

S T A T E M E N T

by

Assoc. Prof. Eva Stanislavova Kaseva PhD.

regarding the dissertation for the award of the educational and scientific degree

DOCTOR

Field of higher education: Social, economic and legal sciences (3)

Professional field: Law (3.6)

Doctoral program: "Private international law"

Author of the dissertation:

RADOSTINA GEORGIEVA NIKODIMOVA,

PhD student in the Department of "Civil Law"

at the Faculty of Law

of Plovdiv University "Paisii Hilendarski"

Topic of the dissertation:

**EUROPEAN BANK ACCOUNT PRESERVATION ORDER IN
CIVIL AND COMMERCIAL MATTERS**

Scientific supervisor:

ASSOC. PROF. DIMITAR MILCHEV DEKOV PhD.

By Order of the Rector of the University of Paisiy Hilendarski No. RD-21-2366 dated 18.12.2024, I have been appointed as a member of the scientific jury in connection with the dissertation defense of Radostina Georgieva Nikodimova, a PhD student in the professional field of Law (3.6), scientific specialty "International Private Law" for the award of the educational and scientific degree "Doctor", and at the first meeting of the Scientific Jury, held on 10.01.2025, I was assigned to prepare an opinion on the dissertation work.

Radostina Georgieva Nikodimova has been enrolled as a doctoral student in "International Private Law" at the Department of Civil Law at the University of Paisiy Hilendarski, by Order of the Rector of the University of Paisiy Hilendarski No. RD-33-1008 dated 22.02.2019. The doctoral student was dismissed, with the right to defense, by order of the Rector of the "Paisiy Hilendarski" University No. RD-21-601, effective from 01.03.2024.

In compliance with the order of the Rector of the "Paisiy Hilendarski" University and the decision of the Scientific Jury, guided by the requirements of the Law on the Development of the Academic Staff of the Republic of Bulgaria and the Regulations for its implementation, I offer to the attention of the esteemed members of the Scientific Jury the following findings and conclusions, as well as the conclusion motivated by them.

The set of materials provided by Radostina Georgieva Nikodimova includes the following documents: autobiography; abstract; application to the Rector for opening a procedure for acquiring the educational and scientific degree "doctor"; list and copies of scientific publications related to the topic of the dissertation work; reference to the scientific contributions in the dissertation; declaration of originality and authenticity of the attached documents.

The doctoral student has submitted five scientific articles related to the topic of the dissertation.

Radostina Georgieva Nikodimova was born on 05.07.1979. She is fluent in English, Spanish and Russian. She graduated from the Faculty of Law of the Plovdiv University "Paisiy Hilendarski" in the period 2013 - 2018. In the period 2008 - 2012, she graduated from the Agrarian University in Plovdiv with a degree in "Accounting and Control". Over the years, she has worked in the banking sector, and since 2019 she has been a lawyer registered with the Plovdiv Bar Association. Since the same year, she has been a part-time lecturer at the University of Plovdiv. Since 2021, she has been registered in the register of mediators.

I believe that all requirements regarding the course of the procedure and the format of the dissertation have been met.

The work has a volume of 238 pages, structured in an introduction, four chapters and a conclusion. The subject of the study is the application of Regulation (EU) No. 655/2014 establishing a procedure for issuing a European Account Preservation Order to facilitate cross-border debt recovery as an instrument of European Union law in civil and commercial matters. The first chapter systematically traces the historical plan of the adoption of the regulatory framework in the matter; the essence of the European Account Preservation Order institute is examined; and the general characteristics of the Regulation are presented in detail - specifics in its subject matter and effect - territorial, personal, material, temporal, as well as the relationship of the legal framework of the European Account Preservation Order with national law. The second chapter examines the relevant sources of European Union law in a comparative manner, namely 1) Regulation (EU) No. 1215/2012 on jurisdiction, recognition and enforcement of judgments in civil and commercial matters; 2) Regulation (EC) No 1896/2006 establishing a European order for payment procedure; 3) Regulation (EC) No 861/2007 establishing a European small claims procedure; and 4) Regulation (EC) No 805/2004 establishing a European enforcement order for uncontested claims. The comparative review is based on six main points, with the main conclusions drawn for each source in terms of advantages, disadvantages and application, interaction, overlap and parallel operation with the European Preservation Order. Chapter three presents in detail the procedure for issuing the European Account Preservation Order, competent authorities, protection of the parties, liability for damages. Chapter four is devoted to a study of the practical difficulties and guidelines for the application of the procedure for issuing the European Preservation Order – for example, attention is paid to the evidence in the proceedings for issuing the Preservation Order; The practice of Bulgarian courts is presented, with attention paid to the main difficulties encountered in obtaining a seizure order in cases where the aim is to prove and urgent necessity, as well as to establish the urgent need for the imposition of the seizure order. The work ends with a conclusion that summarizes the characteristics of the analyzed Regulation, presents the main positive aspects of the regulation, and proposes six main changes in the legal framework *de lege ferenda*.

