R E V I E W

by Prof. Dimitar Radev- Lecturer in General Theory of Law at the Faculty of Law, UNWE

By Order of the Rector of the Sofia University "St. Kl. Ohridski" I have been appointed as a member of the scientific jury in the procedure for the defense of a dissertation in the professional field 3.6. Law (General Theory of Law), by the decision of the scientific jury I have been appointed to prepare a review.

For obtaining the degree of Doctor of Laws at the Faculty of Law of the Sofia University "St. Kl. Ohridski" Mr. Alexander Veselinov Dimitrov is a candidate. He was born on 17.03.1993 and since 2019 he is a PhD student in General Theory of Law at the Faculty of Law of Sofia University "St. Kl. Ohridski". At the same time, in November 2018, he passed the bar exam.

The topic of Mr. Dimitrov's dissertation is "Guaranteeing and Realization of the Subjective Rights" and he has also submitted 3 articles in scientific collections /including e-editions/. The scientific articles are in immediate connection with the problems of the proposed scientific work, with which the candidate participates in the procedure for obtaining the degree of Doctor. Therefore, the thesis has demonstrated the potential for presenting Mr Dimitrov's scientific efforts, research and analyses. The work contains a developed concept.

The candidate's main thesis "Guaranteeing and Realization of the Subjective Rights" consists of 225 pages and includes an introductory part; three chapters, a conclusion and a bibliography. It contains 297 footnotes and 23 graphs which support the exposition and formal correctness in terms of citation requirements has been observed. The bibliography comprises 70 titles, of which 35 are in Bulgarian and 35 in English, and I believe that the authors and sources cited are correctly referenced and the reference to them is appropriate and justified, and for the most part relevant to the subject matter and other sources. In general, the work is devoted to the problem of the realization of subjective rights, i.e. what the holders of rights can/cannot or will or will not do, as well as the guarantee of this process, as directly conditioned by the effectiveness of the legal system, and the same is achieved by establishing relatively continuously predictable rules. The work is a serious and thorough study of the problem posed, and it is no accident that the author has not traced the relationship between a particular substantive right and its corresponding procedural right of action, but has examined the impact of the exercise and realization of rights in objective reality, by correlating the effects of extrajudicial and judicial realization. The question thus posed, in itself, speaks of original, creative thinking on the part of the applicant, for he has drawn a logical and scientific chain from the point of view of the General Theory of Law. This fact speaks of the candidate's logical, systematic, orderly and analytical thinking, which was evident in the very exposition in the individual chapters of the work and in the overall presentation of the text.

The introductory part of the work is devoted to the theoretical and methodological basis of the study, and the author discusses the correlation of hypotheses concerning the legal and factual realization of rights in terms of the result achieved. In the general theory of law, legal-sociological approaches can be outlined, which include precisely the consideration of the effectiveness of legal phenomena in relation to social dimensions. The author perceives that the purpose of law is to reflect and regulate existing relations in society, through its property of continuously reproducing and remodelling itself, in order to achieve a situation in which factual reality is successfully brought into conformity with a legal situation. The research is based on some aspects of social issues, including behavioural modelling. The implications of layered discrepancies between the two /if they can be distinguished/ moments of realization are examined. According to the author, the General Theory of Law may contain insights into factors influencing law, such as time, predictability and the effectiveness of the legal toolkit in the realization of subjective law, since the guarantee of the latter category plays a crucial role for forms of participation in legal life. The guarantee and realization of the rights of the legal subject are presented as outlining the possibility of realizing a specific right in an objective way in the factual and due reality that corresponds most closely to needs. The interest expressed by a particular right is characterized as dynamic.

