

REVIEW

by **Assoc. prof. Ventsislav Lyudmilov Petrov, Ph.D.**, lecturer at the Faculty of Law of Sofia University "St. Kliment Ohridski", member of the scientific jury according to Order No. 21-932/07.05.2024 of the Rector of the University of Plovdiv "Paisii Hilendarski"

Subject: Dissertation for awarding the educational and scientific degree "Ph.D." in the field of higher education 3. Social, economic and legal sciences, professional field 3.6. "Law" (Civil and Family Law)"

Ph.D. student: **Nikola Petev Yovchev**, Ph.D. student at the Department of Civil Law at the Faculty of Law of the University of Plovdiv "Paisii Hilendarski"

Topic of the dissertation: **"Effect of the Legacy under Bulgarian Inheritance Law"**

1. Ph.D. student data

Nikola Petev Yovchev graduated from the University of Plovdiv "Paisii Hilendarski", specialty "Law", in 2019 and was enrolled as a half-time Ph.D. student at the Department of Civil Law studies at the Faculty of Law of the University of Plovdiv "Paisii Hilendarski" in March 2020 with a tutor Assoc. Prof. Velina Todorova, Ph.D. From 2021 to the present day, he has been working as a legal expert at the Constitutional Court of the Republic of Bulgaria – a circumstance that is probably conducive to his scientific research.

2. Details of the procedure

The submitted documents certify that the PhD student meets the minimum national requirements under Art. 2b, para. 2 and 3 of ZRASRB and Art. 25 of PPZRASRB. The documents required by the legislation are available, incl. Declaration of originality, order for expulsion of the PhD student with the right to defend, list of publications and text of the publications, CV. There is no evidence of violations in the procedure.

3. Dissertation

[Type here]

The dissertation is developed on 260 pages, of which the text of the study occupies 247. The volume meets the requirements for a dissertation for acquiring an educational and scientific degree of "Ph.D."

The topic of the study is both classic and particularly relevant. It has a wide practical application, which has intensified in recent decades with the restoration of free economic initiative and the accumulation of property rights of various content in the patrimony of persons. It can be discussed whether the title of the work is narrower than its content, insofar as it also deals with other aspects of the testament, outside of the action, for example types of legacies and its possible objects.

The bibliography lists 103 titles (monographs, studies and articles), of which 98 are in Bulgarian and 5 in foreign languages (English and Russian). 415 footnotes were made. Almost all relevant studies in Bulgarian were used, as well as a small number of titles from foreign literature relevant to the problems.

The work is structured in an introduction, six chapters, and a conclusion. Each chapter is divided into structural subdivisions of several grades. It may be recommended to summarise the issues in three or four bigger chapters.

In the introduction, the relevance of the study is argued, the tasks and the research methods used are indicated, the logical sequence of the study is substantiated. It can be recommended to explicitly state the thesis of the dissertation in the introduction.

Chapter One is entitled "The Appearance and development of the legacy." The appearance of the institute in Roman law, as well as the development of the regulation in the Bulgarian legislation, is examined. The fact that the dissertation not only provides information, but draws its own conclusions about the development of the regulation and the trends in this development can be positively assessed.

Chapter Two is entitled "The Legal Essence of the Legacy. Characteristics and distinctions. Meaning of Modalities". The features of the legacy as a type of transaction are examined; the rights arising for the legatee are analyzed; attention is paid to the modalities under which the legacy can be; a comparison with similar legal phenomena is made. Of the latter, the greatest attention deserves to the derivation of the similarities and differences with the private legal succession in relation to the municipality in the hypothesis of Art. 11 of the Inheritance Act.

Chapter Three discusses the different types of legacies – direct and indirect; according to the object to be bequeathed; transferable and constitutive testament (it may be recommended that the title of the last section be such). The dissertation draws conclusions about the different needs of the testator and/or legatee that each of the types of legacy satisfies.

[Type here]

Chapter Four is titled "The Subject of the Legacy". The various subjective rights that can be transferred by covenant are considered; it is also indicated which could not be alienated in this way.

Chapter Five is entitled "**Circumstances Preventing the Operation of the Legacy**". It discusses the grounds for nullity and voidability of a will, as well as the types of revocation of a will.

The last chapter is called "The Responsibility of the Legatees". It analyzes the hypotheses of Art. 66, para. 2 and Art. 68 of the ZN, concerning the competition between creditors and legatees upon satisfaction by the heir, as well as the reduction of a legacy due to the restoration of a reserved share.

The **conclusion** of the dissertation summarizes the scientific conclusions reached. It can be recommended to systematize in this part the de lege ferenda proposals made in the different parts of the work.

A comprehensive reading of the work shows that its author has good knowledge in the various branches of private law.

4. Other publications of the PhD student on the topic of the dissertation

The PhD student has presented four scientific publications on the topic of the dissertation – 1. Yovchev, N. Protection of Creditors under the Special Succession under Art. 11 of the Inheritance Act. - Legal Thought, 2020, No 4, pp. 23-41; 2. Yovchev, N. Types of Legacies and their practical features. - Legal Thought, 2022, No. 4, pp. 78-94. 3. Yovchev, N. Types of legacy and their practical features. – In: Collection of scientific studies in honor of prof. Tsanka Tsankova". Sofia: University of Arts "St. St. Kliment Ohridski, 2023, pp. 312-324; 4. Yovchev, N. Special subject of the Legacy. - Legal Thought, 2024/ No 1.

