SUMMARY

of doctoral thesis

“The legal status of the third party beneficiary under contract in favor of a third party”

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The dissertation on the topic "Legal status of the third party beneficiary under contract in favor of a third party" comprises an introduction, six chapters, and a conclusion. In the introduction, the topicality of the subject, the subject, the goals and tasks of the research, the research methods, the structure of the work, and terminological clarifications are indicated.

The first chapter contains an exposition on the historical development of the views on the legal status of the third party beneficiary in contracting in favor of a third party. The chapter comprises research on Roman law, the legal schools of canon law and civil law in the Middle Ages, the particular development of the legal framework in the Kingdom of Castile, as well as in the period of the XVII and the XVIII centuries. The chapter also contains a historical overview of the Bulgarian legal system and legal doctrine. It is concluded that the development of legal thought over the centuries is subject to the tendency to expand the admissibility of contracting in favor of third parties and continuous efforts for improvement in the legal framework.

Chapter two is devoted to comparative legal overview of the legal status of the third party beneficiary under the contract in favor of a third party. For this purpose, research is carried out on the legal framework of the continental legal systems (Including the Republic of France, the Federal Republic of Germany, the Republic of Italy, the Swiss Confederation, the Russian Federation, and the Kingdom of the Netherlands), the common law legal systems (the United Kingdom and Northern Ireland, as well as the United States of America) and the mixed in nature legal systems (the People's Republic of China, the state of Louisiana, as well as the province of Quebec), as well as the non-normative sources of contract rules (Principles of European Contract Law, UNIDROIT, Draft Common Frame of Reference and European contract code). As a result of the research, a trend toward detailing the legal framework and its reformation is outlined.

The third chapter examines the concept of a third party within the meaning of Art. 22 from the Obligations and Contracts Act (OCA). The contract in favor of a third party is

considered an exception to the principle of relativity of the obligation relationship. The chapter contains a critical analysis of the various theories regarding the legal status of the third party beneficiary. It is concluded that the existing Bulgarian legal system contains a number of weaknesses in the perception of the two prevailing theories of the rights of the third party beneficiary - the doctrine of confirmation and the doctrine of acceptance. The need for future legislative reform to allow the direct emergence of rights for third party beneficiary under the agreement between the stipulator and the promisor is supported. The third chapter contains an explanation of the general conditions regarding the possible legal subjects, in favor of which can be negotiated within the meaning of Art. 22 of the OCA and the specifics arising from it, namely – the agreement in favor of individuals (minors, spouses), in favor legal entities, and in favor of a definable person.

Chapter four contains research on the benefits that can be negotiated with a contract under Art. 22 of the OCA. First, it includes an analysis of the concept of benefit under Art. 22 of the OCA. It is concluded that in order for there to be a pure contract in favor of a third party, the benefit must be related to the emergence of a particular right for the third party beneficiary, and not in any beneficial effect on him. Distinctions are made between permissible benefits from similar legal institutes. Special attention is paid to the issue of negotiation of real property rights. In this regard, the weaknesses of the Bulgarian legal system are outlined and proposals *de lege ferenda* are formulated to provide for such a possibility, but with the presence of rules guaranteeing legal security. Questions regarding the heritability of the benefit under Art. 22 of the OCA, as well as the possible other consequences of benefiting the beneficiary, are examined in this chapter.

The fifth chapter contains a study on the acceptance and refusal of the third party beneficiary to benefit from the stipulation in his favor. With regard to the acceptance, the thesis regarding its character of exercise of a transforming right by a unilateral act is substantiated. The main consequences of the exercise of this right are outlined - irrevocability of the stipulation, consolidation of the rights of the third party beneficiary, and the impossibility of the contract under Art. 22 of the OCA to be amended or terminated without the consent of the third party. The need for the future legislative adoption of the doctrine of confirmation is argued in view of the possibility that the creditors of the third party beneficiary will have the opportunity to exercise his/hers right to accept through the claim under Art. 134 of the OCA. Chapter five examines the nature of the third party beneficiary's refusal to benefit from the stipulation, its consequences, as well as the possibility of the third party beneficiary's creditors seeking cancellation of the refusal with the claim under Art. 135

of the OCA. The need for an explicit legal regulation of the effect of the refusal, as well as providing for an opportunity for the stipulator, in the event of a refusal, to attract the agreed benefit to his/hers patrimony or to designate another third party is emphasized.

Chapter Six examines the legal status of the third party beneficiary in view of his relationship with the stipulator and the promisee. It seeks the question of whether the third party has the capacity of a party to the contract under Art. 22 OCA, denying this quality of his/her. The chapter analyzes the particularities of the legal relationship between the third party and the promisee, with emphasis added on the right of the third party beneficiary to demand performance and his rights in case of non-performance. The need to explicitly regulate the possibility of the stipulator to also request performance, but not in his favor, but in favor of the third party beneficiary, is supported. The sixth chapter also contains research on the legal relationship between the third party and the stipulator, in particular on the nature and manner of exercising the right of cancellation, its inheritance, the legal consequences of its exercise, as well as the issues of cancellation of the contract under Art. 22 of the OCA at the request of the creditors of the stipulator.

In the conclusion, the scientific results of the research are summarized, outlined with the trends in the development of the considered legal institute, and the proposals *de lege ferenda* are summarized.