Summaries of peer-reviewed publications
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in English

1. **Mangatchev, Ivan, Settlement finality: Legal framework, Ciela, 2013, ISBN 9789542812685**

   (Publication 3.1. on indicator 3, Annex 2 of the self-assessment report)

Summary

Settlement finality is new and less known in legal theory. For legal practitioner, this legal concept is becoming increasingly important. On the one hand, a large part of cashless payments in the country are made through systems with settlement finality, and on the other hand, it is important what are consequences of commencement of insolvency proceedings against a system's participant and the impact of such proceedings on the system itself. It is considered necessary to adopt a specific legal framework aimed at safeguarding financial stability as a whole and preventing the emergence and spread of so-called systemic risk, or the risk associated with the inability of a participant in a payment system or financial market to meet its obligations in a timely manner and thereby causing the inability of other participants to meet their required obligations. The monograph, in addition examines Bulgarian legislation and also includes an analysis of the legislation of a number of countries, such as the UK, Germany, Denmark, Estonia, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, Malta, Norway, Poland, Portugal, Slovakia, Slovenia, France and Croatia), as well as the system rules of several operators of systems with settlement finality.

2. **Mangatchev, Ivan and Tsoneva, Silvia in Martin Santisteban, Sonia and Sparkes, Peter (eds.) Protection of immovables in European legal systems, Cambridge University Press (2015), ISBN: 9781107121928.**

   (Publication No 6.1 on indicator No 6, Annex 4 of the self-assessment report)

Summary

The report on Bulgarian property law presented by Dr. Managtchev and Dr. Tsoneva takes the form of answers to questions related to the protection of property rights. The report analyses not only the Bulgarian legislation in force, but also legal theory and case law. The presented report is a contribution to the promotion of the achievements of the Bulgarian legal theory and practice in the European and global aspects.

3. **Mangatchev, Ivan, TARGET 2 and Settlement Finality, Acta Universitatis Danubius. Juridica, Vol 7, No 1 (2011), Print ISSN: 1844-8062. Online ISSN: 2065-3891**

   (Publication No 6.2. on indicator No 6, Annex 4 of the self-assessment report)

Summary

This article examines how TARGET 2 as a system implements the idea of settlement finality regulated by Directive 98/26 EC of the European parliament and of the Council of 19 May 1998 on settlement finality in payment and securities settlement systems (Settlement Finality Directive) and Directive 2009/44/EC of the European parliament and of the Council of 6 May 2009 amending Directive 98/26/EC on settlement finality in payment and securities settlement systems and Directive 2002/47/EC on financial collateral arrangements as regards linked systems and credit claims (Directive 2009/44/EC).

4. **Mangachev, Ivan, Co-creditorship (active solidarity) and its application in bank lending, Commercial and Contract Law Digest, 2024, vol. 11, ISSN (online): 1314-8133**

   (Publication No. 7.1. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

The article is devoted to co-creditorship or active solidarity, which is familiar to our contract and commercial law despite the lack of its general regulation. However, contemporary social and economic conditions pose a number of issues that require a clear and non-controversial legislative solution. An explicit general legal regulation of both active solidarity and the figure of the so-called security agent has been recommended. In addition, a serious legal analysis was recommended to revise the current Article 171 of the Obligations and Contract Act and Article 26 (2) of the Special Pledges Act in order to refine their texts to meet the needs of the modern economy.

5. **Mangatchev, Ivan, Act on Declaring the State Ownership of the Properties of the Families of the Former Tsars Ferdinand and Boris and their heirs – nationalization, expropriation, confiscation or etatization?, Proceedings of a scientific conference dedicated to the 125th anniversary of the birth of prof. Konstantin Katsarov, 7 November 2023, NBU, New Bulgarian University Press, 2024, pp. 186-202, ISSN 3033-1129 (Print), 3033-1137 (Online).**

   (Publication No. 7.2. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

On 31st of December 1947 a specific law was promulgated by virtue of which the families of the former Tsars Ferdinand I and Boris III and their heirs were deprived from personal property of the two monarchs and declared the Bulgarian state as the sole owner of that property. In general, the state has the power to acquire property by application of different instruments, including nationalization, expropriation, confiscation and etatization. The article analyzes which one of the four instruments, according to prof. Katzarov's definitions, has been applied by the above-mentioned law. The contemporary case law is also employed in the analysis of a question regarding how royal private property can be distinguished from the public one, which the monarch uses during his reign, as only the former would be capable to be acquired by the state.

