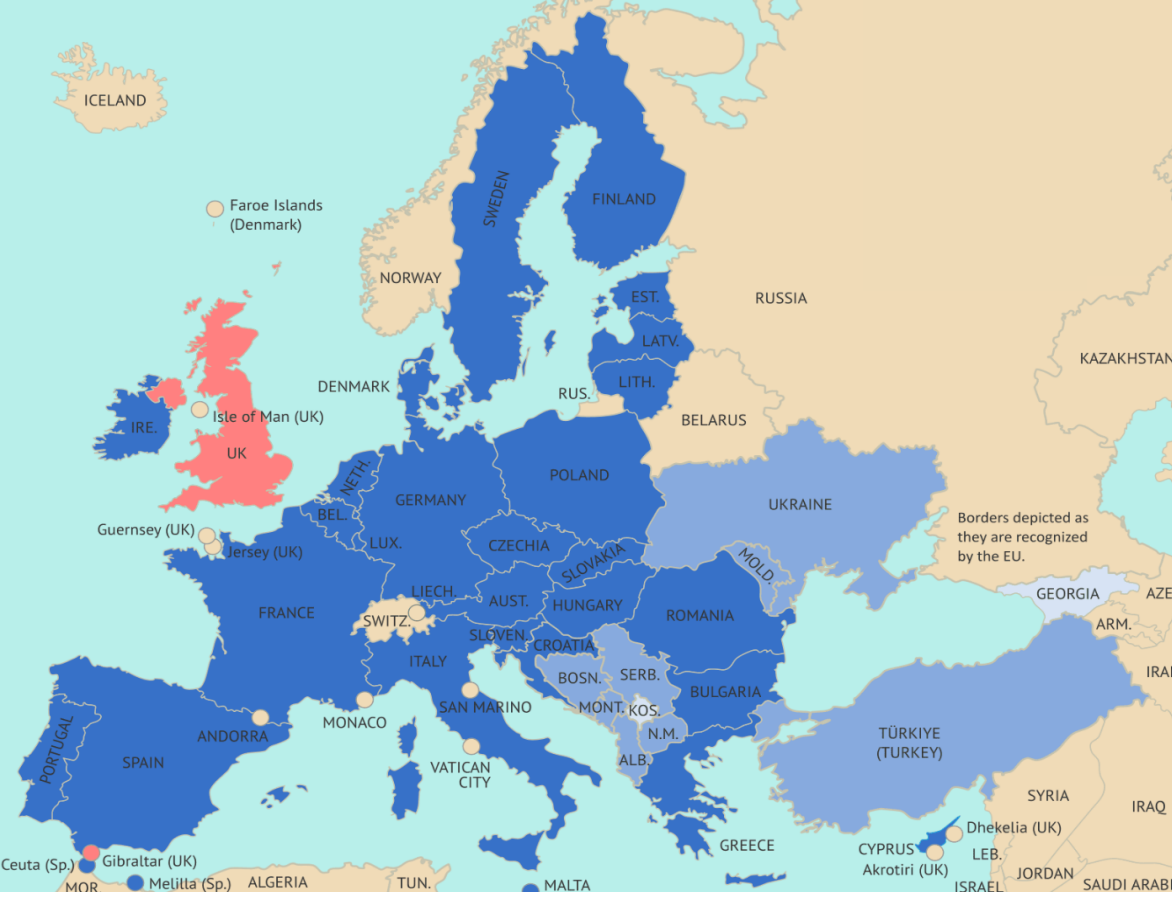


Malkhaz Nakashidze (Editor)

Democracy, Rule of Law, and Protection of Human Rights in the European Union

Malkhaz Nakashidze
Editor

Democracy, Rule of Law, and Protection of Human Rights in the European Union

With the support of the Erasmus+ Programme of the European Union

Jean Monnet Chair "The European Union's fundamental values: Democracy, Rule of Law and Protection of Human Rights"

UDC (ეაკ) 321.7+341.231.14+341.217(4)
D-39

Democracy, Rule of Law, and Protection of Human Rights in the European Union

Malkhaz Nakashidze (Editor)

Published by

Batumi Shota Rustaveli State University

35/32 Ninoshvili/Rustaveli str. 6010, Batumi, Georgia
Phone: +995 (422) 27-17-86
E-Mail: info@bsu.edu.ge
Website: https://www.bsu.edu.ge

Book cover map by Evan Centanni, from blank map by Ssolbergj. License: CC BY-SA https://www.polgeonow.com
Book cover photo from the march supporting European integration in Tbilisi, July 3, 2023. https://www.radiotavisupleba.ge

ISBN 978-9941-488-81-8

© „Batumi Shota Rustaveli State University "– 2023

Contents

Chapter 12.

