

## REVIEW

By Associate Professor Kaloyan Dimitrov Simeonov, Department of European Studies,  
Faculty of Philosophy,  
Sofia University "St. Kliment Ohridski"

for obtaining the degree of Doctor of Education and Science in the field of

3.3. Political Science (European Studies - Media Policy and EU Law)

"Balance between copyright and public interest: EU policy consistency",

presented by Ana Borisova Lazarova, full-time PhD student at the Department of European  
Studies, Faculty of Philosophy

with scientific supervisor Prof. Nelly Ognianova

### **I. Presentation of the PhD student on the basis of the submitted documentation**

The PhD student Ana Lazarova has not only done a thorough scientific research, but she has also a very serious and distinguished practical experience in her research field. In the following lines I will take the liberty to list only a part of her practical experience. Ana Lazarova is an attorney at law, a member of the Sofia Bar Association, providing legal services including in the area of her research interests. She is an industrial property representative at the Patent Office of the Republic of Bulgaria and a representative before the European Union Intellectual Property Office (EUIPO). Ana Lazarova is also co-founder and chair of the Digital Republic Association, which works to protect digital civil rights. She is a member of the Public Council for Information Technology and Internet Governance at the Ministry of Information and Communications Technology, a member of the Public Council of the Committee on e-Government and Information Technology at the 47th National Assembly of the Republic of

Bulgaria; and a member of the Working Group at the Ministry of Culture, Copyright Directorate for the implementation of EU Directives in Bulgarian law, which also fall within the scope of her research.

As a PhD student, Ana Lazarova distinguishes herself not only by the fact that she managed to prepare and defend her dissertation within the timeframe of her PhD (which is rare), but more importantly - to start teaching at various practicums within the Faculty of Philosophy. Ana Lazarova graduated in Law from Sofia University "Kliment Ohridski" and European Law at the University of Avignon, France, which again confirms the consistency of the PhD student in her academic growth.

Last but not least, PhD student Ana Lazarova has entered in a very good way into the life of the Department of European Studies, both with her teaching activities and with her participation in the doctoral conferences co-organized by the Department.

## **II. Evaluation of the quality of the dissertation text**

The author's research of doctoral student Ana Lazarova is of undeniable relevance. I will take the liberty to highlight only a few arguments that prove the relevance and practical orientation of the PhD student's dissertation:

- Copyright reforms are increasingly confronted with the new digital agenda of society. It is no coincidence that one of the main priorities of the European Union in recent years has been the development of the Digital Single Market. The digitalisation of our daily lives further reinforces the difficulty of striking a balance between copyright and the public interest.
- The balance between copyright and the public interest cannot be limited to the balance between the interests of traditional content providers and newer providers across different types of platforms. The interests of content creators and consumers also need to be better protected.
- The balance between copyright and the public interest is not only about the interests of providers, creators and consumers of copyright content. It also has a bearing on a number of other legal issues, as well as the regulation of many specific public problems.

- The problems considered by the PhD student have not only topical but also practical orientation, as the analyzed problems and issues are of clear practical importance. The practical orientation of the research is also conditioned by the author's participation in working groups and other formats on the implementation of EU legislation in the field of copyright.

The peer-reviewed study is characterised by a very clear language, which at the same time is written in a high academic style with scientific validity. The study itself examines in depth the issues, exploring in a comprehensive way the problems in defining the balance between copyright and the public interest, including the issues of the introduction of controversial mechanisms in the new EU rules, the new related right of news publishers and the new liability regime for online intermediaries.

The introduction of the dissertation research defines in a very comprehensive way the main aim and objectives of the research, its object and subject, methodology and methods of the research. Although not explicitly delineated in a separate subsection of the introduction, the limitations of the dissertation research are also clearly and coherently described, immediately prior to the presentation of the structure of the dissertation text.