6. **Mangatchev, Ivan, On *codex rationes*, *codex (ratio) accepti et expensi* and *receptum argentarii*, Electronic legal site "Gramada", 2017, ISSN (online): 2682-9703**

   (Publication No. 7.3. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

The purpose of this paper is to trace the legal framework of the entries that Roman citizens and Roman bankers made to record their payment transactions. Another important issue that is touched upon is the *receptum argentarii*, which governed the liability of a banker to a payee for a payment transaction made by the banker. In this regard, the records of the Roman bankers - *codex rationes* and *ratio accepti et expensi*, as well as the records of transactions – *nomina*, *pecunia* and *nomina arcaria* are analyzed. It concludes that the legal implications of the various entries were different. With regard to the *receptum argentarii*, the following conclusions can be drawn. First, it was a pact which governed the liability of a banker, for a payment transaction made by him to a creditor of his customer. Second, this banker's obligation was independent of the underlying legal relationship between the banker's customer (the debtor) and his (the customer's) creditor. Third, an interesting analogy can be drawn between the *receptum argentarii* and modern liability in the execution of payment transactions.

7. **Mangatchev, Ivan, On the banking terms "deposit", "bank deposit" and "account", Electronic legal site "Gramada", 2018, ISSN (online): 2682-9703**

   (Publication No. 7.4. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

In everyday life, the terms "deposit" and "bank deposit" are sometimes used interchangeably. A "deposit" refers to an amount deposited in a banking institution or savings deposit. A similar understanding of "bank deposit" is that it is a deposit in a bank for safekeeping or security, and also a guarantee of money for something has taken but not paid yet. Similar is the conception of an account which may be opened with a bank. It can be concluded from the analysis that the

distinction between a payment account, a deposit and a bank deposit cannot be categorically made. However, it can be concluded that, in all cases, the payment account is imposed as the leading generic concept. *De lege ferenda* recommends that the concepts of "deposit" and "bank deposit" and their relationship to the payment account be clearly formulated and distinguished.

8. **Mangatchev, Ivan, Legal Forms of Nationalization in the Banking Sector Comparison and Brief Commentary on Directive 2014/59/EU, Electronic Legal Site "Gramada", 2018, ISSN (online): 2682-9703**

   (Publication No. 7.5. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

What is nationalization as a legal act? The theory defines it as: i) the conversion of a property or activity into a common for all people or state property; to be ii) used in favor of all people rather than private interest. The object of this paper is to explore the forms in which nationalization takes place in the banking sector in practice and to distinguish it from similar legal figures. The above definition is the starting point of the examination. It is essential whether banks continue to exist after the act of nationalization, albeit with relevant changes, or whether they are dissolved, and also whether there is any relationship between the legal entities before and after nationalization. Historically, the objectives of nationalization in the banking sector have varied. In the 20th century, they have been carried out in their entirety, in the name of ideology, or in part to optimize issuance and lending activities. These objectives are not relevant in the 21st century. However, EU law contains provisions that are close in nature to nationalization, albeit of a temporary nature.

9. **Mangatchev, Ivan, The Nationalization of the Franco-Bulgarian Bank, 2018, Electronic Legal Site "Gramada", 2018, ISSN (online): 2682-9703**

   (Publication No. 7.6. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

The paper aims to explore the 1947 nationalization of the Franco-Bulgarian Bank AD. This nationalization is of interest because it is an exception to the way all other banks in Bulgaria were nationalized at that time. According to the Banking Act of 1947, banking companies were nationalized by "transferring their assets and liabilities" to certain state banks. The Franco-Bulgarian Bank AD, however, "enjoys" a special attention from the legislator. A special law, the Act on the Purchase of Shares from Franco-Bulgarian Bank, Inc., Sofia, was adopted, where the "acquisition of shares" method was applied for the nationalization of this bank. The case of the nationalization of the Franco-Bulgarian Bank AD raises the interesting question of why this bank was nationalized by the "acquisition of shares" method and not by the "transfer of assets and liabilities" method as applied to the other banks in the country. The answer can be found in the

large number of foreign shareholders. However, the state had settled its relations with them before the law was adopted.

10. **Mangatchev, Ivan, The Uniform Rules on Demand Guarantees (URDG) and Bulgarian case law, Electronic Legal Site "Gramada", 2017 ISSN (online): 2682-9703**

    (Publication No. 7.7. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

The present article aims to comment on the different definitions of guarantee set out in the two versions of the URDG and, in this respect, to propose a change to Article 442 of the Commercial Act. Another aim is to follow the case law that deals with the issues of guarantees, but only with regard to the interpretation of individual texts of the URDG. A *de lege ferenda* amendment of the wording of Article 442 of the Commercial Act is recommended, using the wording of the URDG as a model. This would contribute to a better understanding and application in practice of this legal institution.