The Social and Economic Foundations of Pauline Action

Fală Nicolae and Plotnic Olesea[12]

Abstract: This article explores the historical evolution and contemporary significance of the Pauline action in safeguarding creditors' rights. Tracing its origins from ancient Roman practices to modern legal frameworks like the Modernized Civil Code, it elucidates the pivotal role of this mechanism in shielding creditors from debtors' obstructive actions. The Pauline action, designed to counteract fraudulent dispositions by debtors to third parties hindering creditor claims, is analyzed in the context of balancing interests among creditors, debtors, and third-party contractors. Emphasizing the intricate interplay of these interests, the article underscores the delicate equilibrium necessary for equitable outcomes. It highlights the imperative of discerning interests deserving of protection in different scenarios - gratuitous versus tortious acts - while considering the impact on the civil circuit. Ultimately, the article emphasizes a nuanced approach to the Pauline action, aiming to restore balance, foster trust, and deter fraudulent behavior within civil legal relations.

1. Introduction

Throughout history, the enforcement of creditors' rights has been an integral aspect of societal governance, evolving alongside the progression of human civilization. This article delves into the intricate understanding of creditor-debtor relationships, tracing its origins from ancient civilizations like Rome to contemporary legal frameworks. Central to this exploration is the Pauline action, an essential legal recourse designed to safeguard the rights of creditors against detrimental acts by debtors and third-party contractors.

By examining the historical evolution of creditor remedies within commodity-money relations, particularly in Ancient Rome, this article highlights the transition from harsh physical repercussions for non-paying debtors to the development of structured legal mechanisms such as venditio bonorum. The emergence of solutions like actio Pauliana and interdictum fraudatorium in Roman law laid the foundation for the practical application of the Pauline action, emphasizing a nuanced analysis of social values and interests.

Furthermore, this article investigates the contemporary relevance of the Pauline action, drawing parallels between modern legal regulations and the jurisprudential

[12] Fală Nicolae, University lecturer, Law Department, Free International University of Moldova, trainer at the National Institute of Justice, fala.lawyer@gmail.com Plotnic Olesea, PhabD., University professor, Moldova State University, EU4JUST Jean Monnet Coordinator, Republic of Moldova plotnicolesea.aum@gmail.com

roots in Roman law. It scrutinizes the delicate balance between protecting creditors' rights and respecting the acquired rights of third-party contractors, analyzing the legal landscape's intricacies in differentiating between gratuitous and tortious acts. Ultimately, this exploration aims to unravel the complexities surrounding the Pauline action's application, emphasizing the need for a harmonized approach that safe-guards the civil circuit while upholding the principles of good faith and equitable distribution of patrimonial values. Through a comprehensive analysis of historical precedents and contemporary legal interpretations, this article seeks to shed light on the practical significance and delicate nuances of the Pauline action within the realm of creditors' rights.

Therefore, understanding the intricate evolution and practical application of creditor's rights, particularly through the lens of the Pauline action, necessitates a comprehensive analysis rooted in historical context and contemporary legal frameworks. This article aims to delve into the multifaceted landscape of creditor-debtor relationships, employing a structured examination bolstered by historical insights and contemporary legal perspectives.

2. Data and Methodology

The research entails an in-depth investigation into historical legal texts, Roman jurisprudence, and scholarly works discussing creditor-debtor relationships. It relies extensively on primary sources detailing Roman legal mechanisms such as venditio bonorum, actio Pauliana, and interdictum fraudatorium. Additionally, it integrates interpretations from renowned legal scholars and practitioners specializing in civil law and debtor-creditor relationships.