Of particular interest is the research thesis, which is proved by the author within the analysis. The author confirms in a categorical way that the new legislative decisions in EU law in the framework of copyright reform are unbalanced in terms of the clash between the interests of right holders and the public interest. Also of interest is the detailed analysis that these new legislative solutions at EU level conflict with previous regulations at European level in the field of copyright limitation, as well as the assertion that they are conceptually inconsistent and in practical terms create more problems than solutions. Only an author with a deep knowledge of the subject matter, who possesses critical and analytical thinking, could so indisputably prove such a research hypothesis that is not yet studied in detail in science and practice.

The dissertation research has a very clear and coherent structure. It allows to analyze the different research tasks in an undeniable way and to examine the author's main research thesis.

The author has also analyzed problems that very often go beyond the boundaries of the matter under study. Such is the case of the use of vague expressions in the EU directives, which subsequently make it very difficult not only for their implementation, but also their uniform application by all EU Member States. This, in turn, breaks the unity and consistency of the EU's single internal market. This is precisely the problem created by the translation and application

of the phrase "best efforts" as a standard of due diligence by the addressees of the provision of Article 17 of Directive (EC) 2019/790, both when negotiating with rights holders and when restricting user content.

One of the strengths of the dissertation research is the very good outline of the theoretical concepts and concepts used. This adds even more scientific value to the study, but also contributes to the development of the theoretical apparatus in relation to the introduction of copyright in the EU and its application in Bulgaria and other EU Member States.

It is my opinion the information and evidence gathered in the dissertation research has been done in an extremely thorough and precise manner, which also gives it not only a complete look, but also makes it a very valuable source for future analyses and studies of the researched topic.

Another very positive characteristic of the dissertation is the concrete proposals and recommendations for the improvement of the legal framework in the field of copyright and its application. These suggestions are derived from the analysis in the dissertation research and give an even greater practical orientation to the author's text and presentation.

The author's bibliographical awareness is also at an extremely high level. The doctoral candidate has not only analysed numerous and up-to-date scientific studies on the subject under consideration, but has also compared various legislative solutions in relation to the introduction of EU law. Of particular interest is also the analysis of the case law of the CJEU, which is very well intertwined with the other research lines within the dissertation analysis.

I also accept the abstract (avtoreferat), which fully complies with the requirements and presents the main points of the dissertation research on the balance between copyright and the public interest in a focused manner.

### **III. Contributions of the dissertation research**

I fully acknowledge the contributions of the dissertation research. It should be emphasized that in addition to the focused presentation of the contributions in the abstract, they are also described in more detail in the final pages of the dissertation study.

One of the most striking contributions of the study, this is the introduction of an original system for assessing the strength and robustness of copyright exceptions under EU law according to four derived factors - education, cultural heritage, news, and online consumer content.

The dissertation research also provides a good systematisation of the exceptions to copyright law at the EU level with regard to their ideological and political justification. It also demonstrates the inconsistency of the criterion of the 'impact' of exceptions 'on the smooth functioning of the internal market' as a basis for their degree of harmonisation, respectively as an indication of their strength and stability.

I also accept the contribution concerning the identification of specific shortcomings of copyright reform at EU level, as well as that concerning the identification of risks in the application of the new legislation in the light of existing European and national law, and in the light of the application of institutes from other branches of law.

In addition, the study also makes suggestions for establishing relevant terminology, as well as *de lege ferenda* proposals for optimal transposition of the studied institutes of Directive (EU) 2019/790 into Bulgarian law and improvement of the existing legacy legislation. The proposals for the practical application of the case law of the CJEU are also a significant contribution.

An indisputable contribution to the scientific research is also the fact that the author used for the purpose of collecting information not only the relevant legislation, judicial interpretation of certain institutes in the different EU Member States and available proposals for transposition of the analysed directive, but also raw data from mapping projects of national legislations in which the author participated directly, as well as direct questionnaires to national legal experts, which were organised by him.

