

PhD Thesis Review

by Prof. Yanka Teneva Tyankova, PhD

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At the Faculty of Law at the University of Veliko Tarnovo “St. Cyril and St. Methodius”,

Member of the Academic Jury appointed by Order 230/21.07.2021 issued by the Rector of Sofia University “St. Kliment Ohridski”

About: the public defence of the dissertation thesis for the award of the educational and scientific degree “Doctor”

Field of higher education: 3. *Social, economic and legal sciences*, professional direction 3.6 *Law*, academic specialty *Roman Private Law*

Doctoral candidate: Stoyan Panayotov Ivanov – unsupervised doctoral student on an individual plan at the Department of “Theory and history of state and law” at the Faculty of Law of Sofia University “St. Kliment Ohridski”

Dissertation title: “Companies of Publicans”

I. Data about the doctoral candidate

Stoyan Panayotov Ivanov was born in 1988. He graduates at the National High School for Classical Languages and Cultures “Constantine Cyril the Philosopher”, in Sofia, in 2007 with a specialty in Latin and Italian language, and in the same year he is admitted to the Faculty of Law of Sofia University “St. Kliment Ohridski“ where in 2012 he obtains a Master’s degree in Law and the professional qualification of a “jurist”.

After completing his master’s education he works as an assistant professor from 2015 to 2019 and subsequently - as a part-time assistant professor as well since 2019 until now in *Roman Private Law* at the Department of “Theory and history of the state and law” at the Faculty of Law of Sofia University “St. Kliment Ohridski”. He has also taught seminars to first-year students at the Faculty of Law of Sofia University “St. Kliment Ohridski” – both part-time and full-time courses. He has lectured the facultative discipline of *Legal Terminology – Part I*.

In 2015 Stoyan Ivanov specializes in the International Institute for the Unification of Private Law (UNIDROIT) in Rome, Italy, while in 2016 and 2017 by funds of a scholarship from the “Konstantin and Zinovia Katzarovi” Foundation he studies in the libraries of Fribourg, Switzerland and Neuchatel, Switzerland.

The doctoral candidate has presented his papers at the international conferences of the *Balkan Association of Roman Law and Roman Legal Tradition* (2016-2020), in the Academic Public Readings at the Faculty of Law of Sofia University “St. Kliment Ohridski” – “Law and Rights”, “Sanctions in Law”, at scientific forums in memory of Rosen Tashev, Venelin Ganev and Nikola Dolapchiev, as well as at the National Doctoral Student’s Conferences in the field of legal sciences in 2017 and 2020 and at the Doctoral Conference in memory of Assoc. prof. Krastio Tsonchev, PhD in 2017.

Stoyan Ivanov has been a member of the Sofia University research project team since 2015. He is Secretary of the project edition of the IUS ROMANUM electronic Romanistic Journal and the *Balkan Association of Roman Law and Roman Legal Tradition* created for the purposes of the project. He has presented papers in a number of national and international scientific conferences. He is a member of the Union of Bulgarian Jurists.

II. Data on the procedure, abstract and publications

As an unsupervised doctoral candidate on an individual plan at the Department of “Theory and history of the state and law” Stoyan Ivanov is registered at the Faculty of Law of Sofia University “St. Kliment Ohridski” by virtue of Order RD-20-1705/29.10.2018 issued by the Rector of Sofia University. The title of the dissertation study is determined as “Company of Publicans”. His approved individual plan is completed by him. He has also successfully completed the doctoral minimum requirements exam in Roman Private Law in 2021. Therefore, within the set course of doctoral studies Stoyan Ivanov has met the curriculum requirements of the doctoral programme in Roman Private Law.

The dissertational thesis has been discussed at the Department and has been approved for a public defence procedure as of 12 July 2021 by virtue of Sofia University Rector’s Order.

The materials submitted for the public defence procedure of the dissertation thesis for the award of the educational and scientific degree “Doctor” clearly demonstrate that the doctoral candidate’s scientific interests are in the field of Roman Private Law.