This research embraces a multifaceted approach, amalgamating qualitative analysis to dissect historical evolution and contemporary legal interpretations. It employs several methodologies:

2.1. Analysis and Synthesis:

a) Analysis: Segmentation of the subject into cohesive sections referencing legal doctrines from Ancient Rome and the contemporary Modernized Civil Code. This involves dissecting the transition from personal to patrimonial liability and the emergence of praetorian solutions.
b) Synthesis: Identification and comparison of social values and interests within historical legal precedents and modern legal interpretations, emphasizing practical applications within the Pauline action.

2.2. Deduction and Classification:

c) Deduction: Formulating conclusions grounded in historical insights and legal principles, presenting personal perspectives on the evolution and application of the Pauline action.

d) Classification: Categorization of distinct legal concepts and doctrines within Roman law and their impact on contemporary legal frameworks, facilitating a detailed exploration of each aspect.

Analogy and Observation:

e) Analogy: Drawing parallels and distinctions between creditor remedies in Ancient Rome and their relevance to modern legal mechanisms, discerning similarities and differences.

f) Observation: Examining historical trends and legal adaptations over time, tracking the evolution of debtor-creditor relationships and legal remedies.

Comparison and Evaluation:

g) Comparison: Contrasting the historical foundations of the Pauline action within Roman law with contemporary interpretations, evaluating the adaptability and practicality of ancient legal mechanisms in modern legal contexts.

This comprehensive methodology aims to present a nuanced understanding of the social, economic, and legal underpinnings of the Pauline action, drawing from historical precedents and contemporary interpretations. Through this methodical exploration, it seeks to illuminate the evolution and practical significance of the Pauline action within the realm of creditor-debtor relationships, fostering insights for legal scholarship and contemporary legal practice.

3. Literature Review

The realization of creditors' rights is a vital social imperative, which was established with the advanced social organization, characterized by commodity-money relations. This type of relationship, preceded by the gift economy [1], is a direct consequence of the appearance of money. Failure to fulfill obligations takes on new connotations within commodity-money relations. The „personal" liability of the debtor for his obligations has been well known since ancient times. In Ancient Rome, most debtors were poor plebeians, who acquired credit through an original legal mechanism called nexum, which consisted of the personal pledge of the debtor and his family members. The very harsh „remedies" of the creditors of that period, who could even physically divide the body of the bad-paying debtor among themselves, are well known [2].

However, these „remedies" were not exactly convenient for the creditors and the community in general, because their foundation seems to be more a revenge than the intention to realize the debt right that was not executed by the debtor. Thus, Roman law knows a long evolution of insolvency proceedings (venditio bonorum), which already during the period of Justinian's codifications is based on the idea of patrimonial, and not just personal, liability for non-execution of obligations. Thus, the venditio bonorum procedure begins with the application of the general seizure (missio in bona) on the debtor's patrimony, who was thus deprived of the right to dispose his assets. Obviously, with the abandonment of the idea of personal liability for obligations, debtors who risked being subject to enforcement proceedings were tempted to hide their assets from pursuing creditors. These fraudulent actions could be taken in advance, before the application of the missio in bona, or

even after the application of this measure. For this purpose, Roman debtors resorted to the establishment or transmission of real rights over their assets, the establishment of various obligation relationships.

Ovbiously, debtors' frauds forced creditors to identify legal solutions to counteract them. Thus, in the Praetorian way, the actio Pauliana, the interdictum fraudatorium and the actio in factum were instituted [3]. These represent actions granted by the praetor to the creditor who cannot realize his claim, mainly due to the legal acts of disposition concluded by the debtor with third parties. Therefore, these actions were directed not only against the debtor but also against the acquirer of the debtor's assets. However, the liability of the acquirer was conditioned by the knowledge of the debtor's intention to harm his creditors, in which case he was obliged to remove all the adverse effects for creditors of the fraudulent legal act concluded with the debtor [4]. Acquirers in good faith were liable only in the case of gratuitous legal acts.

The Praetorian genesis of Pauline action involves the crystallization of applicative solutions specifically from a practical perspective. So, the named solutions are specifically justified by reasons of a practical nature, or, in other words, by the detailed analysis of the values and social interests targeted by the solution of the Pauline action.