The author formulates as tasks in his work to find a connection between the revealed qualities and properties of the normative system and the social manifestation actually caused by its action. As a reason, he points out that it is possible that in the life regulated by law the subject may find himself in fact "powerless" to protect his legal interest, despite the existence and use of legally recognized means. And the reasoning focuses on the lack of possibility to act just then. On the basis of the latter, it is argued that a subsequent process of de-motivation and reduction in the confidence of the addressees in the legal system is naturally forming. The methodological question of whether the legal system encompasses rules concerning the multiple situations of significant divergence between legal and factual realisation and guarantees of correspondence between the two facts is addressed. The properties of divergence encompass consideration of possible divergent extremes in the two characteristic activities of impact - lawmaking and law enforcement. Another task is outlined. It traces what outcomes the degree of divergence between factual and legal realization leads to through the lens of the behavioral performances of addressee subjects in what is guaranteed as a predictable environment of rules.

The author does not rely entirely on legal method. He believes that in order to achieve interaction with the problematic object, a selection of several methods is necessary, as well as the comprehension of their combination to form a complete study. The provision of a basic model in providing guarantees for the realization of rights in a specific legal situation should be assessed from the point of view of social relations in accordance with both visible statistics /e.g. cases resolved by the court/ and through the multitude of cases not registered in this or similar way. That is, some of the concepts embedded in the work involve extra-legal factors or claims. Through the so-called *case study* method, as well as deductive approaches, the research is concerned with the relationship between normal distribution and references to extremes in social situations. They are influenced by factors of interdisciplinary origin. Choice behavior is often accounted for when considering economic and/or psychological regularities, but from a normative regularity perspective it is important what the givens that motivate human behavior may be. The use of which and what legal instruments will act as motivating counter-incentives.

Chapter one of the work is definitional. It is devoted to the attempt to present relatively uncontroversial definitions of the main concepts used, which would correspond to logical rules of reasoning in relation to one or another legal situation. The author has presented each of the primary concepts by way of justification and in methodological sequence. A definition of the realization of rights; the guarantee as well as the effectiveness of rules has been proposed. Arguments have been used in

relation to the stage nature of subjective law, the variability of the category of interest, and the consequences of objectification of legal situations. To describe the realization of the subjective right, its stage of development is indicated, at which it is exercised in accordance with its Purpose, for which it receives legal validity. Concerning the question of the guarantee of rights, the same is symmetrically constructed in relation to the realization and is presented as a question of fact. The claim is that the exercise of a guaranteed right must achieve a legal and social result, understood as the objectification of facts - one's own or another's conduct in satisfying or respecting the interest of the holder, including to affect a possible unjustifiably long pending situation in the event of an unfinished legal dispute. The problem of the effectiveness of rules is addressed in two related strands, namely the dependence (influence) on specific legal institutionality and the ability of law to guide developments in social relations. The view is presented that legal effectiveness may not be identical with social effectiveness. The author is guided along the axis - a norm may work - it may be legally effective but it does not lead to the desired social outcome. Achieving some result from the application of the norm does not yet reveal the content of norm effectiveness and which outcome is considered effective. The work distinguishes between the irrational juxtaposition of the subjective and ideal (goals) with the objective - the result. Therefore, objective criteria of judgment are sought in the correlation between normatively set goals and achieved results.

Chapter two of the thesis is devoted to motivation in addressable behaviour. The author discusses various interpretations concerning human motivation in general. Of particular importance are the typical hypotheses of how law can change behavior. The ability of positive rules to oblige is sometimes in counterpoint to prosocial behavior (from a behaviorist perspective). Stimulus mechanisms at the micro-level, on the individual, and at the macro-level, in social participation, are discussed, along with some specific social phenomena derived from studies of volitional behavior based on cognition and motivation. The legislator establishes the normative rule in the law in an abstract and general way, and when the court is called upon to resolve a dispute, the court should examine the legal situation by concentrating its judgment on a particular legal relationship, that is, on individualizing the general rule. There is always an incomplete overlap between these two positions. The individual rule reveals specificities, and there are difficulties in establishing causal relationships on a socio-normative plane. The reason for this is the non-obviousness of the very categories of motivation and knowledge of things. Some not-so-obvious dependencies in civil and criminal justice are shown. Hence the problem of the value of information and its distribution among addressees is developed. I support the conclusion reached that it is possible that the procedural realization of rights is deficient or impeded on formal grounds. In continuation, a claim is made for the complex nature of subjective entitlement, refracted through several interdisciplinary themes such as the consideration of time as a finite resource; the impact of facts with accumulation and their imperceptible intensity of impact in the context of psychology, anthropology, economics.