11. **Mangatchev, Ivan, The claim under Article 71 of the Commercial Act, Electronic Legal Site "Gramada", 2017 ISSN (online): 2682-9703**

    (Publication No. 7.8. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

The purpose of this article is to discuss the issues related to the interpretation of Article 71 of the Commercial Act (CA). Most often, Article 71 of the CA is considered in the context of Article 74 of the CA. A glance is sufficient to identify certain differences in the terminology used in these two provisions with regard to the subjects. Article 71 of the CA refers to "any member of the company" and Article 74 of the CA refers to "any partner or shareholder" as legitimate persons. In conclusion, a *de lege ferenda* recommendation can be made to align the terminology of Article 71 of the CA with that of Article 74 of the CA by replacing the word "member" with the words "partner or shareholder". This would save possible interpretations which would go beyond the purpose of the law, namely the protection of members or shareholders. Persons who are also members of bodies other than the general meeting of the company are clearly not entitled to this protection.

12. **Mangatchev, Ivan, Stabilization proceedings - past, present and near future, Electronic Legal Site "Gramada", 2017 ISSN (online): 2682-9703**

    (Publication No. 7.9. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

The purpose of this article is to trace the development of the idea of stabilization proceedings, which has been regulated by recent amendments to the Commercial Act (CA). The characteristic feature of this procedure is that its purpose is to prevent the commencement of insolvency proceedings. This requires an agreement between a trader and its creditors setting out the manner in which the trader's obligations are to be discharged and the trader's business is to continue. It is also an interesting question whether the current legal framework will change in the near future and in what direction this change will be. With the regulation of the stabilization proceedings, our law has been brought into line with the 2014 EC Recommendation (with some specificities regarding the enforcement of part of the secured claims). As to whether this legal framework will enjoy stability over time, I believe the answer is no. The change in the current legal framework will be necessitated by the adoption of the so-called Second Chance Directive, which is currently only a proposal, but is likely to become part of EU law in the near future.

13. **Mangatchev, Ivan, Payment transaction in EU and Roman Law, Ius Romanum, Universum iuris romani, issue II/2017, p. 491-500**

    (Publication No. 7.10. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

This article examines the legal treatment of payment transactions in the EU and Roman law. Payment transactions under EU law are arranged by Directive (EU) 2015/2366 (the Second Payment Services Directive) adopted in 2015. Payment transactions include placing, transferring or withdrawal of funds, irrespective of any underlying obligations between the payer and the payee. Depending on the involvement of cash two major group of transactions can be distinguished - cash and cashless transactions. Cashless transactions also form two subgroups - credit transfer and direct debit. Many forms of credit transfers can be found in Roman law as *permutaio*, *diagraphe* and *syngraphae* (or *sungraphae*). It seems that direct debit was not known as transaction in Roman times. A conclusion is reached that payment transactions are strongly depended on the economy and its development. Contemporary economy needs more payment transaction options and this may explain the development of direct debit transactions.

14. **Mangatchev, Ivan, Participants in a system with settlement finality, Electronic legal site “Gramada”, 2015, ISSN (online): 2682-9703**

    (Publication No. 7.11. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

According to the provision of Art. 78c, para. 1 of the Payment Services and Payment Systems Act (PSPSA), participants in a system with settlement finality may only be: 1. the Bulgarian National Bank and the central banks of other Member States; 2. a settlement agent; 3. a central

counterparty; 4. a clearing house; 5. an institution within § 1, item 8 of the Additional Provisions (bank or investment firm); 6. a system operator. The legal regulation of entities in a system with settlement finality is also contained in Article 109a (2) of the Securities Offering to the Public Act (SOPA). It states that participants in the system are the Central Securities Depository, its members and other legal entities defined in the operational rules of the system. It is noteworthy that Art. 78c para. 1 of the PSPSA lists all possible participants (as well as Article 2(f) of Directive 98/26/EC), while Article 109a (2) of the SOPA provides the possibility for the "operating rules of the system" to include "other legal persons". This possibility is at odds with the concept of the PSPSA and Directive 98/26/EC. A *de lege ferenda* amendment of Article 109a (2) of the SOPA is recommended to abolish the possibility for the operational rules of the system to allow the inclusion of participants outside the range of those listed in Article 78c (2) of the PSPSA and Article 109a (2) of the SOPA.

15. **Mangatchev, Ivan, Forced expropriation and nationalization as forms of statehood, Journal of Ownership and Law, 2009, vol. 6, ISSN 1312-9473 pp. 20-26.**

    (Publication No. 7.12. on indicator No. 7, Annex No. 5 of the self-assessment report)

Summary

The legal literature often uses the terms nationalization, expropriation and etataitization for state purposes. This paper aims to trace the interrelation of these concepts and their comparability to each other. An analysis is made of the relevant texts of the Constitution of the Republic of Bulgaria as well as of the laws on state and municipal property in order to distinguish the concepts of nationalization, expropriation and expropriation for state purposes. The conclusion is drawn that expropriation for state purposes as a term should cover any acquisition by the State in its most general sense, whether such acquisition is the result of a transaction or otherwise. Etatization and nationalization are two different forms of expropriation, each with a specific scope and effect.