The modern regulations of the Pauline action essentially represent takeovers, more or less detailed, of the solutions identified by the Roman jurisconsults. However, in the contemporary specialized literature, the social and economic foundations of the Pauline action, with some exceptions, are treated very lapidarily and superficially or are not treated at all. But precisely these foundations (interests and social values) form the entire construction of the institution of Pauline action. Consequently, the correct and fair practical application of the Paulian action is only possible by prior complex analysis of the interests of the subjects involved in the Pauline process, namely the debtor, the creditor, and the third-party contractor, as well as the general interests.

4. Legal Framework and Implications of the Pauline Action

Similar to the functions of the Pauline action in Roman law, currently, from the content of art. 895 para. (1) Modernized Civil Code, the reason for the establishment of this institution can be deduced, namely the protection of creditors against legal acts concluded by debtors with third party contractors to their detriment, manifested by „preventing the full satisfaction of the creditor's rights vis-à-vis the debtor”. Thus, the first issue that arises in this context is regarding the rationale and importance of defending the creditor's right of claim. Attention is drawn to the fact that the protection of the creditor's right to claim against fraud is the object of a distinct method of defense of subjective civil rights, either the Pauline action is precisely a method of defense of the subjective rights of creditors [5]. Obviously, this fact denotes the major importance for the legal order of the compliant realization of the creditor's right to claim. Therefore, we can affirm that the entire

society is co-interested in the full and compliant realization of the named rights of creditors, as well as in their defense against legal acts that prevent their realization.

The explanation of the increased interest of the whole society, represented by the legislator, in realizing the debt rights resides in the idea of the civil circuit and the need to protect it [6]. In the specialized literature, it has been rightly stated that the civil circuit is the only source of all the goods and services that society needs [7]. In essence, bi-or multilateral (syntagmatic) legal acts represent the cells that make up the entire fabric of the civil circuit. Therefore, non-performance of the obligation represents a „break" in the civil circuit, so it has a destructive effect on the whole „fabric". The Pauline action is intended for the creditor who has executed his own obligation but cannot obtain the realization of his own claim from the debtor because of the legal act concluded by the latter with the third-party contractor. So, the Paulian creditor is the embodiment of the civil circuit, or his service performed for the benefit of the bad-paying debtor is, as a rule, a taxable deed. The conside-ration for the good transferred (the service rendered) to the debtor by the creditor is to be „secured" to him including through coercive methods, the Pauline action being one of these methods. In this context, we note that the creditor who himself has not performed his own obligation towards the debtor will be deprived of the right of action in a material sense. In this case, the unexecuted legal act is not part of the civil circuit, and the general interest in the protection of the parties to such a legal relationship is reduced. The contracting third party will be able to oppose this defense to the Paulian claimant within the limits of non-execution. The basis for such a defense will be the lack of „damage to the creditor", which is an essential condition for the admission of the Pauline action in accordance with art. 895 paragraph (1) Modernized Civil Code.

Another important issue is the status of the third-party contractor. According to art. 895 para. (1) Modernized Civil Code, the object of the Pauline action are „legal acts concluded by the debtor to the detriment of the creditor". The legal regulation of the Pauline action and the judicial practice of its application, represents that as a rule, these legal acts are bilateral, which implies the existence of the obligatory relationship between the debtor and a third party named by the legislator of the modernized Civil Code as „third party contractor". Therefore, the contracting third party is also a creditor of the debtor, a quality that he acquired precisely on the occasion of the signing of the harmful legal act. But this means that the previous observations regarding the need to protect the creditor's claim also apply to the third-party contractor. Moreover, unlike the Pauline creditor, the third-party contractor is a creditor who has already realized his claim. From the economy of art. 898 para. (1) Modernized Civil Code, results that the admission of the Pauline action generates, in the person of the Pauline creditor, the right to pursue the benefit received by the contracting third party (beneficiary) from the debtor based on the harmful legal act. In other words, the common law Paulian action has the effect of reversing the roles between the Pauline creditor and the contracting third party : the Paulian creditor realizes his right of claim, and the contracting third party, although he initially realized his own right of claim, receiving the benefit from the debtor, in in the end, he is left with an unrealized claim against the debtor and with no chance