#### **IV. Notes and recommendations**

Notwithstanding the fact that the subject of this review is a highly professional and thorough scientific study, a few limited recommendations can be made. These do not alter the overall positive assessment of the qualities of the dissertation research.

One of these recommendations is with regard to the introductory part of the dissertation analysis, which is very detailed. As a rule, the introduction should be shorter and more focused. The main recommendation in this regard is in relation to the detailed terminological

clarifications that are made in its last part. As a rule, such a detailed analysis of terms should be the subject of the first chapter of the dissertation.

In spite of the clear style of the statement, in my opinion, some expressions could more appropriately be replaced by a Bulgarian equivalent. Expressions that could undergo editing are, for example, "user upload", "user remix", etc.

In spite of the extremely high and precise writing style, which is characterised by a great deal of professionalism and correctness, there is a need to correct individual but very few technical inaccuracies, such as in the expression 'internal and external consistency' or 'flooding reform' instead of 'ongoing reform' in the presentation of the aim of the study in the introductory part, the expression 'give away the limited volume' or 'European acquis' on page 17 of the thesis study, etc.

## **V. Publications and participation in scientific fora**

The list of publications that PhD student Ana Lazarova has made during her studies in the PhD programme of European Studies is impressive. The abstract and CV present a list of twelve publications, six in Bulgarian and six in English. Even more impressive is that the majority of these publications are in reputable and indexed journals, which is a testament to their scholarly value. Also important is the focus of these studies, which fall within the research field of the dissertation itself.

During her studies, PhD student Ana Lazarova has also participated in eight scientific forums, both those organized by the Faculty of Philosophy of Sofia University "St. Kliment Ohridski" as well as in international forums. In her CV, the PhD student has also presented her participation in seven reputable projects, which are both of European orientation and have relevance to her research, once again confirming the purposeful and focused development of the PhD student.

I believe that the requirements of the legislation of the Republic of Bulgaria, and in particular of the Regulations on the conditions and procedure for the acquisition of scientific degrees and occupation of academic positions at Sofia University "St. Kliment Ohridski" are fulfilled completely.

## **VI. Questions and recommendation for publication of the scientific research**

I suggest that the following questions be asked of the doctoral candidate during the public defense that are relevant to the dissertation:

1. According to the final provisions of Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the digital single market and amending Directives 96/9/EC and 2001/29/EC, namely Art. 29 and Art. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 7 June 2021. By 7 June 2026 at the earliest the Commission shall carry out a review of this Directive and present its main findings in a report to the European Parliament, the Council and the European Economic and Social Committee. My questions in relation to these final provisions of the directive are as follows:

- Is it possible, in such a short space of time, one year from the deadline for implementation of the directive in the EU Member States, to draw firm conclusions about its implementation in the EU?

- given that a review of the implementation of the Directive will be carried out after four years at the earliest, what are the mechanisms for improving the balance between copyright and the public interest in the EU before this period expires?

2. Do you think that the process of EU enlargement, respectively the extension of the EU single internal market and its digital dimension, will contribute to the improvement of copyright on the continent of Europe or will it rather lead to new problems in view of the specificities of the national systems in the countries of the Western Balkans and the countries that have recently embarked on the path of EU accession - Ukraine, Moldova and Georgia.

I also recommend the publication of Ana Lazarova's research, as an option for such a publication is the European Studies Library of the European Studies Department at the University Press "St. Kliment Ohridski.

## **VII. Conclusion**

In conclusion, I would like to emphasize that the research fully meets the requirements for the award of the degree of Doctor of Education and Science, as the PhD student has demonstrated during his studies not only excellent research capabilities, but also the ability to integrate into an academic environment and develop in it.

On the basis of the evaluation, the mentioned advantages and the scientific contributions of the dissertation, I strongly support the award of the degree of Doctor of Education and Science to Ana Borisova Lazarova in the field 3.3. Political Science (European Studies - Media Policy and EU Law).

Date – 08.07.2022

Reviewer:

Assoc. Prof. Kaloyan Simeonov