

**TO THE SCIENTIFIC JURY**  
**ON THE PROCEDURE FOR DEFENSE OF A DISSERTATION THESIS**

**OPINION**

**by Assoc. Prof. Dr. Vasil Hristov Pandov, member of the scientific jury on the procedure for defense of a dissertation for the acquisition of the educational and scientific degree "Doctor" according to the Order of the Rector of the Plovdiv University "Paisiy Hilendarski" No. RD-21-2366/18.12.2024**

on public defense of a dissertation in the procedure for the acquisition of the educational and scientific degree "**Doctor**".

Field of higher education: Social, economic and legal sciences

Professional field: 3.6 Law (International private law)

Author of the dissertation: PhD student Radostina Georgieva ikodimova, PhD student in part-time study at the Department "Civil Law Sciences" at the Faculty of Law of Plovdiv University "Paisii Hilendarski"

Topic of the dissertation: "European Banc Account Preservation Order in Civil and Commercial Matters".

Scientific supervisor: Assoc. Prof. Dr. Dimitar Milchev Dekov

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By order of the Rector of **Plovdiv University "Paisii Hilendarski"** dated 18.12.2024 I have been appointed as an external member of the scientific jury in connection with the defense of the dissertation of Radostina Georgieva Nikodimova, a doctoral student of full-time study in the professional field "3.6 Law (International Private Law)" for the award of the educational and scientific degree "Doctor", and at the first meeting of the scientific jury I have been appointed to present an opinion on the doctoral student's work.

Doctoral student Radostina Georgieva Nikodimova was born on 05.07.1979. In the period 2013 - 2018. she studied and obtained a Master of Laws degree at the Faculty of Law of Plovdiv University "Paisiy Hilendarski". From 2019 to the present she has been leading seminars on international private law at Plovdiv University "Paisiy Hilendarski" as a part-time assistant. There is a lasting interest in academic teaching and scientific development in the field of international private law. She has an additional qualification as a mediator.

In accordance with Art. 6, Paragraph 3 of the Act on the Development of the Academic Staff of the Republic of Bulgaria (ADSRB) and Art. 27, Paragraph 1 of the Regulations for the Implementation of the ADSRB, the dissertation must contain scientific or scientifically applied results that represent an original contribution to science. The dissertation must show that the candidate possesses in-depth theoretical knowledge in the relevant specialty and abilities for independent scientific research. According to Art. 27, para. 2 of the Law for the Development of the Academic Staff of the Republic of Bulgaria (ADSRB), the dissertation shall be submitted in a form and volume determined by the primary scientific unit. It shall include a title page, a table of contents, an introduction, a statement, a conclusion - a summary of the results obtained with a declaration of originality and a bibliography.

The requirements regarding the course of the procedure have been completed.

## **GENERAL NOTES ON THE DISSERTATION.**

1. The subject of the opinion is the dissertation work presented by doctoral student Radostina Georgieva Nikodimova on the topic "European Account Preservation Order in Civil and Commercial Matters", consisting of about 200 pages on the substance of the work, with separate content and cited literature and bibliography, a list of cited case law and used regulatory sources. The scientific apparatus consists of a total of 135 titles in Bulgarian and foreign languages. The footnotes are a total of 381. The dissertation does not present other scientific publications published in Bulgarian legal publications and in collected scientific works for independent analysis. A list of scientific publications on the topic of the study, which are systematically covered by it, is presented. An abstract is also presented giving an accurate idea of the scientific research and its contributions.

## **ACTUALITY OF THE TOPIC AND RESEARCH THESIS.**

In the introductory part there is an explicitly formulated research thesis, which is critical in nature regarding the possibilities and weaknesses of the procedure for issuing an EAPO. The author successfully demonstrates in the course of the exposition the inherent limitations of the established institute of the IPL in terms of the achievement of the creditor's interests and argues for a dynamic future development of the legal framework.