of realization, precisely because of the insufficiency of the debtor's patrimony[8]. Therefore, the correct application of the rules governing the Pauline action depends on the perception of the legislator's option to protect the original creditor by granting the possibility to realize his right of claim from the account of a subsequent creditor (third party contractor), by appropriating the amounts obtained from the pursuit of the benefit obtained by the third party contracting from the debtor. It goes without saying that the admission of the Pauline action can only be justified by exceptional circumstances, in which the protection of the right of claim of the Pauline creditor is more beneficial from the perspective of the defense and development of the civil circuit, than the defense of the acquired rights of the contracting third party as a result of signing and execution of the harmful legal act. From this point of view, the Pauline action represents the legal algorithm by which the court is called to resolve the conflict between two creditors of the same debtor, a conflict that leads to the exclusive realization of the right of claim from the account of a patrimonial asset. And the solution to the Pauline action will have to reflect the creditor's interests, which are more worthy of legal protection [9]. Additionally, the admission of the Pauline action clearly represents an interference with the right to respect the property of the contracting third party, the enforced execution over the property of the contracting third party leads to the loss of this right [10]. Thus, starting from the provisions of art. 46 par. (1) and 54 par. (2) of the Constitution of the Republic of Moldova, the provisions of art.1 of Protocol no.1 to the European Convention of Human Rights, the resolution of the Pauline action must be limited to the conditions of legality, pursuit of a legitimate objective and proportionality between the means and the pursued objective [11]. From this point of view, the legal pro-visions governing the Pauline action are to be strictly interpreted.

5. Significance and Role of the Pauline Action

Establishing interests worthy of protection in the context of Pauline action is a very delicate matter. This involves a thorough study of all the factual circumstances of the case and their assessment in accordance with the principles of legality and proportionality. In the case of gratuitous legal acts, the task of the court is expressly facilitated by the legislator. The Paulian creditor will only have to prove, from the point of view of the burden of proof, that the debtor knew or should have known the harmful nature of the gratuitous legal act. In other words, the debtor realized that after the execution of the gratuitous legal act, he would no longer have sufficient patrimonial assets to execute his obligation towards the creditor. Objectively speaking, the acquirer of gratuitous title is clearly less worthy of protection in relation to the Pauline creditor, who performed a certain service for the benefit of the debtor. In Romanian doctrine, it is stated that between the interest of the creditor, which is to avoid a damage - argued by damno vitando -, and the interest of the third party to preserve an enrichment - argued by lucro captando - the creditor's interest must be preferred [12]. In this situation, the interference is necessary in a democratic society and under the aspect of the imperative to protect the civil circuit. Gratuitous legal acts do not generate surplus value, they are animated by the intention to gratify - animus donandi – a characteristic of close personal relationships, such as those of kinship, family, affinity, and similar ones. And in

this case, the contracting third party will no longer be able to defend himself by invoking good faith, in the legislator's view this being irrelevant. The explanation of such an approach resides in the general view of the legislator on free title: a) the claim is always admissible in relation to the acquirer with free title, good faith being irrelevant (art. 523 par. (2) in conjunction with art. 582 Modernized Civil Code); b) exclusion of the right to demand forced execution in nature of a pre-contract of donation (art. 1200 Modernized Civil Code); c) the donor who is in delay, is not obliged to pay late interest or, as the case may be, penalties (art. 1205 Modernized Civil Code); the right to revoke the donation for ingratitude, in case of need, as well as for other valid reasons (art. 1210-1212 Modernized Civil Code).

The consistent application of the principles of legality and proportionality admit some substantive defenses of the contracting third party. In the following situations, the contracting third party is worthy of protection, even if it was acquired in an gratuitous manner. First, it is about the situation in which the Pauline creditor is himself a beneficiary of the insolvent debtor, his claim arising from a legal deed with a gratuitous title concluded with the debtor, but which has not yet been executed. The rule established in art.1200 para. (3) Modernized Civil Code, also speaks in favor of this solution, which excludes the right to demand forced execution in kind of a pre-contract of donation. Also, the third-party contractor will be able to successfully defend himself in the situation where the Pauline creditor has not performed his obligation towards the debtor. Another defense of the third-party contractor, applicable in all cases, would be the counterclaim action in the declaration of simulation, if there are doubts regarding the title of the Pauline creditor's claim. Hypothetically speaking, situations are possible in practice in which the legal act between the creditor and the debtor is simulated, the alleged execution of the creditor's obligation towards the debtor being staged specifically with the aim of possibly creating premises for the promotion of the Pauline action in the future. The use of the Pauline action for the purpose of dispossessing the third-party contractor of the asset received from the debtor is a pathogenic situation, in which the purpose of the Paulian action is clearly diverted. In all these cases, the third party's defenses are based on the absence of the condition regarding the existence of the damage.

