STATEMENT

Of Prof. Dr. Ivo Angelov Hristov

About

Dissertation for the degree of Doctor of Law in the professional field 3.6 (Theory of State and Law. Political and Legal Studies) of Alexander Veselinov Dimitrov

GUARANTEEING AND REALIZATION OF SUBJECTIVE RIGHTS

The dissertation presented to our attention sets as its main subject one of the most important and at the same time particularly difficult to understand, in my opinion, issues in law: the subject of the nature, realization and guarantee of subjective rights. In this sense, first of all, the very choice of a scientific topic by the colleague Dimitrov should be admired, insofar as the matter is difficult, controversial and enters into scientific and disciplinary boundaries, until recently jealously guarded, often guided by a misunderstood disciplinary paradigm purism.

The difficulty stems primarily from the particular nature and place of subjective rights in the mechanism of legal regulation. Subjective rights and corresponding legal obligations constitute the intermediate level at which abstract legal norms are operationalized in concrete relations between concrete subjects in order to achieve concrete results. Insofar as the subjective right possesses a dual nature, being both a legally regulated possibility of conduct and that conduct itself, it is the link between norm and action. The possibility of action/inaction, is an option from the normative world, and the action/inaction itself is a link from the so-called 'factual' world.

Of course, a very important clarification should be made here: the normative-factual dilemma is inherently wrong and false. It accordingly sets up an inadequate distinction of the so-called "world" into "normative" and "factual". The world is "factual" without exception. The social world makes no exception, and its division into ideal and actual is inadequate. In this sense, legal norms as well as all other social normative regulators are "factual", i.e., they are part of the "factual" social world and, more precisely, of different segments of social consciousness. Consciousness is 'factual', though often invisible: just because something is invisible doesn't make it nonexistent. In the case of law, we are greatly facilitated insofar as it has a visible formal legal part. For legal positivism, however, this visible formal normative part is the end of the phenomenon. Hence the grand constructions that form around the normative, understood as the sole being of law. There is nothing falser than this. Inasmuch as norms do not exist in and of themselves, they have a purpose, and the purpose is to transform the normative into action, that is,

to transform the rule of conduct into conduct - individual or group. For this reason, every normative regulator has a normative-relational nature. And no part of this "dual" nature exists by itself. Discussions and paradigms that seek to erect Chinese walls between the two parts of something unified, in addition to demonstrating a complete misunderstanding of the phenomenon they treat, begin to look more and more like self-serving scholastic disputes of dubious scientific character.

Second, law understood at the level of a normative system does not exist in and of itself. And it is not explained by itself. It is an instrument for achieving goals of varying range and depth. It is a product of the social world, it is part of the social world, and it reproduces the social world through its regulatory mechanisms. The instrumental-social character of 'law' is therefore an undeniable social fact. The other aspects of the "normative" are important and interesting, but absolutely secondary and derivative. As Hegel says, "But the law does not act, only man acts." Therefore, the assessment of the nature and effectiveness of law, and hence of subjective rights as an integral part of it, should rest on the very general understandings of the nature of the subject matter and its instrumental character mentioned above.

My colleague Alexander Dimitrov has done just that. In the presented dissertation, an extensive system is given for what is the concept of realization and guarantee of subjective rights - Chapter I; what is the purpose of motivating the macro and micro levels of legal subjects for the realization of legal regulation, including at the social-psychological level. Here, it follows to admire the dissertator's principled approach, which clearly distinguishes between the objectives of the legal system at the macro level to achieve certain social, political and so on goals through a certain legislative policy and the laying in this normative environment of the addressees of legal norms pursuing their private strategies using the toolkit proposed at the macro level, containing a variable palette of subjective rights/legal obligations. In this respect, the dissertator has, in my opinion, absolutely accurately introduced as an integrative element of the model of subjective law the purpose of its exercise (I do not know why he introduced this category in English: "Purpose"; he probably decided that this would give it more scientific weight, something I deeply doubt).

At the same time, it is in this way that the analysis acquires a clear and visible criterion, helping to clarify the problem of the realization of the subjective right. If we remain solely on a formal-normative basis, this assessment is incomplete and downright inadequate to the subject matter. According to the classical understanding of the realization of subjective rights, respectively legal obligations, it is understood as the unproblematic realization of rights and obligations or, in case of violation, a judicial phase replacing the legal execution/exercise. The dissertation extensively and justifiably discusses and advocates the thesis that the formal realization of the normative regulation does not exhaust the realization of the subjective right. People do not acquire rights in order to

realize them in court. They turn to rights to achieve particular subjective ends, to satisfy their individual or collective interests. Ultimately, a subjective right is not an end in itself, but a means to ends beyond the right. Therefore, the assessment of the realization of the right, ultimately stands outside the right, based on its instrumental normative-relational character. This is precisely what is done in detail in the dissertation in chapters two and three.

I do not intend to retell the dissertation. That is not the purpose of the opinion. I think the main emphasis should be on its basic scientific contribution, which it undoubtedly has, and in directions that I have commented on and find important. Of course, the work also raises many questions and criticisms. But who is infallible? To this I would add a suggestion for a theoretical and stylistic clarification of the theses contained in the dissertation. This could of course be done in subsequent works, which would no doubt develop the cascade of ideas contained in the text under review.

In conclusion: the presented dissertation meets all the technical and substantive requirements; therefore, I propose to the scientific jury to award Alexander Veselinov Dimitrov the degree of Doctor of Education and Science in the professional field 3.6 "Law" (Theory of State and Law. Political and Legal Studies).

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