

**To the members of the Scientific Jury
chaired by prof. Stoyanov**

OPINION

by Assoc. Prof. Dr. Maria Petkova Kyoseva

Associate Professor of Commercial Law, Faculty of Law, assigned as a member of the Scientific Jury with order № ПД-21- 932/07.05.2024 of the Rector of Paisii Hilendarski University

Subject: public defense of a dissertation for the award of the degree of Doctor of Education and Science

Field of higher education: 3. Social, Economic and Legal Sciences,

Professional field. 3.6. Law (Civil and Family Law)

Scientific supervisor: assoc. dr. Velina Todorova

I. Data about the dissertant

Nikola Petev Yovchev has completed his secondary education at the "Iv. Vazov" language school in the town of Plovdiv. He graduated with a degree in Italian and Russian in 2014. In 2019 he graduated with a Master's degree in Law from the Faculty of Law of the University of Paisii Hilendarski. From March 2020 to March 2024 he is a part-time PhD student in the specialty of Civil and Family Law.

During the doctoral studies he conducts seminars on the subjects "Civil Law - General Part" and "Family and Succession Law".

From 17 May 2021 Nikola Yovchev works as a legal expert at the Constitutional Court of the Republic of Bulgaria.

II. PhD, abstract and publication data

Nikola Yovchev was enrolled as a part-time PhD student at the Department of Civil Law, Faculty of Law of PU by order № P33- 530/03.02.2020 and was dismissed with the right to defend on the basis of order ПД-21-602/15.03.2024 of the Rector of PU. During the doctoral studies he has successfully passed the compulsory examinations on the scientific specialty and the topic of the dissertation. The dissertation was discussed and proposed for defense by the Departmental Council of the Faculty of Law with the Minutes of 26. 04. 2024, approved by a decision of the Faculty of Law (Protocol № 120/26.04.2024). By Order № ПД-21-932/07.05.2024 of the Rector of PU the composition of the scientific jury and the term of the public defense was determined. It is evident from the arguments thus set out, supported by the attached documents, that no violations of the legal framework have been found in the conduct of the procedure.

The doctoral candidate has prepared and presented an abstract that complies with the regulatory requirements - he has justified the relevance of the research, the subject, purpose and methodology of the research, the structure, the main points of the work and the scientific contributions, as well as a bibliographic reference and publications on the topic.

The following articles are attached:

The publications of the Ph. Yovchev's four articles are directly related to the topic of the research and collect the required number of points - 50 points out of the required 30 points. Therefore, the PhD student fulfils the scientific-metric requirements for obtaining the degree of Doctor (dissertation - 50 points and published articles - 50 points).

III. Characteristics of the dissertation and content analysis

The content of the dissertation follows the classical structure of doctoral dissertations with the peculiarity that more chapters are presented - six, which are preceded by an introduction and summarized in the final part. A bibliography is appended. The length of the dissertation is 260 pages and includes 416 footnotes. The study also comments on a number of judicial decisions which are indicative of the practical problems of resolving disputes concerning covenant as a classical institution of the law of succession. The literature used comprises 103 titles of books, studies and articles, including Italian, English and Russian.

The dissertation "Effect of the Covenant in Bulgarian Inheritance Law" is an in-depth monographic comprehensive study on the covenant in Bulgarian law, i.e. the content goes beyond the title of the work, which refers to the effects or its effect. Exceptional efforts have been made and a very wide range of issues have been covered in clarifying the nature of this important institution of inheritance law. The very good style of exposition and the use of the precise conceptual apparatus of the law, presented in a precise form of language, are remarkable.

In the Bulgarian legal literature there is another scientific work devoted to the issue of the covenant - namely the monographic study of Assoc. V. Petrov "Inheritance of Obligations and Liability for Covenants", but the dissertation under discussion has a different scope and subject of study.

Chapter 1 "The Emergence and Development of the Testament" traces the historical development of the institution, beginning with Roman law and tracing its development in the context of changing social relations in the continental legal system, and the historical development of testamentary dispositions in the Bulgarian state and law. The author concludes that the conceptual development of the testament in historical and comparative legal terms is primarily due to expediency dictated by the turnover of life, rather than the need for legal innovation.

