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Vassileva, Radosveta. Bulgarian Private Law at Crossroads. *Cambridge–Antwerp–Chicago: Intersentia, 2022 (213 pp., ISBN 9781839702969)*

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George Bernard Shaw is often credited as an author of the bon mot that "England and America are two nations divided by the common language." Adjusting it to Central and Eastern European affairs we can say that Slavic nations seem to be divided by deceptively similar languages. That factor, combined with our general status as a semi-periphery of Western civilization results in a fact that representatives of the nations of our region rarely know each other's languages, and, consequently, they must use a *lingua franca* for communication. Depending on the time and more specific cultural conditions, it could be French, German, or Russian, but today, of course, global English dominates conversations between closer and more distant neighbors in the region. Also, for this reason, it is valuable when titles devoted to the law of Central, Eastern European or Balkan countries, written in English, appear on the publishing market. They allow us to broaden the comparative spectrum; to go beyond the vicious circle of constantly analyzed, "most important" legal systems. All this makes Radosveta Vassileva's monograph on the history, present state, and specifics of Bulgarian private law interesting not only for the general European legal audience, but especially for a lawyer from a country that, to some extent, shares some elements of historical fate with Bulgaria.

Bulgarian Private Law at Crossroads was published by the Cambridge-based Intersentia, as a first instalment of a series *Private Law around the World*, which, according to its editor, Professor Peter Cane, shall consist of "books […] written by insiders but primarily for an audience of outsiders" (p. V). Equally important is what Cane says about the research methods that will be used by the authors: "books in this series will look beyond legal doctrine to social, historical, institutional and other context in which

legal rules and principles exist and operate" (p. VI). Let us examine how Vassileva's monograph meets these assumptions.

The content is divided into six chapters. The purpose of the first one is revealed in its title: "Why Bulgarian law?" At the very beginning the author states, "the Bulgarian legal system is one of the least studied internationally due to an array of complex factors," the simplest one being the fact that it is very rare for the language to be known by outsiders, especially given that it is written with the Cyrillic alphabet. Most of the first chapter serves to justify the use of Bulgarian law as an example that fits into certain methodological assumptions and theoretical frameworks of historical-comparative and comparative law studies. These considerations in themselves are very valuable, demonstrating the wide array of concepts and theories developed by comparative legal studies. We will also find here the justification for the choice of the title of the monograph, which is also emphasized on the back of the back cover: "Bulgarian private law has always been at crossroads" (p. 27). Later Vassileva states that "the history of Bulgarian law, including Bulgarian private law, is as turbulent as the history of Bulgaria" (p. 43). When reading this sentence, lawyers from other countries in our part of Europe will certainly nod their heads in understanding. However, the main addressee of the book is undoubtedly the Western European lawyer, especially the English one. This is the reason why the author sometimes states the obvious, e.g., concerning the nature and consequences of communism. In addition, we will find on the pages of the book certain terminological explanations, clearly addressed to representatives of the world of common law, such as a clarification that in continental systems we use in literature and teaching one category of obligations, contrary to what English lawyers study separately as contracts, torts and unjust enrichment (p. 111).

Chapter 2, "Sources, History, and Development of Bulgarian Private Law" may seem to be the most interesting one for a legal historian, but the historical-comparative scope of the book does not end there, since the author refers to this background very often while describing particular institutions and solutions adapted by Bulgarian law. Chapter 2 gives the reader a general overview of the most characteristic features of the development of the sources. It is difficult to assess to what extent it is a fact known to European lawyers that Bulgaria has never had a civil code (pp. 29, 32) and its private law legislation is fragmented and has never been coherent. Because of that, the role of the judiciary has always been much more important than in many other continental jurisdictions, even taking the form of a gap-filling power expressly given to the judges by the provisions of all the free (1891, 1997, 2007) Bulgarian Codes of Civil Procedure. It is not surprising that, due to the delayed start to modernity typical of the region, Bulgarian jurists largely used the comparative method. Therefore, the 1892 Law of Contracts was based mostly on Italian and Spanish Law, while the 1897 Law of Commerce relies on German (*via* Hungary) and Italian (*via* Romania) regulations. Polish readers will certainly be interested in the fact that one of the jurisdictions in which Bulgarians looked for inspiration was Poland (p. 25). This happened thanks in large part to a prominent jurist and politician, Yosif Fadenhecht,[1] who wrote about the Polish 1933 Code of Obligations and believed that it should be the basis for the unification of the laws of Slavic countries

