the Civil Procedure Code (CPC). In these cases, the judicial enforcement agent does not have the authority to decide whether to terminate the proceedings or not. In each of these hypotheses, there is a judicial act that the judicial enforcement agent must comply with. Analyzed in detail are the opinions of prominent legal scholars on these issues. There are sufficient grounds to claim that it is incorrect to recognize the judicial enforcement agent's authority to make a conclusive decision regarding termination in these hypotheses. With these reasons, the author has adopted the view that it is more accurate to understand the termination of the enforcement process by operation of law in these cases.

In the final **section 2.7.** of the first chapter of the dissertation, the question of the retroactive nullification of the effects of executed enforcement actions is raised. The author has adopted the view that differentiation should be made when answering this question, considering the various discussed hypotheses. The first conclusion drawn in this part of the dissertation is that, in the examined termination grounds under Article 433, paragraph 1, items 1 and 4 of the Civil Procedure Code (CPC), it should be assumed that the legal consequences of the actions

are nullified retroactively. The actions taken before the termination would be procedurally lawful if they were carried out in a duly instituted and conducted enforcement case. However, if the same is terminated due to its material unlawfulness under any of the discussed hypotheses, then there had initially been no enforceable right. Therefore, this will serve as grounds for the return of unduly obtained amounts. In case the process was initially unlawful due to the lack of an enforceable right, the creditor will be obliged to return everything collected from the debtor. The actions taken are incapable of producing any effect regarding a non-existent claim. The author's opinion is further supported by the resolution given in Interpretative Decision No. 4/2017 of March 11, 2019, rendered in Interpretative Case No. 4/2017, SCC of the SCC, stating that the purported creditor who acquired the debtor's property through public sale does not become the owner of the same. The realization emerges that the issued order for the transfer of property from a public sale in favor of the apparent creditor does not create a real transfer effect since the enforcement process was materially unlawful. The author has reached the same ultimate conclusion regarding termination under Article 433, paragraph 1, item 3 of the Civil Procedure Code (CPC). It is explained that the hypotheses in which the enforcement order is annulled involve either its initially procedurally unlawful issuance (items 1, 4, 5, and 6 above) or the creditor's failure to timely exercise their procedural rights, resulting in the court dismissing the case. However, the claim is not denied with the effect of something presided over, nor is the possibility of seeking satisfaction in a subsequent legal process precluded.

Accordingly, in the absence of material lawfulness and if the retroactive nullification of enforcement actions is not recognized, the debtor will be compelled to comply with an obviously unlawful execution. The author has accepted that otherwise, there would be an absolute imbalance between the rights of the claimant and the debtor, as it would allow the claimant to derive rights from their own mala-fide procedural conduct. This is an unacceptable legal outcome, and therefore, the retroactive nullification of annulment is rightly recognized in the discussed hypothesis. The author concludes that this issue is not relevant at all when considering the claims under Article 440 CPC, as long as it does not lead to the substantive termination of proceedings in individual enforcement. In the scenario of a granted claim under Article 439 CPC, the answer to the question of whether the effects of the performed enforcement actions are nullified retroactively should be negative. If material unlawfulness occurs at some point after the initiation of the enforcement proceedings, for example, if the claim is time-barred during the process, then the execution will be considered unlawful from the date of expiration of the limitation period. There is no reason for the actions taken up to this point to be retroactively invalidated. They had their legal basis and were carried out in accordance with the law based on an executable act establishing the existence of an unsatisfied claim. This is particularly significant in cases of partially acknowledged claims under Article 439 of the Civil Procedure Code (CPC) against only some of the claims in the enforcement order. The proceedings will remain pending for the forced satisfaction of the unpaid portion of the claims.

Chapter two is titled "Termination of the Enforcement Process at the Request of the Creditor or due to the Death of the Judicial Enforcement Agent." As indicated by the title, this chapter examines scenarios where termination is solely at the discretion of the creditor or the judicial enforcement agent. Section 3.2 of the dissertation focuses on the grounds for termination under Article 433, paragraph 1, item 2 of the Civil Procedure Code (CPC), specifically in cases where the creditor has requested it in writing. Presented is an analysis of the procedure for terminating the proceedings based on this ground. The chapter also addresses and expresses opinions on the following disputed issues:

1. When there are joined creditors, should each of them express a desire for termination for it to be effective? The author concludes that if the initial creditor submits a written statement requesting termination, the judicial enforcement agent must terminate the enforcement, regardless of the views of the joint creditors and whether the claims of the other joint creditors, whether by right or by request, have been satisfied through payment or other means. An exception to this conclusion is made for a creditor who has joined the case with their own enforcement order. The author arrives at this conclusion after analyzing the systematic placement of provisions regarding the joining of creditors in enforcement proceedings. It is clarified that the enforcement process is initiated based on the enforcement order of the initial creditor, and when the initial creditor requests termination, especially if they request the return of the enforcement order, the proceedings will be deprived of the underlying executable act. The author also explains why this does not affect the

rights of joined creditors. The author's position aligns with established case law and the views expressed by other legal scholars on this matter.

2. The next question addressed in the termination of enforcement proceedings under Article 433, paragraph 1, item 2 of the Civil Procedure Code (CPC) is whether the judicial enforcement agent has the right to refuse termination due to unpaid fees related to the enforcement. The dissertation provides a negative answer to this question. The legislator has not envisaged such an additional requirement. It is explicitly stated in the discussed provision that the written statement of the creditor requesting termination of the proceedings is the sole and sufficient condition for the judicial enforcement agent to issue a termination order.

3. The third question addressed in the second chapter of the dissertation is whether the creditor has the right to request termination under Article 433, paragraph 1, item 2, against only some of the debtors in the enforcement case. A positive answer is given to this question. A guiding principle in civil procedure under the Civil Procedure Code (CPC) is the dispositivity principle. In the enforcement process, it manifests itself in the fact that the master of the process is the creditor. Within the bounds of its legality, the creditor is the one who chooses the type and extent of the sought protection. It is their will that determines whether they will seek enforcement from all joint debtors in the enforcement order or only some of them, and consequently, by what means. Attention is also drawn to the fact that there is no positive regulation that mandates the opposite.

4. The fourth contentious issue examined in this chapter is whether the creditor, having requested written termination of the enforcement proceedings, has the right to appeal the termination order. This question has also received a positive answer in the dissertation. The conclusion is primarily justified by considerations of legal certainty, and additionally, the responsibility of the creditor in case of abuse of rights is discussed.

Section 3.2 of the dissertation examines the basis for terminating enforcement proceedings under Article 433, paragraph 1, item 5 of the Civil Procedure Code (CPC). A critical analysis of the regulation is conducted. Considering the presence of absolute limitation period, non-sequestrability, peremption, and other forms of debtor protection in the enforcement process under the CPC, the author has concluded that thought should be given to the complete removal of Article 433, paragraph 1, item 5 of the CPC. The repeal of this provision will not unduly affect bona fide debtors since the institution of non-sequestrability will continue to protect their property rights necessary for securing the means essential for life.

In **section 3.3** of the dissertation, the basis for terminating the enforcement process under Article 433, paragraph 1, item 6 of the Civil Procedure Code (CPC) is discussed, which occurs when the due advance fees in the proceedings are not paid. After discussing the main characteristics of this basis, it is first concluded that there are discrepancies between the CPC and the Judicial Fees Act (JFA) in regulating persons exempt from paying advance fees. Article 81 of the JFA, which regulates the subsidizing of cases related to certain claims,

does not include two categories of persons provided for in Article 83, paragraph 1 of the CPC, namely special representatives and persons who have suffered from a crime. Additionally, it is noted that there is no clear legislative regulation regarding the applicability of Article 83, paragraph 2 of the CPC in the enforcement process. Although the rule is found in the general part of the CPC and therefore applicable in proceedings, in these cases there is no provision for subsidizing the due advance fees in pending cases before a private judicial executor. In light of the above, the author concludes that *de lege ferenda*, the above legislative gaps should be addressed by providing a specific procedure for applying Article 83, paragraph 2 of the CPC in the enforcement process and aligning the hypotheses outlined in Article 83, paragraph 1 of the CPC with those in Article 81 of the JFA. The next part of this chapter differentiates between the fee regimes for private and state enforcement agents. The opinion is expressed that mandatory interpretation should be supported, as stated in item 11 of Interpretative Decision No. 2/2015 of the Supreme Court of Cassation (SCC), that the enforcement agent is not obliged to terminate the proceedings before him due to non-payment of due advance fees. This is a legal option for him, but not an obligation. The question is raised whether the debtor can invoke the non-payment of advance fees and request termination under Article 433, paragraph 1, item 6 of the CPC. The response is given in the sense that such a request would be permissible but unfounded, as the assessment is entirely at the discretion of the enforcement agent.

