UNILATERAL ASSUMPTION OF A CIVIL OBLIGATION

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Abstract

The unilateral assumption of a civil obligation has not been the subject of a systematic and profound study in the Bulgarian legal doctrine with the exception of some instances, expressly covered by Acts of Parliament, mostly in the sphere of Commercial Law. Consequently, numerous questions arise in connection with it that have not been given answer to: is it admissible in the cases which are not expressly regulated by legal norms; does it give rise to legal consequences and to what; what are the peculiarities of the legal relation, arising from the unilateral assumption of a civil obligation, etc. The answers ought to be given by the legal theory in order to find their further application in the legal practice. It is true that the most significant usage of the unilateral assumption of a civil obligation finds its place in the sphere of Commercial Law, especially regarding the so called 'commercial effects', but this assumption is not to be underestimated in the cases not regulated by legal norms, since it is based on the autonomous will of the subjects of Civil Law. Daily, these subjects assume obligations towards others in order to satisfy the interests of the latter, and, worldly, this assumption is called a promise. The study aims at finding out in which cases the promise is legally binding and what the legal consequences of its perpetration are.

The study focuses on the legal essence of the unilateral assumption of a legal obligation as a unilateral deal, its legal consequences, the lawful existence of the arising legal relation and other closely related topics. The main topic is part of the broader one regarding the unilateral deals. Its detailed analysis may be beneficial to the development of legal thinking in both students of Law and practicing lawyers, and also might present some ideas to the lawmakers, based on the arguments and conclusions put forward in the study.

The current study treats the following subtopics, which are essential for the understanding of the main one: historical and comparative study of the unilateral assumption of a civil obligation; legally regulated instances of the latter in current Bulgarian Law; legal essence of the unilateral assumption of legal obligation as a deal and of the arising legal relation; the declaration of will of

the unilaterally assuming obligation person, along with the possible modulations; the contents of the arising legal relation; the subjects of the legal relation, along with their specifics, which are peculiar for this particular relation; voluntary representation in the unilateral assumption of a legal obligation; grounds for termination of the arising legal relation; specific manifestations of nullity (invalidity) regarding the studied unilateral deal. Out of the focus of the study remain both the topic of legal liability stemming from the non-fulfillment of the assumed obligation, as well as the statute of limitations, because the volume of the current study does not permit their detailed analysis.

The main conclusions reached in the study can be summed up in the following way: the unilateral assumption of a civil obligation by one subject of Civil Law towards another is in principle admissible (and permissible) and can be classified as a unilateral informal abstract deal *inter vivos*, a lawful legal fact of the Civil Law, which gives rise to a non-contractual legal relation. A proposal is made that this relation is called 'pollicitatio' relation, as well as the obligation which is part of its contents, after the name given to this type of deal in Ancient Rome. The specifics of the pollicitatio relation is in its contents in which, unlike the traditional legal relation, there is not a subjective right corresponding to the legal obligation, but a legal expectation. A proposal is made that the parties of the pollicitatio relation are named 'promissor' (the person who unilaterally assumes the civil obligation) and 'beneficiary' (the person towards whom the obligation is assumed).

Since the pollicitatio is a unilateral deal, only the promissor makes a declaration of will, in which they determine the scope of their obligation. The promissor may put the effect of the deal under the condition of the occurrence of a certain or uncertain future event, but in order for the pollicitatio relation to arise, it is necessary that the obligation is clearly defined in its significant elements, that there is certainty in the intention of the promissor to be legally bound, and that their declaration of will has reached the knowledge of the beneficiary.