As positive points in the work, I can highlight:

- Current (taking into account factors such as the "four freedoms" in European legislation, which determine the dynamism of the European market and the possibility of cross-border indebtedness; clear formulation of the problem of bad

debts in the EU through presented statistical data; the Covid pandemic, as well as the economic situation) and dissertationability of the topic (the topic has not been studied in the Bulgarian doctrine, and more specifically in private international law);

- Logical structure and sufficient volume;
- Clear delineation in the introduction of the subject, tasks, objectives, methods of the study;
- Formulation of a scientific research thesis;
- Extensive bibliography - about 70 studies in Bulgarian and English;
- Reference to numerous court decisions (national, Court of Justice of the European Union, as well as the European Court of Human Rights) - 76 pcs;
- 382 footnotes prove the possibility of analysis, including comparative law and correct citation, by the doctoral student;
- It is striking that the study used literature in different languages – English, German, Italian, Spanish, French. This has developed and enriched it;
- Tracing the entire legislative path towards the creation of regulation in the matter;
- Presentation of the legal essence of the European Preservation Order as an institute of private international law - a measure aimed at securing the claims of a creditor, with a view to subsequent voluntary performance or forced satisfaction of the debt by the debtor, applicable to monetary claims (both due and not due) in civil and commercial cross-border cases – pp.24-28;
- The dissertation provides a detailed general description of Regulation (EU) 655/2014 and its effect - territorial, personal, material, temporal, as well as the relationship between the legal framework of the European Account Preservation Order and national law – pp. 28-65;
- The accounts under Bulgarian national law that cannot be affected by the European Account Preservation Order are defined – pp. 46-48;
- The seizure of cryptocurrency and electronic money is theoretically presented – pp. 49-51;
- The relationships that remain within the scope of national law are defined – pp. 61-64;

- In addition to the main act in the matter - Regulation (EU) No. 655/2014 establishing a procedure for issuing a European Account Preservation Order, the following have been studied and presented in relation to it: Regulation (EU) No. 1215/2012; Regulation (EU) No. 1896/2006; Regulation (EU) No. 861/2007; Regulation (EU) No. 805/2004. Regulation (EU) No. 655/2014 is compared with the listed acts on the basis of the same criteria: scope, exceptions from it, territorial scope, effect in time, identical and similar protective measures with the European Account Preservation Order; advantages and disadvantages (pp. 65-91);
- Access to the procedure for issuing a European Account Preservation Order is differentiated on grounds according to the different stages of the judicial proceedings, respectively before the initiation of judicial proceedings against the debtor on the merits - *ante causam*, and during pending judicial proceedings, as well as after the creditor has received a court decision in a Member State (pp. 92-94);
- In connection with the conditions for issuing a European Account Preservation Order, difficulties are formulated related to proving the urgent need or the risk of delay of the debtor (pp. 98);
- The evidence that is admissible in the proceedings and the specifics of the proof are taken into account, and information is also provided regarding the deadlines and their calculation within the EU (pp. 101-105);
- Regarding the security in the procedure, the hypotheses for establishing a guarantee before receiving the court decision, establishing a guarantee after receiving the court decision, the prerequisites for exemption from establishing a guarantee, as well as replacement/release of the established guarantee under the requested or issued European Account Preservation Order (pp. 105-108);
- The mechanism for obtaining information on the bank accounts opened in the name of the debtor in the relevant Member State where the enforcement of the Preservation Order is sought is examined, making an analogy with the regulation under Council Regulation (EU) 4/2009 on matters related to maintenance obligations (pp. 110);
- The possibility under the Regulation for appealing the refusal to issue a Preservation Order and the provision governing this possibility under Bulgarian legislation – Art. 618b of the Civil Procedure Code (pp. 117);
- The forms for the procedure for issuing, executing and appealing a European Account Preservation Order regulated in Regulation (EU) 2016/1823 are specified (p.121);