The Faculty of Law of Sofia University has an accredited doctoral programme of Roman Private Law for the period until 2026. Thus, the university may provide education to

doctoral students in this programme, which opportunity Stoyan Ivanov has taken as an unsupervised PhD candidate on an individual plan. He has submitted the requisite documents to the members of the Academic Jury in compliance with the requirements of the *Law for the development of academic staff in the Republic of Bulgaria*, its implementing regulation as well as in view of the additional requirements of the Procedure for Science Degrees and Academic Positions at Sofia University “St. Kliment Ohridski”. The PhD candidate has also presented a reference for compliance with the national minimum requirements for the educational and scientific degree “Doctor” in the scientific field of: 3. *Social, economic and legal sciences*, professional direction 3.6 *Law*, academic specialty *Roman Private Law*; in addition to a Declaration of Originality and Authenticity under art. 27, para. 2 of the Implementing Regulation of the *Law for the development of academic staff in the Republic of Bulgaria*.

The dissertation thesis submitted for a public discussion by Stoyan Ivanov is entitled “Company of Publicans”. The thesis content corresponds to the title. A comprehensive study is made of these companies of which little is known in Bulgarian legal literature. The study’s main focus is on private law issues regarding associations of persons in Ancient Rome for specific commercial purposes whereas the historical development of the concept of corporative legal persons is traced, their activity is examined both in private and public interests, in addition to issues related to other areas of law: administrative law, financial law, etc. The topic is relevant as there are few studies in Bulgarian language concerning the formation of the concept of corporative legal persons as well as their activity both in private and public interests. In this regard a thorough comparative legal analysis is made including a number of modern institutes and stepping upon the historically developed Roman concept of the management, spending and control of public finances provided to private legal subjects and the activities performed by them in public interest. Thus, the doctoral candidate logically reaches the search for analogies with the modern legal regulation of the public-private partnership, concessions, public procurement, etc. What is more, the presented bibliography is extensive and useful for further historical and comparative legal research of modern private- and public-law institutes.

The candidate presents a well-structured and an in-depth study of the companies of publicans. The choice of methodology is correct, whereas the historical and dogmatic legal approaches are combined with the specific for Roman-law research exegetic method. Related texts are translated (although it is not expressly specified if the translation was made by the PhD candidate or he had made use of specialized services in this area) and an interpretation is proposed as to both the terminology in them and their entire content. Referring to his good

language preparation, he claims to have analyzed almost all the accessible literature on the topic in English, French, Italian and Spanish language.

Examination of the dissertation leads to the impression that the topic exposition is comprehensive and well-structured encompassing the complete scope of the research problematics. This constitutes a significant contribution to the clarification of the essence and the status of the publican companies and their corporate formation. The dissertation thesis considers the pre-conditions which necessitated the emergence of the independently personified form of publican partnership and they are correctly analyzed in the light of the historical development of the Roman Empire. Emphasis is laid on their particular role in the decentralization of the public Roman finances and in addition, a supposition is made as to the probable period of their existence in view of their role in public money collection in the Roman state by means of a legally personalized subject, such as the publican companies, and different from the individuals comprising said subject.

Submitted with the documents accompanying the dissertation thesis, there is also a Reference of compliance with the national minimum requirements for the educational and scientific degree “Doctor” in the scientific field of: 3. *Social, economic and legal sciences*, professional direction 3.6 *Law*, academic specialty *Roman Private Law*; in addition to a Declaration of Originality and Authenticity under art. 27, para. 2 of the Implementing Regulation of the *Law for the development of academic staff in the Republic of Bulgaria*. Part of the published papers on the topic of the dissertation can be found in the e-journal of IUS ROMANUM which is referenced and indexed in the National Reference List of modern Bulgarian scientific peer-reviewed editions as well as in three world data bases: Erih Plus, HeinOnline and CEEOL.

The submitted reference of the scientometric requirements regarding the dissertational procedure includes three papers presented for the purposes of the public defence. They are as follows: „Изучаването на института на публиканите – пример за обвързване на обществено-икономическата история с правното регулиране“ – IUS ROMANUM, 2016, № 2, с. 537–558, (ID № 1752 в Националния референтен списък на НАЦИД); „Вътрешната организация на дружествата на публиканите според речите на Цицерон срещу Гай Верес“ – IUS ROMANUM, 2018, № 3, с. 11–28, (ID № 1752 в Националния референтен списък на НАЦИД); „Санкции за административни нарушения според Митническия закон за римската провинция Азия“ – В: Научни четения на тема Санкциите в правото. Сборник с доклади от научна конференция, посветена на 140-ата годишнина от приемането на Търновската конституция, организирана от катедра

„Теория и история на държавата и правото“ и катедра „Наказателноправни науки“ на ЮФ на СУ, 15–16 април 2019 г. – София: УИ „Св. Климент Охридски“, 2019, с. 304–319, (ID № 3798 в Националния референтен списък на НАЦИД).