In the next part of this chapter, **section 3.4**, the question is posed regarding whether the order of the enforcement agent to terminate the case has a declarative or constitutive effect in the considered hypotheses. The thesis put forward is that the effect is conclusively constitutive. This argument is substantiated by the fact that termination in these cases is a legal possibility available to the enforcement agent or the creditor. Additional arguments are presented regarding the other options available to the enforcement agent in case of non-payment of advance fees within the specified period, as well as the revocability of the creditor's statement requesting the termination of the proceedings.

In the final section of the third chapter, the question of whether the effect of the performed enforcement actions is reversed is discussed. The answer to this question is negative. The main argument in this regard is once again the fact that the legislator has regulated the termination ground under Article 433, Paragraph 1, Item 6 of the Civil Procedure Code as a legal possibility rather than an obligation for enforcement agents. It follows that, in the case of termination on this ground, the actions performed should not be declared invalid. It is clarified that the rights of the debtor are not affected in any way, as the fees due in the proceedings, up to the amount specified in Article 73a of the Civil Procedure Code, will be collected from the debtor regardless of whether they were paid in advance by the creditor or not.

Chapter three of the dissertation is dedicated to the ground for termination provided in Article 433, Paragraph 1, Item 8 of the Civil Procedure Code, commonly known as "peremption." This is the most

extensive chapter of the dissertation, in which numerous controversial issues are examined, and these will be summarized below.

First and foremost, a distinction has been made between the legal institutes of peremption and limitation period. The author has taken the position that there are similarities between the two institutes, but they differ significantly from each other. Limitation period is an institute of substantive law, while peremption is a procedural one. The author has concluded that they have completely different legal consequences. In this chapter of the dissertation, the differences in the running of the two terms are explained, showing that they have different starting points, different grounds for interruption and suspension, and different expiration moments. The understanding is presented that, in accordance with the mandatory interpretation given by the Supreme Court of Cassation's Interpretative Decision No. 2/2015 on Case No. 2/2013, there is a difference in the grounds for interrupting the running of the terms. The author accepts that the running of the procedural preclusive term under Article 433, Paragraph 1, Item 8 of the Civil Procedure Code is interrupted both by the creditor's request for the performance of the respective enforcement action and by its actual performance. In the case of limitation period, reverse interruption occurs only with an actually performed action in the proceedings for individual enforcement. The question of preserving the legal effect of actions performed before the grounds for termination arise is raised again. The author has adopted the position that there is no basis for accepting the thesis that the legal effect of all actions performed before termination lapses retroactively.

According to the author, this idea is incorrectly transferred mechanically from the lawsuit to the enforcement process. After a thorough examination of the issue, a categorical opinion is expressed that there is no reason, neither in legislative regulation nor in legal logic, to assume that termination has retroactive effect and nullifies actions already performed during the enforcement process.

In the next part of the discussion, the question of whether the enforcement actions performed after peremption interrupt the running of the limitation period is examined. This question is of utmost practical importance since, a little over two years ago, it found a positive answer in case law. In this part of the dissertation, the author vehemently disagrees with this interpretation. The disagreement is substantiated by the argument that the proposed resolution in case law contradicts the positive regulation by introducing non-existent and, at times, impossible duties for enforcement agents. In the subsequent part of the third chapter, the conclusion is drawn that the enforcement actions performed after the termination of the case due to peremption are null and void. They do not manifest the intended legal consequences, which would be expressed in the interruption of limitation period. Nevertheless, if, as a result of these actions, amounts are collected from the debtor before the creditor's claims are extinguished by prescription, they are not subject to reimbursement. The amounts will have been collected as a result of unlawful actions, but at the same time, they will not have been obtained without a legal basis, hence there will be no unjust enrichment. However, the situation is

different regarding the fees charged for the unlawful actions. Their collection from the debtor has not occurred on a valid basis.

In the same third chapter, the question of whether the prescriptive period under Article 433, paragraph 1, item 8 of the Civil Procedure Code (CPC) runs separately for each debtor in the hypothesis of solidary debtors in the enforcement process is examined. In analyzing the problem, the author has concluded that the period runs separately for each of the solidary debtors, regardless of the practical problems that may arise, which can be easily overcome.