Chapter Two is devoted to "The Legal Nature of the Covenant. Characteristics and Distinctions". The inseparable link between the right to property and the covenant as a means of its preservation and development is found. A reasoned claim is made for the logical interdependence between the inviolability of private property and testamentary freedom. The testament is clarified as a unilateral, formal, gratuitous transaction and as a revocable legal act, as a transaction *mortis causa*. Different doctrinal definitions of testament are correctly presented and one is derived by the author which covers the basic characteristic of testament "as a disposition giving rise to the possibility of acquiring after the death of the testator a property right or an aggregate, on the basis of which the successor acquires the status of legatee".

On the positive side of the scholarship, the modalities of condition, term, and burden are discussed, as well as their relationship and significance to the covenant.

Chapter Three is devoted to "Types of Covenants and their Practicalities" focusing on the distinction between express and implied covenants and their relevance to practice under different legal consequences. Also of interest is the significance of the type of succession that is established - constitutive or translational succession. This division is of the utmost practical

importance because it determines the part of the subject matter and the extent of the powers that are transferred to the successor.

Chapter Four analyzes the subject matter of a covenant, i.e., the various rights that could be subject to a covenant. It is noteworthy that the author has tried to be comprehensive about the variety of rights, including intellectual property rights, family rights, employment and insurance rights, as well as membership rights in certain commercial companies and other aggregates. Outside the heading of sub-clause 4.6.2 Membership relationships, the issue of shares as subject to covenants is briefly discussed. In this part the work could be completed and refined. This comprehensive and exhaustive approach in Chapter 4 on covenant rights is contributory. The critical analysis of the covenant of possession, as well as the covenant of the promissory right of claim, and the related manner of giving notice to the covenant debtor, the time of passing of the right to the covenantor, the extent of the right transferred, etc., is original. The comparison with the institute of assignment is useful. It is logically concluded that, due to the emergence of new subjective rights, the institution is dynamic in terms of the subject matter of the covenant.

Chapter Five discusses circumstances preventing the operation of the covenant. The systematic, analytical and critical approach to the grounds for invalidity and revocation is positive. The grounds for nullity and revocation are exhaustively analyzed and appropriately contrasted with common grounds in civil law.

Chapter Six addresses the liability of legatees. The author discusses the right in favour of creditors to seek a corresponding reduction of the wills in the event of insufficiency of the heritable assets. The relationship between heirs entitled to a reserved portion and legatees or the statutory protection of necessary heirs and the guaranteed portion of the heritable estate which they should receive is also considered.

IV. Scientific and applied contributions.

The choice of the topic of the doctoral dissertation "Effect of the Covenant on the Bulgarian Law of Succession" is of a contributory nature. This is the first monographic study devoted to the covenant as a classical institution of inheritance law. The scientific and applied contributions are: the historical and comparative legal overview of the covenant from the Roman law to the present day - legislation, case law, theoretical views and critical analysis; the derived definition of the covenant based on different scientific interpretations; the detailed, systematized, critical presentation of the rights subject to the covenant; the comparative analysis

of the grounds under civil law and the specifics concerning the nullity and revocation of the covenant; the protective mechanisms for the remaining heirs and creditors under the covenant.

V. Main critical remarks and recommendations.

It was stated at the beginning of the submission that I find the title narrower than the content due to the fact that it goes beyond the operation of the covenant, and there is a comprehensive, in-depth study of the covenant under Bulgarian law.

I believe that the heading of the paragraph "Membership Relationship " is inaccurate as a type of aggregate insofar as the subject matter of the discussion includes a covenant of a partnership interest and shares, notwithstanding that there is a connection and conditionality between them. This subject matter suggests a supplementation and refinement of the study of the covenant of partnership shares and the types of shares and the specifics they reveal due to their complexity and particular nature. Moreover, this issue of commercial law completes the scope of the covenant concerning the rights that could be its subject, which leads to completeness of the exposition.

These remarks and recommendations do not diminish the value of the dissertation; it is extremely thorough, with many scholarly achievements and precise legal language, which is a contribution to legal scholarship.

VI. Conclusion.

On the basis of my opinion and the achieved positive results, topicality of the topic and scientific contributions, I confidently propose to the Scientific Jury to award the degree of Doctor of Education and Science to Nikola Petev Yovchev, part-time doctoral student, for his dissertation work "Effect of the Covenant in the Bulgarian Law of Succession", field of higher education 3. social, economic and legal sciences, professional field 3.6. Law.

13.06.2024 г.

Prepared by:

Assoc. Prof. Maria Kyoseva