Chapter three is devoted to some problems of the institutional mechanism and how they affect the related qualities such as predictability of the system of rules, guarantee of the conditions for the effective realization of the subjective right. Their conceptual categorization is related to legislative amendments and judicial adjudication - effectiveness and predictability of amendments and degree of systemic error in the judiciary. The analysis uses examples of normative changes aimed at providing a more expeditious procedural order for the realization of rights. Deviations on whether and what procedural tool subjects should use are successfully presented through concrete factual data /including tables, graphs and models/. Change is subsequently assessed by analysing the different outcomes achieved for legal subjects. In the case of legal changes to speed up the process, this will mean that the need for faster dispute resolution is not satisfied, and in the case of systematically generating a steady quota of decisions misapplying the law, the same will mean that the level of trust in the judiciary is not satisfied.

The remaining sections of the chapter are devoted to issues such as the speed of dispute resolution in terms of ECHR case law, ad hoc law-making and enforcement, which are mainly and almost entirely of a purely legal nature. That is to say, issues and topics from the field of classical

general legal theory are included. The author has successfully provided some exemplary social case studies to support his thesis. Legal concepts such as legal norm, legal system, legal relationship, etc., are not explicitly defined, being used loosely in connection with the main thesis of the work.

The candidate has given his analytical judgement on the existence of an antimatter perimeter in the regulation of relations. According to him, the various social relations subject to regulation can be described in two categories: categorical and non-categorical.

To the social antimatter it mainly includes the created inverse behavior. These are different tendencies in the choice of legal instruments that ensure the preservation or satisfaction of the interest, and for which registration in specific statistics is not available. To the intersection of categorical and non-categorical matters of regulation, the author includes the categorization of relations as those whose influence is entirely attainable by the establishment of a particular normative model, and those with respect to which, in addition to a specific rule, a number of factors of extra-legal origin have an influence. The need for such distinctions in law is polemical in order to maintain purity in the argumentation and justification of legal phenomena in a purely dogmatic ordering. With the latter, an argument can be made for leaving the normative construction of the due and preferring the social environment as the source of the validity of the rules, as well as viewing subjective law as a means to certain social ends that are not seen as necessary for the legal definition of the category of subjective rights. But the fact that a reviewer can point to possible criticisms of an author's judgment does not mean that the author is wrong. There is autonomous scientific and creative volition.

The author has dealt in a detailed, analytical and thorough manner with the legal problems of law-making and law-enforcement in the legal order. He has analyzed the role of disciplines that are related to law and to the main theme of the work. These reflections are given in proper legal language, are thorough in their nature and reveal the rich general as well as legal knowledge of the candidate. The author has also discussed the role of the court as a corrective of the outcome of the law-making organs. In this sense, Mr. Dimitrov has examined the main sources of influence in a law-regulated environment, a topic in law for which different understandings have been set out and analysed, but he has also given his opinion on the matter, which he has done in a reasonable and reasoned manner. The work advocates the view that the realization of subjective right is the use of legal means in accordance with the interest of the right holder. According to the author, every subjective right should be provided with the power to realize it, which is guaranteed by the legal order. The author has also argued in detail to this effect in defence of his scholarly opinion.