All publications present aspects of the topic, developed in the separate parts of the dissertation thesis but interpreted from a slightly different perspective and with some additions. They demonstrate an in-depth knowledge of the research problems regarding publican companies along with the more general topics of the companies, the legal persons, interactions between individuals and the state in the performance of public works and functions among others. All publications are made independently without co-authorship.

The three papers published by the PhD candidate Stoyan Ivanov are directly related to the research topic and carry the requisite number of 30 points. Therefore, the doctoral candidate complies with the scientometric requirements for the award of the doctoral degree (dissertation thesis – 50 points, published papers – 30 points).

The doctoral candidate has prepared and submitted a 36-page PhD Thesis Abstract which completely complies with the requirements for presenting the dissertation thesis by truthfully reflecting its content and contributory moments. It is formatted according to the requirements and provides the necessary information both about the dissertation thesis, its contributions and the candidate’s other published works on the topic.

III. Characteristics of the dissertation thesis and scientific contributions.

The dissertation thesis comprises 365 standard pages. The content is organized as follows: an introduction, three chapters, a conclusion and a bibliography. The thesis complies with the requirements under art. 27, para. 2 of the *Law for the development of academic staff in the Republic of Bulgaria* and respectively of art. 64, para. 2 of the Procedure for Science Degrees and Academic Positions at Sofia University “St. Kliment Ohridski”. The thesis structure and the content are well-balanced whereby each of the main themes in the three chapters is sufficiently developed and the conclusions are summarized in the final part.

The **introduction** presents the topic’s relevance and significance, the chosen methodology, the status of the research problematics, the aims and the personal argumentation which motivated the PhD candidate to work on this topic. The main thesis is set forth involving the examination of the interaction between state power and private-law structures whereby tracing its development from a historical and legal perspective over a continuous stage of the development of Ancient Rome: the era of the Republic and the Early Empire.

Chapter I of the dissertation thesis is entitled: “Concept and information about the activities of publicans”. It is organized into four sections setting out the preconditions for the publican activity, information about this from the well-known sources, as well as the main activities conducted by these companies. This chapter’s main focus is the clarification of the terms “publican” and “company” which provides the opportunity for presenting into the Bulgarian legal literature some new or previously unknown aspects, mostly applicable to the corporative entities of Ancient Rome and for expanding the already known information about the creation of legal entities. The PhD candidate makes skilful use of Latin terminology without an adequate equivalent in Bulgarian which adds up to a good scientific aspect of the dissertation in the spirit of the Romanistic tradition. By presenting the variety of activities performed by the companies of publicans the author traces the interaction between the private-law structures and public authorities regarding the implementation of socially significant activities: public revenue collection, mine exploitation, army supply, public buildings and facilities construction and restoration, etc.

Chapter II is central for the dissertation. It includes an analysis and commentary of the fundamental texts from the Roman legal sources in view of the definition of the status of the publican companies. In this connection in Sections I and II the basic concepts in Romanistic literature are presented about the partnership created by means of a consensual contract and the so-called corporative organizations (*corpora*). The comprehensive presentation of the internal structure of the publican companies forms a novelty (Section IV), which gives ground for the PhD candidate’s statement that these companies are in fact legal entities although they are called *societas*. Thus, he contends that on the basis of the text analysis it can be concluded that Roman jurists accepted the other meaning of the term *societas* (pp.196-197). This thesis is supported by the candidate with the opinions of a number of scholars stated in the foreign language literature referred by him. In my opinion this thesis is based predominantly on the texts in Latin which according to the cited opinions of other scholars cannot be accepted unequivocally within the doctrine. Therefore, it is my recommendation for this part of the exposition that the different opinions on the topic be considered equally whereby the question is left open for a long-term discussion due to the lack of sufficient legal sources and acts which poses a hindrance at this stage of the legal doctrine’s development for drawing unequivocal conclusions.

It is also noteworthy that this chapter to some degree reiterates the analysis of the sources already made in Section III of Chapter I and then repeated here albeit with an emphasis on some of the texts.

What seems highly arguable to me is the PhD candidate's opinion about the personified nature of the publican companies as legal subjects expounded by revealing the historical development of the concept of persons in Roman law, different from the individuals as legal life participants as well as by clarifying in a logical sequence the arguments in favour of the statement that the said publican companies can be perceived as a prototype of modern commercial companies in view of the examination of their internal structure. Moreover, it is not only the absence of a single term for a legal entity but it seems to me also of a common concept of a legal entity in Roman law that underpin the statements of some authors, cited in the dissertation, who reject the bringing to extremes of the thesis that the company of publicans are in fact legal entities.