In contrast to the case of gratuitous harmful acts, establishing interests worthy of protection in the case of tortious acts is much more difficult. Practically, the court is put in the position of choosing the less destructive solution for the civil circuit. In this case, several interests are at stake, including general interests in the protection of trust and good faith in civil legal relationships, as well as the need to promote appropriate standards of care. It is obvious that the third-party contractor will be responsible for the damage suffered by the creditor only in exceptional conditions, or there is no reason to sacrifice his interests. In this sense, the legislator established restrictive conditions in the content of art. 895 par.(2) Modernized Civil Code, established for the creditor the burden of proving the facts that: a) the contracting third party or the beneficiary of the deed knew or should have known that the legal deed would harm the creditor or that it was concluded with the intention of damage to the creditor; or b) if the legal act was signed before the

appearance of the creditor's right, the contracting third party or the beneficiary of the legal act knew the debtor's intention to harm the creditors in general. Without a bit of exaggeration, we can say that the interpretation of these norms given in judicial practice will determine the stability of the civil circuit in terms of the extent of the phenomenon of non-execution of obligations. Thus, the assessment of the propor-tionality of the solution to admit the Pauline action will have to be based on clear standards of diligence in civil legal relations and on the requireements of the prin-ciple of good faith. Regarding standards of diligence, we note the lack of a console-dated jurisprudence of the national courts in which they would be reflected. There-fore, we consider that the Pauline action represents a potential risk for the stability of the civil circuit.

In order to overcome the indicated risks, the courts must thoroughly study the relevant facts in each determined case and establish the reasonableness and sufficiency of the diligence of the third-party contractor. In our view, the imputation of knowledge of the harmful character of the legal act from an objective point of view must be related to the reasonable measures that an average participant in the respective civil legal relations would have adopted. It is very dangerous to institute increased due diligence measures, or this would mean the need for extensive research and verification of the patrimonial status of the potential contractor, research that involves time and money. In such conditions, legal subjects will be demotivated to contract, and the Pauline action will turn into an obstacle and a risk factor for the civil circuit. In situations where the creditor will be able to demonstrate the effective knowledge by the contracting third party of the harmful nature of the legal act signed with the debtor or even complicity in fraud, the risks for the civil circuit are much lower. In these situations, another issue already comes to the fore, namely that of probation standards. In conclusion, the resolution of the Pauline action in the case of onerous acts depends on the coordinated application of divergent principles and interests in this context, namely the stability of the civil circuit and the protection of good faith. This is only possible by establishing appropriate standards of diligence and probation. And the admission of the Pauline action can only be ordered in cases where the third party can reasonably be accused of a lack of diligence manifested by the omission of obvious facts regarding the debtor's patrimonial status in the context of his obligations towards other creditors. In the case of actual knowledge or that of complicity in fraud, the applicative problem resides in the establishment of appropriate standards of probation in order to avoid the possibility of misappropriation of the purpose of the Pauline action. In the case of the anticipated intention to harm the creditors, the named demands must be even higher.

Finally, we can say that the practical application of the Pauline action cannot be reduced to the mechanical application of the civil norms that configure it as a legal institution. In essence, the Pauline action is intended to correct the inequitable and irrational distribution of patrimonial values. For these reasons, it is necessary to take into account the interests of all „actors" involved in the process: debtor, creditor and third-party contractor. In addition, it is necessary to investigate in detail the circumstances of each case in terms of two great general interests that

converge, namely the protection of the civil circuit, which was embodied both by the Pauline creditor and by the third-party contractor, and on the other hand, the need to protect the good-beliefs and the deterrence of fraud in civil legal relations.

