

To the members of the Scientific Jury

Opinion

from

Prof. Dr. Simeon Vladimirov Tasev

Member of the scientific jury for awarding the degree of Doctor of Education and Science,
professional field 3.6 "Law", Doctoral Program "Civil and Family Law" at Plovdiv
University "Paisii Hilendarski"

author of the dissertation Nikola Petev Yovchev

TOPIC:

"Effect of the testament under Bulgarian Succession Law"

Dear members of the scientific jury,

I present to your attention my opinion on the dissertation of the PhD student Nikola Yovchev with the title " Effect of the testament under Bulgarian Succession Law ".

I. General Characteristics and Form of the Dissertation

The dissertation is 260 pages long and includes a list of bibliographic sources used. The study includes 415 footnotes. The work consists of a table of contents, an introductory part describing the subject, objectives, aims and methodology of the study, six chapters dealing with different aspects of the problem posed and a concluding part summarizing the conclusions drawn. The list of references used contains 103 titles, including editions in Italian, English and Russian.

The dissertation research examines the testament as a classical institution of inheritance law and its effect in particular. For this purpose, the author has traced the initial emergence of the covenant within the framework of Roman private law and its historical development, paying attention to a comparative analysis with the regulation in the French and Italian civil codes. Opinions on doctrinal and general theoretical issues are put forward, and the work is also linked to current case law as of early 2024.

II. Content analysis of the work

The introduction justifies the choice of topic and its relevance. The subject, the objectives, the scientific tasks of the research and the methodology used are stated.

In chapter one, the author examines the emergence of the concept of private testamentary dispositions and the development they underwent in the context of Roman law. This is followed by a discussion of the testament in the different periods of the Bulgarian state and law. In the process of analysis, the main legal systems that have served to adopt modern legislative solutions are outlined.

In this part, the study reaches several more significant conclusions, namely the historical and comparative legal relationship between different legal systems and the existence of most of the means of regulating testamentary dispositions from antiquity. On this basis, it is concluded that the particular regulation was more a matter of political and social expediency than legal innovation.

Chapter Two analyses the different characteristics of the covenant as a type of unilateral transaction. The exposition is comprehensive, paying attention to the practical implications of each of the individual features of the legal institute. Based on the outlined specifics and a detailed analysis of the doctrine, a definition of the concept of testament is proposed.

The second paragraph presents the testament through the lens of the testator, thus covering a significant part of the effect of the legal institution. Attention is also paid to the differentiation between the testament and other legal institutions. The chapter concludes with a presentation of the impact of modalities on the effect of the testament.

Chapter Three is devoted to the features of the main types of testaments and the influence of these categories on its effect. Relevant examples from case law are given to illustrate the variety of legal effects that a testament could have.

Chapter Four discusses the possible objects of private testamentary dispositions. The author sets out his argued thesis on the testament of separate rights and legal sets. Special attention is paid to the controversial issues in the relevant matter.

The exposition in chapter five is centered around the issue of the circumstances hindering the effect of the testament. The special grounds for nullity provided for in the Succession Act are comprehensively presented and the hypotheses in which the Obligations and Contracts Act will find subsidiary application are illustrated. Subsequently, the author also discusses the hypotheses of revocation and annulment of the covenant.

The last chapter, chapter six, is devoted to the responsibility of the testator. Within the chapter there are three paragraphs on Article 66(2) of the Succession Act, Article 68 of the Succession Act and the reduction of the testament in case of prejudice to the reserved parts.

III. Contributions to the dissertation

The dissertation is a monographic study of the legal framework of the testament and its operation. This is a topic that has been little studied in the Bulgarian legal literature, which underlines the importance of the work.

The dissertation is distinguished by a number of scientific contributions, the most important of which are the following:

The operation of the testament has not been thoroughly discussed in Bulgarian doctrine. Within the framework of the study, questions have been raised which, although addressed in individual writings, have not been dealt with in their systematic coherence.

The proposed historical reading summarizes the development of the testament in the context of Bulgarian law and its genesis. It highlights the main social needs that led to the emergence of the legal institution and the changes that it underwent in view of the needs of the civil circulation.

The overall structure of the study is combined with comparisons with the French and Italian civil codes. The specific relationship between the inheritance laws of the three countries is highlighted. On this basis, suggestions are made concerning the interpretation and application of the legal rules, and *de lege ferenda* changes are proposed.

The main features of the testament as a legal institution are outlined and a definition based on legal norms, doctrine and case law is proposed.

Case law reflecting the perspective of the higher courts on the interpretation and application of the legal rules governing the institution of the testament is compiled.

A modern reading of the regulation of the rights of legatees, their liability for obligations to the estate and the share of necessary heirs, the possible objects of the will, the influence of the optional content of the will on dispositions, etc. is proposed.

IV. Notes and recommendations

Of course, critical remarks can be made about the work. In order to strike a balance between the chapters, the present chapter three, pp. 112-132 could be incorporated into Chapter Four, pp. 134-190. Separately, there is a link between chapters five and six, which could also be merged. I recommend that the dissertator, after the defense of the dissertation, publish the

work as a monograph, which should also reflect recent case law. Finally, from a technical point of view, it is advisable to list the literature used in alphabetical order of surname and first name (pp. 252-260).

V. Conclusion

The critical remarks made do not call into question the noted merits of the work. The requirements of the Development of the Academic Staff Act and its Implementing Rules have been complied with. The dissertation "The Effect of the Testament in the Bulgarian Law of Succession" by the PhD student Nikola Yovchev is an original scientific monographic research, with contributions to the development of legal science and practice, therefore it deserves a positive evaluation.

On the basis of the foregoing, I propose with full conviction to the distinguished members of the Scientific Jury to decide to award Nikola Petev Yovchev the degree of Doctor of Law in the professional field 3.6 "Law" (Civil and Family Law).

13.06.2024

Sofia

Respectfully_____

(Prof. Dr. Simeon Tasev)