This fulfills the scientometric requirements for acquiring the educational and scientific degree of "Ph.D".

The scientific conclusions reached in these articles are incorporated into the dissertation, therefore they will not be subject to separate consideration. They reflect the path of the research conducted by the PhD student and the gradual achievement by her of original and justified scientific conclusions.

5. Abstract

The abstract is 32 pages long. It contains an argument for the relevance of the study; subject, purpose and method of the study; exposure to the structure; A brief summary of the content of the dissertation, which also indicates the scientific contributions made by the PhD

[Type here]

student, publications on the topic of the dissertation. It can be concluded that the abstract meets the content requirements.

6. Scientific contributions

The dissertation contains a number of scientific contributions, representing the author's theses or original arguments to views already set forth in the doctrine. Some of them will be indicated here, without claiming to be exhaustive.

A contributive character is the consideration of the legacy in accordance with its economic and social goals – a technique that should be followed in every private law study.

The results of the historical study of the development of the legacy and the derivation of trends in it should also be mentioned as a contribution.

Although not as a scientific contribution (insofar as it is not a result, but a method of research), the way of using comparative law analysis (mainly of Italian legislation) should be positively evaluated – not as an artificially separate part of the study, unrelated to the other parts, but as an analysis implemented in the different sections, accompanying the other scientific methods.

The results of the demarcations made from various legal phenomena (beyond the comparisons typical for our literature) are also of an original character.

Of a contributing nature is the thesis that *de lege ferenda* the effect of Art. 37, para. 1 of the ZN should be limited only to gratuitous dispositions by the legatee or donations.

The analysis of the question from what moment the fruits should be due in case of cancellation for the restoration of the reserved part of the testament, as well as the proposal *de lege ferenda* formulated in this sense (p. 240), is of the same nature.

The arguments put forward in favor of one of the views in the dispute are also original, as well as what is the fate of the obligation to conclude a final contract (pp. 225-226).

The conclusion made about the impossibility of being subject to a legacy should also be factual states such as the commercial clientele (the author's opinion regarding the legacy of possession is debatable, but the doctrine has no consensus on this issue).

The thesis on page 105 that the prohibition of termination combined with conversion (inaccurately called by the author transformation) into a legacy of usufruct use should be extended *de lege ferenda* to the private testamentary disposition is also of an original nature.

7. Critical notes and recommendations

[Type here]

Some criticism and recommendations can also be made to the work. They are made with the aim of supporting the PhD student in his possible future research work and do not belittle his scientific contributions.

In the introduction, the thesis of the dissertation should be clearly highlighted – the main statements of the PhD student on the scientific problem posed, which he subsequently defends with his analysis in all chapters.

Traditionally, it is accepted that the dissertation is structured in three or four chapters. This is not an end in itself, but has the task of showing whether the PhD student has the ability to make scientific summaries.

There are some inaccuracies in the naming of chapters and sections. For example, translational and constitutive succession are types of succession, not types of legacy, as the reader might be impressed with in Chapter Three. Chapter Five is entitled "Circumstances hindering the effect of the legacy", but the annulment does not actually prevent the effect of the Testament, but leads to the retroactive cancellation of its already occurring consequences. In the event of a reduction of a legacy for the restoration of a reserved part, there can be no question of the responsibility of the legatee, as the title of the sixth chapter says.

The use of legal literature in languages other than English and Russian may be recommended. As the author himself notes, in the creation of the Bulgarian civil (including inheritance) legislation, reception was used mainly from the French and Italian legislation (provisions of the latter are repeatedly cited by the dissertation). The Ph.D. student noted in his CV that he was fluent in Italian, a circumstance that would be conducive to the analysis of literature in the application of the Codice civile of 1865 and 1942.

Some technical notes can also be made. The citation of sources in many places does not follow the bibliographic rules, and is not uniform (for example in some places the city of publication is indicated before the publisher, in other places it is the other way around). The name of the journal in which the relevant article was published is not put in quotation marks, and the year is indicated before the issue (for example Contemporary Law, 2020, No. 4).

In a number of places in the work there are some legally inaccurate expressions. For example, the introduction states that "this work is aimed at examining and analyzing the sporadic information offered by various sources." On page 8 it is written that "the genesis of the idea of the legacy occurred within the framework of Roman law"; on page 9 – that inheritance law "a system of norms regulating a certain part of the objective right" (inheritance law, in fact, is a part of the Law regulating a certain range of social relations). The repeatedly used term "historical reading" can be replaced by "historical analysis". On page 217 there is talk of "cancellation of testamentary dispositions due to fraud".

[Type here]

8. Conclusions

Based on the above, it can be concluded that despite some inaccuracies, the Ph.D. student has carried out in-depth research through various research methods and through them has reached original scientific conclusions or new arguments in favor of theses already presented in the literature. His views are well argued, which shows an established ability for independent scientific research.

9. Conclusion

On the basis of all the above, I vote in favour of awarding the educational and scientific degree of "Ph.D." in the field of higher education 3. Social, Economic and Legal Sciences, professional field 3.6. "Law" (Civil and Family Law) of the PhD student at the Faculty of Law of the University of Plovdiv "Paisii Hilendarski" Nikola Petev Yovchev.

18.06.2024

Reviewer:.....

(Assoc. prof. Ventsislav L. Petrov, Ph.D.)

[Type here]