## **RELEVANCE OF THE TOPIC AND RESEARCH THESIS.**

2. The actuality of the topic is dictated by the extremely dynamic development of the sciences of the international part of Bulgarian law in recent decades. The genesis of this development is in the intensive international exchange, leading to a constant increase in the number of private law relations with an international element. International civil proceedings, to which the topic of labor falls as part of the IPL /International Private Law/, are undergoing intensive development in the

sources of EU law in the field of judicial cooperation in civil law matters with cross-border implications. The established supranational procedure for securing monetary claims through the attachment of bank accounts in the area of freedom, security and justice is a key element of the construction of the internal market. The genesis of judicial cooperation in civil law matters is directly related to the implementation of fundamental freedoms within the European Union. In this order, the interim proceedings have a direct relationship to the protection and subsequent implementation of property rights that constitute monetary claims. The basis for the Union's regulatory competence under Article 81(2) of the Treaty on The functioning of the European Union is an opportunity to create a harmonized procedural regulation, which is not available in domestic procedural relations. In solving this task, the European legislator has sought a balance between the effective issuance of security measures and the right to protection of the debtor. As a first step in creating a supranational procedural regulation of security, the most common type of measure and the one most closely related to contractual and commercial disputes was adopted - the attachment of a bank account. In the Bulgarian science of private international law, there is no independent study of this supranational procedure, objectified in Regulation (EU) No. 655/2014, which proves the relevance of the work presented for defense. Doctoral student Radostina Nikodimova has managed to capture the important directions of her scientific research in the field by using a comparative analysis with other so-called alternative instruments of the Brussels Ia codification Regulation, has presented the practical aspects of the procedure for issuing the European Preservation Order (EPO), the legal possibilities for protecting the debtor and third parties against an issued EAPO, an analysis of Bulgarian jurisprudence and the practice of the Court of Justice of the EU.

The introductory part contains an explicitly formulated scientific research thesis, which is critical of the possibilities and weaknesses of the procedure for issuing the EAPO. The author successfully proves in the course of the presentation the internal limitations of the established institute of the EAPO from the point of view of achieving the interests of the creditor and argues for the need for dynamic future development of the legal framework.

## STRUCTURE AND DESCRIPTION OF THE WORK.

3. The structure of the presentation includes an introduction, four chapters, subdivided into points and subpoints, and a conclusion. In compiling the work, the BDS ISO 7144:2011 for formatting theses has been followed.

In the **Introduction**, the dissertation author argues and specifically justifies the need to study the problems regarding the created supranational procedure for cross-border security of the claim in civil and commercial cases. The author formulates research objectives of the study of the EAPO and his research thesis, which have a practical focus and create an opportunity to reach conclusions for the development of the regulation.

The **first chapter** is devoted to a more general analysis of the historical development of the regulation, which led to the issuance of Regulation (EU) No. 655/2014. The action of the source in space, time, its subject matter and towards persons is presented. An analysis of the basic legal concepts, which also have legal autonomous definitions in it, is made, in order to correctly outline its subject matter.

**The following three chapters** are constructed by sequentially examining the proceedings for issuing an EAPO, the protection of the debtor and third parties against the issued EAPO and practical problems of Bulgarian and European jurisprudence in the application of Regulation (EU) No. 655/2014. The second chapter focuses on a comparative analysis of the regulation of cross-border securities under the Brussels Ia Regulation, the alternative of which is the EAPO and a comparison with the subject matter of the procedure for issuing a European order for payment, the European Small Claims Procedure and the European enforcement order for uncontested claims. The third chapter follows in detail the proceedings for exercising the right to issue an EAPO, including the protection against the issued order and its execution and liability for damages. The fourth chapter has an important practical side and supports the development of Bulgarian jurisprudence.

## SCIENTIFIC AND APPLIED CONTRIBUTIONS OF THE WORK.

4. The contributions of the reviewed work are complex – from systematization and comparative analysis of the supranational proceedings for issuing EAPOs to generalizations of a predominantly practical and applied nature, and are based on the author's good theoretical background. Without repeating the above characteristics, the following more important contributions should be outlined:

**Imprimis**, I would like to draw attention to the fact that the work is the first and so far the only complete, comprehensive and specialized study, which is aimed **solely** at the regulation of the proceedings for issuing a European Account Preservation Order under Regulation (EU) No. 655/2014. In this sense, in itself, the dissertation is a contribution to the Bulgarian science of private international law. The practical and applied significance of the work is proven by the daily turnover, in which the question of possible ways to guarantee the realization of monetary claims in domestic and international civil cases, where the bank account is in a bank in another Member State, is invariably raised.

**Secondly**, the author has presented the results of a comparative analysis of the European Preservation Order with the other four legal instruments of the EU, concerning civil and commercial cases, taking into account the main advantages and disadvantages and the possibilities for interaction between them.