In conclusion of the penultimate section of the third chapter of the dissertation, the author has stated that the institute of peremption in the enforcement process represents a complex and challenging phenomenon in Bulgarian civil procedure. The problems arising from its interpretation and application outweigh its benefits. The institute was introduced into Bulgarian law with the adoption of the Civil Procedure Code in 1952. Similar institutes are not present in modern, developed states to which Bulgaria aspires. It does not correspond to contemporary life and social realities. For the time being, its existence is somewhat necessary due to the significant indebtedness within Bulgarian society, which presupposes the presence of a large number of enforcement proceedings in the country. Brief notes are provided regarding the decisive legislative steps taken to address the issues related to the over-indebtedness of large groups of Bulgarian citizens and the prospects for further improvement of legislation in this regard.

In the last and fourth chapter of the dissertation, the institute of concluding the enforcement process under the Civil Procedure Code (CPC) is examined. The concept of concluding the enforcement proceedings is clarified. The opinion is expressed that there are no observed problems in connection with the application of this institute, and a positive view is presented regarding the current regulatory framework.

CONTRIBUTIONS IN THE DISSERTATION

1. The dissertation represents an attempt to comprehensively study the termination and conclusion of the enforcement proceedings under the Bulgarian Code of Civil Procedure (CPC), as well as to highlight controversial points in legal doctrine and issues in judicial decisions regarding various termination scenarios. While a significant portion of the questions has been explored in Bulgarian legal doctrine, this dissertation marks the first attempt to conduct a structured and comprehensive analysis of individual aspects of the issues, organizing them in a logical sequence.

2. Contributions to Bulgarian legal doctrine include a series of proposals for improving the legislative framework and mandatory interpretations, both regarding the termination of enforcement proceedings and in other proceedings and legal institutions.

3. I regard as novel the effort to introduce a differentiated approach in examining the issue of retroactive nullification of the legal consequences of actions performed prior to the termination of

enforcement proceedings by providing a different answer for different grounds.

4. The attempt to introduce a differentiated conclusion regarding the nature of the decisions of judicial enforcement agents to terminate proceedings stands out for its originality and novelty. A distinction has been made between constitutive and declarative nature in different scenarios under Article 433, paragraph 1 of the Civil Procedure Code.

5. The conclusions reached in the dissertation provide a useful starting point for further research and resolution of issues related to the termination of enforcement proceedings under the Civil Procedure Code. They are also relevant to addressing specific problems in other legal proceedings and the institute of limitation period.

PUBLICATIONS RELATED TO THE SUBJECT OF THE DISSERTATION

1. "Some Issues of Extinctive Prescription in Enforcement Proceedings with Issued Enforcement Order under Article 418 of the Civil Procedure Code" – research paper published in Spring Legal Days, 2020. Volume 1, 2021, Plovdiv, Paisii Hilendarski University Press, editors: A. Shopov, A. Alexandrov;

2. "Termination of the Enforcement Process under Article 433, Paragraph 1, Item 5 of the Civil Procedure Code"¹⁴, a research paper presented at the XI National Conference of PhD students, postdoctoral researchers, and young scientists in the field of legal sciences, organized by the Institute for State and Law at the Bulgarian Academy of Sciences, July 2-4, 2021,

Hotel 'Kazanlak,' Kazanlak – the publication of the proceedings is forthcoming."

3. "On Some Issues Regarding the Termination of Enforcement Proceedings under Article 433, Paragraph 1, Item 1 of the Code of Civil Procedure' – a research paper published in the collection 'Property Relations in Law – Development and Perspectives,' held on November 27, 2020, organized by Paisii Hilendarski University, 2021, ISBN: 978-619-202-672-1;

4. "The Extinctive Prescription in Enforcement Proceedings under the Code of Civil Procedure" - a research paper published in the collection "70 Years of the Judiciary Act – Achievements and Perspectives," held on October 29, 2021, organized by Paisii Hilendarski University, ISBN: 978-619-226-224-2;

5. "Do the Executory Actions Lose Their Legal Consequences Retroactively When Terminating the Enforcement Proceedings Under Article 433, Paragraph 1, Item 8 of the Code of Civil Procedure?" - a research paper presented at the XII National Conference of PhD Students, Postdoctoral Researchers, and Young Scientists in the Field of Legal Sciences, organized by the Institute for State and Law at the Bulgarian Academy of Sciences, July 10-12, 2022, in Varna. The publication is forthcoming in the conference proceedings.