Meanwhile, what creates a good impression are the candidate's conclusions in this part of the research study about the specifics of these companies which as a result of their relation with public activities funded by the state build their own organization for the performance of this activity but they also invest a considerable amount of financial means whereas long-term management and accounting go beyond the limitations of the ordinary association of individuals. A main argument in this respect is the extension of the publican company's existence irrespective of the death of a member in it. In addition to this argument, there is also the internal structure and the special rules governing representation in companies of publicans.

The author successfully makes a historical overview of the Roman practice of creating the so-called "personified subjects" of law (defined by the Latin term of *corpora*) in order to support his conclusion that the companies of publicans are namely specific personified corporative organizations. Thus, he reasonably accepts that notwithstanding the absence of a single term the community of people or the personified property is in fact recognized as a holder of rights and obligations as well as of specific public functions. Stepping on these conclusions the PhD candidate summarizes his thesis that in this way a legal entity is formed although not in single and abstract terms but analogically to its modern concept. In this respect, he notes that the term "*universitas*" is the closest to the contemporary notion of a personified subject.

Chapter III of the dissertation offers an overview of the legal aspects of the publican activity. A particular contribution is the exposition concerning negotiations with the state called "*ultra tributa*" (Section I) and the organization of public auctions in Ancient Rome (Section II), rather unknown to modern jurists, however comprising valuable historical precedents. Of interest is also the way in which the content is presented of the standard forms of contract concluded as a result of such auctions and the censor's common rules for the auctions'

procedure (i.e. *leges censoriae*). Here, regarding a future publication of the dissertation thesis, it is worth thinking about, the correct positioning of Section III concerning the legal regulation of publicans' activity (pp. 305-306) as well as about avoiding the repetitions with respect to the sources and those already examined in previous chapters.

It is noteworthy that the review of the already known information about the publican activity by means of translations in Bulgarian of the respective texts is highly valuable because it offers the opportunity for an authentic perception of the Roman jurists' concept of publican companies both in the opinions of the jurisprudence and in the magistrates' edicts. In addition, the legal regulation subject to examination in this chapter informs us of the negative development of these relations which in terms of their essence are exceptionally progressive but their practical implementation creates conditions for abuse and corruption. An opinion to that effect is the one expressed by Assoc. prof. Vladimir Попов, PhD who specifies in his monography „История на стария свят. Имена и термини. Том III“, that: *“Actually, publicans collected a lot more money with the help of the governing and army administration in the provinces, although it did not have any rights to take part in this activity, it effectively did so in practice. This happened informally but was a well-known fact in the whole of the Roman state. Due to the publicans and the well-established corruption in Rome during the Republic, the Roman magistrates in the provinces, who were not paid by the state, in the performance of their activities under their mandates, got incredibly rich.”*

The conclusion summarizes the results from the research study both in its entirety and separately for each chapter whereby a number of conclusions are drawn about the research problematics.

The thesis makes use of a rich scientific apparatus included in 1029 footnotes. The attached bibliography comprises 217 titles, 29 of which are in Bulgarian and 188 in a foreign language (English, Italian, French and Spanish). The author notes the use of 83 monographies, 44 papers, 27 textbooks, dictionaries and study materials in addition to Internet portals where the Roman law sources can be found.

The considerable number of Latin and a few Greek texts included in the thesis and translated in Bulgarian, lend it a significant contributory point. This provides the opportunity for getting acquainted with the actual organization of the publican companies and getting a closer look at the regulation of their activities. The PhD candidate notes that notwithstanding the available translations of the Latin texts in foreign languages, he offers their Bulgarian translations for the first time.

The dissertation thesis is distinguished by its clear and academic style, comprehensible and accessible language despite the considerable use of Latin terms and as a whole (with minor criticisms regarding the repetitions in the sources presentation and analysis) it follows a good and logical structure. The PhD candidate makes skilful use of the Latin texts and the Bulgarian translations are comprehensible and precise. The correct structuring, formatting, text and footnote arrangement are also worth noting, making this work distinctive and interesting not only for jurists, but also for experts in Latin and other.