The main contributions of the work boil down to the following:

1. The presented work considers the legally significant expression of will as a variable in view of the complex and multilayered structure of social relations. Knowledge of features such as stageability and subordination in the exercise of rights cannot be exhausted by embracing a one-sided measurement. The concepts of the general theory of law should function in relation to all social regularities. The main conclusion that the author draws is that, in considering problems in the realization of a relevant right that affects bound persons, issues such as subordination by misconduct and its overcoming by supremacy cannot be measured by legal instruments alone. The social properties of legally relevant behavior provide a more comprehensive picture of the performance characteristics of rules in a system. They are measurable on the basis of information about objectified behaviour. The effectiveness of legal tools would not be fully explored without also revealing their properties as observed in empirically observable social trends.
2. General theoretical formulations are proposed that build conceptual structures to justify behavior. The share of social relations that are indirectly affected by the (dis)use of certain legal means is taken into account, which is applicable to different legal systems and also applicable to different branches of legal science. At the same time, the author has gone to great lengths to

investigate the inversion in the general behaviour of legal subjects in one field or another, in order to illustrate cases that leave no trace as part of statistics /e.g. the inventory of cases of a certain court or files of another institution/. These are, for example, cases that have been resolved without the assistance of the court directly, but where there was a need for and possibility of such assistance.

3. The author questions some of the characteristics of adjudication and some of the negative consequences of legislative changes. He has linked the effectiveness and predictability of legal amendments and adjudication by conceptually categorizing them as systemic and cumulative. It analyses examples of specific statutory changes motivated by the aim of providing a more expeditious procedural order for the realisation of rights. They also show cases of demotivation of legal subjects in choosing whether/what procedural instrument to use. Mistrust is at the root of a change in the direction of motivation. The neglect of the need for resolution in a timely manner is the answer to why the same trust is undermined.

Some weaknesses of the work can also be pointed out. For example, the author could have made more in-depth and vivid comparisons in the proof section on the issues of different categories of matter related to the direct influence and modeling of different relations. At times the thread of this connection to the theoretical part is broken. There is insufficient emphasis on the intersections of social expression and dogmatic approaches to the study of law. The concluding part is presented in an abstract manner which makes it difficult to draw the main conclusion, perhaps, this is due to the youthfulness of the author. In a dissertation, a striving for consistency in the use of disparate elements and their relevance to the main thread, so to speak, should be more evident throughout the work.

Mr. Dimitrov could also have devoted more space to the role of the courts and the case law in creating and guaranteeing the conditions for the realisation of rights. The court is also part of the social system, albeit with its own peculiarities. The judicial power of the court is an emanation of law and its regulative properties in its applied, law-making but also empirical sense.

Despite these not particularly significant weaknesses, I believe that the work is written in a high legal language, reveals an excellent style of the author, his rich general and legal culture, deep thought and analytical, freedom of expression and defending of his views. This is a guarantee of the author's future creative success. The idea of the work could be expanded by a future research on various emerging forms of realization of the category of human rights.

The candidate also meets the formal requirements for conducting a public dissertation defense as outlined in the requirements of the law. From this point of view and together with the creative achievement in the thesis, all the legal prerequisites for the award of the PhD in the field of higher education 3. Social, Economic and Legal Sciences, 3.6. Law (General Theory of Law).

Mr. Dimitrov also has experience as an assistant prof., which is not without significance. He also teaches General Theory of Law at the Faculty of Law of Sofia University "St. Kl. Ohridski Law School. He is also a practicing lawyer in the field of commercial, corporate and contractual relations, and therefore has the necessary practical knowledge and experience, and is familiar with judicial practice and jurisprudence and law enforcement. This is important for the cultivation of not only purely academic, but also applied and jurisprudential knowledge. In this way, science and practice are combined because law, besides being a science, a doctrine, a knowledge, is also a profession.

The candidate is also proficient in English, a foreign language necessary for any scientist. Knowledge of the language has contributed to the study and analysis of the relevant legal literature.

On the basis of the foregoing and of the scientific work presented by the candidate, as well as the additional scientific articles, I consider that the legal requirements under the Law for the Development of Academic Staff in the Republic of Bulgaria and the Regulations for its implementation are in place and I propose to the Honorable Scientific Jury that Mr. Alexander Veselinov Dimitrov be awarded a

PhD in General Theory of Law at the Faculty of Law of Sofia University "St. Kl. Ohridski".

26.11.2022 reviewer:

Prof. Dimitar Radev