6. Conclusion and Recommendations

Social and economic foundations configure and explain the entire construction of the institution of Pauline action. The protection of the creditor's claim against fraud is the object of a distinct method of defense of subjective civil rights. The Pauline action is precisely that method of defending the subjective rights of creditors. That issue goes beyond personal interest, it becomes of general interest from the defense point of view. The company is co-interested in the full and compliant realization of creditors' rights, as well as in their defense against legal acts that prevent their reali-zation. From the point of view of proportionality, the solution to admit Pauline's action will have to be based on clear standards of diligence in civil legal relations and on the requirements of the principle of good faith. The Pauline action represents a potential risk for the stability of the civil and economic circuit in general. In order to overcome possible risks, the courts, emerging from the social function of the economy, constitutionally enshrined, should thoroughly study the relevant facts in each determined case and establish the reasonableness and sufficiency of the dili-gence of the third-party contractor.

Therefore, the research emphasizes the pivotal role of creditors' rights throughout historical and modern legal frameworks. It traces the evolution of debt enforcement mechanisms from ancient Rome's harsh punitive measures towards debtors to the establishment of insolvency proceedings focusing on patrimonial liability. Moreover, it sheds light on the Pauline action's origins in Roman law and its contemporary relevance, emphasizing the need for a comprehensive understanding of its socio-economic foundations.

One prominent conclusion is the societal significance of safeguarding creditors' rights, rooted in the function of the civil circuit as the primary source of goods and services. Disruptions to this circuit through non-performance of obligations necessitate legal tools like the Pauline action to restore balance and ensure fair execution, aligning with broader societal interests.

The Pauline action introduces a conflict between creditors, prioritizing the realization of the Pauline creditor's claim over that of the contracting third party. Its application demands a delicate equilibrium between conflicting interests, requiring strict adherence to legal principles and constitutional rights, such as proportionality and property rights.

Differentiating between gratuitous and tortious acts becomes pivotal in determining the liability of third-party contractors. While gratuitous acts may be seen as less deserving of protection, tortious acts involve a more intricate balance of interests, demanding meticulous evaluation of facts and adherence to standards of diligence and good faith.

Ultimately, the practical application of the Pauline action transcends a mere application of legal norms. It serves as a corrective instrument to rectify unjust asset distributions, calling for a comprehensive examination of case-specific circumstances. Ensuring the protection of the civil circuit, deterring fraud, and upholding principles of equity and rationality in distributing patrimonial values are vital conclusions drawn from this research.

In summary, the research underscores the historical evolution and significance of creditors' rights, focusing on the evolution from punitive measures to insolvency proceedings and the origins and contemporary relevance of the Pauline action. It emphasizes the societal importance of safeguarding creditors' rights, the need for balance between conflicting interests, and the corrective nature of the Pauline action in rectifying unjust asset distributions.

Acknowledgment

The authors acknowledge the co-financed support by the European Commission, European Education and Culture Executive Agency (EACEA), Chair Jean Monnet on EU Studies for Human Rights Protection and Alternative Dispute Resolution, Grant Agreement number: 101085276 — EU4JUST - ERASMUS-JMO-2022-HEI-TCH-RSCH. Views and opinions expre-ssed are however those of the authors only and do not necessarily reflect those of the European Union or European Commission (EACEA). Neither the European Union nor the granting authority can be held responsible for them.

References

[1] Sklovsky K.I.; Political and legal aspects of gift theory. Politics, 2019, N.3., p. 55-86.

[2] Malyshev, K. I., Historical essay of the competition process. Sankt-Peterburg: printing house of the Association „Public Benefit", 1871, p. 5-6.

[3] Malyshev, K. И. , Op. cit., p. 42-43.

[4] Idem, p. 44.

[5] art. 16 para. (1) letter k) Civil Code

[6] art. 5 point (21) of the Fiscal Code

[7] Sklovsky K.I., Everyday civility. Moscow: Statut, 2017, p. 119.