IV. Scientific contributions and implications

In accordance with the *Law for the development of academic staff in the Republic of Bulgaria* the assessment of a dissertation thesis requires scientific results comprising an original scientific contribution, demonstrating in-depth theoretical knowledge in the respective specialty and abilities for creating a scientific work. Stoyan Ivanov's thesis satisfies these requirements. It is a comprehensive, well-structured and logically ordered thesis dedicated to a fairly unfamiliar topic related to law, but also to the economic and political reality in Ancient Rome, and it represents a specific prototype of a number of modern institutes.

It is my opinion that the PhD candidate has rightly assessed and summarized his contributions, already considered in detail during the analysis of the separate chapters in the dissertation thesis but on the whole they can be summarized and grouped in the following legal order:

1. The topic on the companies of publicans from a legal perspective has not been studied until now in Bulgarian. This gave the candidate the opportunity to trace the historical development of both the terminology and a number of other basic notions such as: a legal entity, a company, a partnership, a legal subject, private and public legal relations among others.
2. A comprehensive historical overview has been made of the emergence and the development of the publican companies and their activity in the light of the economic development and in relation to the provincial organization, tax, construction and military activity in Ancient Rome during the Republic and the Early Empire.
3. The notions of *publican* (*publicanus*) and *company of publicans* (*societas publicanorum*) are considered comprehensively as well as a large number of other Roman law categories such as: *vectigal*, *publica vectigalia*, *ultra tributa*, *lex censoria*, etc.

4. A concept is presented, albeit arguable, supported by the candidate, about the origination of the companies of publicans as a personified legal subject created by a specific form of association, closer to the personified organizations of individuals in Roman law (*corpora*) due to its sustainable and specific internal structure, representation, etc.
5. The Greek and Latin texts related to the topic are collected and translated, thus, creating the possibility for gaining an authentic idea of both the legal regulation and the publican activity with its positive and negative aspects.
6. It is mainly the private law problematics related to the status of the publican companies that the dissertation thesis considers, however, it is positioned and in a close relation with public law problematics stemming from the assignation of functions such as: tax and duty collection, construction, concessions of natural resources, army supply, etc. Therefore, the thesis represents a valuable source of information about the historical precedents of a number of modern institutes.

These and a series of other contributions of the work correspond to its content and objectively reflect the accomplished by the PhD candidate.

V. Critical notes and recommendations

Taking into consideration the work, its high specificity and the fact that it is concerned with Roman law, a field in which experts in Bulgaria are a few people, it is hard to make recommendations. Instead, it would be better to encourage the candidate's effort. In view of the specific value of the summarized information in the dissertation thesis, which for the most part is presented in Bulgarian for the first time, my recommendation for the dissertation thesis is to be published.

However, it seems to me as well that a revision of the text would be beneficial with the aim of avoiding the repetitions in terms of the sources and the analysis of the so-called *legal framework* as specified in the exposition within the separate chapters.

It is also my opinion that some of the theses the candidate supports are overly modernized bearing in mind the completely different economic and political reality in Ancient Rome and in modern times. The literal comparisons and the full analogies are impossible also due to lack of sufficient historical and legal sources, which means that comparisons must be rather conditional. Indisputably each historical piece of research has its value in presenting the genesis of some of the modern legal institutes, but it should not focus too much on finding an exact modern analogue among the familiar to us legal institutes, e.g. of the so-called *decumani*

as the management board of the publican company (pp. 232-233) and *magister* and *pro magistro* as a manager and a deputy manager of the company (pp. 241-242) among others.

In my opinion, it is much more valuable to preserve the balance in the evaluation of the opinions on the content of the examined Roman law notions and to leave the discussion open as to their legal essence as institutes of commercial law. The accomplishment of this outcome as such would be the most significant contribution of the research because it will trigger a long-term interest of scholars in the different fields of the science on the problems at issue (historians, jurists, philologists, etc.).

VI. Conclusion

Stoyan Panayotov Ivanov's dissertation thesis "Company of Publicans" contains scientific results and implications representing an original contribution in science and comply with all requirements of the *Law for the development of academic staff in the Republic of Bulgaria*, its implementing regulation and the Procedure for Science Degrees and Academic Positions at Sofia University "St. Kliment Ohridski".

In conclusion, I give a positive assessment and propose to the academic jury to award the PhD candidate Stoyan Panayotov Ivanov the educational and scientific degree "Doctor" in the field of higher education: 3. Social, economic and legal sciences, professional direction 3.6 Law, academic specialty Roman Private Law.

Veliko Tarnovo, 20th of September 2021

Reviewer:
Prof. Yanka Tyankova, PhD