**Thirdly**, there is an analytical presentation of the regulation of the proceedings in granting of an EAPO – scope, prerequisites, collection of evidence, samples, issuance of the final act, defense against it, enforcement. Publications in the Bulgarian legal literature on the topic have not been numerous in recent years. At the same time, the practical importance of the proceedings is significant and there is an objective need to increase legal knowledge regarding the application of Regulation (EU) 655/2014.

**Fourth**, the author presents the state of jurisprudence in the field of EPO in its national dimensions, the practice of the Court of Justice of the EU and of bodies of other Member States.

**Fifth**, the author does not hesitate to polemicize in the defense of the reasons he has set forth with the current state of the positive legal

framework, which is the starting point for the proposals he has formulated de lege ferenda.

**Sixth**, the author has managed to link his research thesis on the internal limitations in the procedure for issuing an EAPO with the statement of the purpose of the regulation, refracted through the prism of case law, and has achieved coherence of the work.

**Seventh**, the part regarding the lack of regulation of liability for damages and the possibilities for the protection of third parties in the Regulation is a contribution.

**5.** I have formulated critical remarks to the dissertation which are constructive in nature towards a re-evaluation of the work and possible future revision for a specific purpose as follows:

- the definition of private international law on page 8 of the work is significantly different from the generally accepted one in legal science – “a part of the law that regulates private law cases with a foreign or cross-border element”. It emphasizes the system of IPL as a legal branch of objective law in the totality of material and procedural relations, but as a beginning of the presentation it can be specified, since the subject of IPL is not private law cases.

- the analysis of the international element within the meaning of Art. 3 of Regulation 655/2014 can be expanded by linking it to the current discussion in EU IPL regarding the broader or narrower concept of a connection with a foreign state of the ILC - the Inkreal case of the CJEU, etc.;

- The presentation of the exclusion of arbitration from the scope of Regulation 655/2014 can be expanded. In the case law of the Court of Justice of the EU (Van Uden case C-391/95) it is argued that interim measures, although arbitration is excluded from the scope of the Brussels Ia Regulation, are parallel to arbitration and it is permissible to order such measures by a state court. In this regard, the courts of some Member States accept that it is permissible under the EAPO to issue a security for a claim brought before arbitration;

- attention should be paid to the immunity of foreign states, foreign public authorities and international organizations against the issuance of an

EPC. In this regard, there is already accumulated practice of the CJEU on the application of the Brussels Ia Regulation.

- on page 71 of the dissertation it is stated that domicile under the Brussels Ia Regulation is determined in connection with the legal definition of habitual residence under Art. 48, para. 7 of the Code of Civil Procedure. Such a statement is inaccurate, as, in addition to publications in Bulgarian scientific publications, there is also practice of the CJEU - case C-222/23 "Toplofikatsiya Sofia EAD";

- The presentation states that the EAPO is not subject to direct enforcement in Bulgaria, since Part VII of the Civil Procedure Code requires the issuance of a writ of execution. The above-mentioned thesis should be clarified – Regulation 655/2014 explicitly states that a Preservation Order issued in a Member State pursuant to the Regulation is recognised in other Member States without the need for a special procedure and is enforceable in other Member States without the need for a declaration of enforceability. The issuance of a writ of execution is part of the enforcement proceedings under Bulgarian procedural law – the so-called indirect enforcement. Therefore, the issuance of a writ of execution is part of the enforcement, and no other act of a Bulgarian authority is required to extend the enforceability of the EAPO to the territory of Bulgaria.

- The claim that cooperation on the exchange of information between competent central authorities of the Member States is regulated only in Regulation 650/2014 and Regulation 4/2009 is not precise. The new Regulation 2019/1111 "Brussels IIb" establishes an expanded and comprehensive cooperation between the central authorities in accordance with Art. 79 et seq.

## **EVALUATION.**

**6.** The overall reading of the dissertation leads to the conclusion that the doctoral student possesses theoretical knowledge in the field of private international law and the ability to conduct independent scientific research, and the results achieved in the dissertation represent a contribution to Bulgarian legal science, therefore it should be given a completely **positive** overall assessment.



In conclusion, it should be emphasized that the dissertation fully meets the requirements of the Law for the Development of the Academic Staff of the Republic of Bulgaria (ADSRB) and the Regulations for its Application, therefore, by **giving an overall positive assessment of the work, I propose that the scientific jury award Radostina Georgieva Nikodimova the educational and scientific pen "Doctor"**.

City of Sofia, 20.02.2025.

Assoc. Dr. Vasil Hristov Pandov