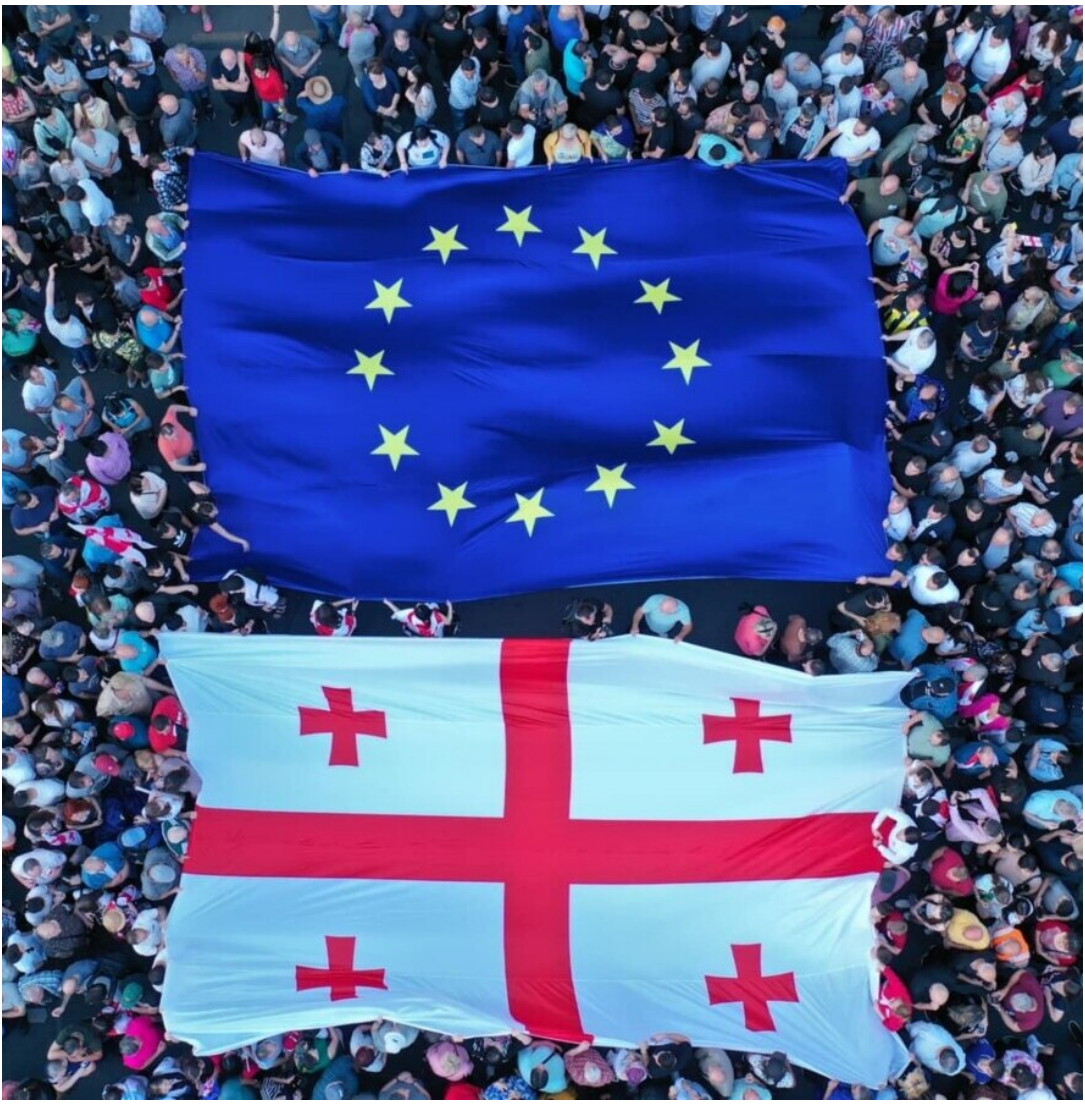
[8] Kotsiol X., Basic and controversial issues of disputing the actions of the debtor, committed in harm to his creditors (initially). Herald of civil law. 2017. № 3, (I), p. 220.

[9] Kotsiol Kh., op. cit., p. 220-221.

[10] art. 536 para. (2) Modernized Civil Code

[11] See Beyeler v. Italy, §108-114.

[12] Legal means of preserving the debtor's patrimony. Revocable action, oblique action, direct action. Bucharest: Hamangiu, 2018, p. 102.



With the support of the
Erasmus+ Programme
of the European Union