- The competent authorities for issuing a European Account Preservation Order are examined in great detail (p.124-132);
- Regarding the competent authorities for execution, an overview is given of who they are in different countries, as well as the regulations in our country are indicated (p.132);
- The protection of third party rights against the European order for attachment of bank accounts, presenting the practice of the Bulgarian court in the matter (p.155);
- Liability for damages is studied - its main characteristics; determination of applicable law in case of engaging the liability of the creditor for damages caused to the debtor; specific cases are indicated in which the creditor is liable for damages; hypotheses in which liability for damages is borne by the bank; engaging the liability of the enforcement authority (p.158-177);
- Determination of the proof of the prerequisites for issuing a garnishment order as a main obstacle to its issuance (p.180). A distinction is made between the prerequisites that should be proven - before issuing a court decision on the merits or after issuing a court decision on the merits, arguing the possibility of forum shopping;
- Through the prism of the practice of Bulgarian courts, the proof of the urgent necessity and the establishment of the urgent need for the imposition of the attachment order are examined (pp. 185-205);
- Formulation of an opinion and its argumentation in many places in the work, for example: p. 25 - the attachment of financial instruments should be included in the definition of a bank account under the provisions of Regulation (EU) No. 655/2014; p. 27 - a European bank account attachment order is distinguished by a high intensity of consequences; p. 45 - the need to provide clear and specific instructions regarding the limits of the arbitration exclusion from the scope of Regulation (EU) No. 655/2014; p.99 - the regulation limits and creates obstacles for creditors in the course of the proceedings for issuing a European Account Preservation Order to prove the circumstance of urgent necessity and to prove that there is a real danger that the debtor will conceal his property and avoid paying his debt; p.100 - the forms for the procedure are in a special Regulation (EU) 2016/1823 in order to facilitate, simplify and accelerate the overall work during the proceedings and minimize the possibility of errors; p.119 - expressing an opinion on the temporal effect of the attachment and the need for its effect to be up to the amount that should be secured and regardless of the availability in the bank account on which it is imposed; p.138-154 - it is maintained that the

established European Account Preservation Procedure guarantees the rights of both the creditor and the debtor through various means;

- The dissertation ends with a Conclusion, which summarizes the characteristics and advantages of the analyzed regulation (p.205-209);

Some imperfections and inaccuracies are also observed in the dissertation work, which do not reduce its scientific value. First of all, the dissertation should be re-examined from the point of view of its technical design and spelling and editorial errors, for example - p.65 – wrong letter in the word "who" ; "European Union" - should begin with capital letters; "REGULATION" - to be unified as "Regulation"; each chapter should be on a new page, p.119 to remove the double k from "kcompetent"; p.156 - section IV is incorrectly designated as section "III". Also, the scientific research thesis is only stated, but not proven in the process of the research. Therefore, it is not present convincingly enough in the overall conclusions and proposals of the work. Next, the Conclusion does not summarize the conclusions of the study in sufficient depth, it is necessary to completely revise it - for example, de lege ferenda proposals are mentioned, but they are not highlighted. They are present in the contributing points after the text. After refining and developing the conclusions and thesis, the dissertation deserves to become public knowledge as an independent scientific publication.

In conclusion, I give a positive assessment of the dissertation and address the members of the Scientific Jury.

Dear members of the Scientific Jury,

Considering the qualities of the dissertation, I believe that it has undeniable merits, demonstrates a thorough analysis leading to theoretical conclusions, contains important contributing points, and proves the doctoral student's ability for independent scientific research, therefore I strongly suggest that the Scientific Jury award the educational and scientific degree "Doctor" to Radostina Georgieva Nikodimova.

11.02.2025

Sofia

Respectfully submitted:

Assoc. Prof. Eva Kaseva PhD.