[1] Described as a second-generation Pole by: Klein, "Polskie stronice bułgarskiej historii", 76.

(p. 48). Describing the legislative process of the communist era, Vassileva underlines that "one may get lost in a shadow play where appearances may be deceiving because both primary and secondary sources from this period either contain lies or misrepresent information with the purpose of complying with communist ideology" (p. 49). This notion certainly should not surprise anyone who has ever dealt with the history of law-making in other communist jurisdictions. Bulgaria, however, provides the most radical example, which the author has previously described in greater details in her paper that should be known to Polish legal historians due to the fact that it was published in Warsaw's *Studia Iuridica.*[2] The 1950 Law of Contract (which is still in force), officially "an original Bulgarian creation reflecting Marxist-Leninist ideology" (p. 53) was in fact "a creative transplant heavily based on the relevant sections on obligations in the Italian Civil Code of 1942" (p. 54).

The third, fourth and fifth chapters constitute the essence of the book. They deal with "Particularities of Bulgarian Contract Law," "The Blurry Realms of Torts and Unjust Enrichment" and "Re-Inventing Property Law," respectively. The author claims that some rules of contract law "can be deemed unique features of Bulgarian law" (p. 61). This notion is most convincing probably regarding the extraordinarily broad power of the judge to interfere in contractual relations, expressed mainly by art. 300 of the Law of Contracts, which allows the court "to supplement a contract under certain circumstances" (p. 76). A subchapter dedicated to hardship (pp. 89–93) is a particularly good example of presenting the wide historical and comparative background of an institution. A certain anomaly in the structure of the book is the slightly different subject of the author's interest in the context of obligations and another in the context of property law. While both chapters concerning obligations focus on selected institutions and provisions from this field, the chapter on "re-inventing property law" deals primarily with transformation of the ownership structure within Bulgarian society: first with the communist expropriation and nationalization, later with the difficulties of property restitution after the fall of the regime. This structure of content is, on the one hand, understandable due to the already mentioned factor that the book is addressed primarily to recipients who do not necessarily have extensive knowledge of the consequences of communist reforms that the countries of our region still have to struggle with today (quoting the author: "The history of property law reflects most clearly the severe damage which communism inflicted on Bulgarian society," p. 141). However, thanks to that, the Polish reader, too, can once again see that the fate of private property in his country was relatively the best among all the satellites of the USSR, mainly because in Poland (unlike Bulgaria) collectivization of agriculture was carried out only to a very small extent. On the other hand, due to this decision of the author, readers learn hardly anything about the specifics in the dogmatics of Bulgarian real rights. A similar, equally subjective reservation may be made to the fact that the monograph completely omits the law of succession. Perhaps asking the question to what extent Bulgarian law illustrates the thesis that succession is an area most closely related to local cultural conditions[3] would bring interesting results.

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[2] Vassileva, "Shattering Myths".

[3] Longchamps de Bérier, *Law of Succession*, 24.

The final chapter is an attempt to answer another question: "Is Bulgarian Private Law Fit for the 21st Century?" The answer that Vassileva proposes is generally positive. The author points out that in recent years, several countries in the region have undertaken the task of a general reform of private law (but does not mention Czechia and its new Civil Code of 2012). Consequently, she asks the question about the validity of the possible (currently purely hypothetical) preparation of the Bulgarian Civil Code (p. 178). This question is not asked in the context of the phenomenon of the decodification of private law, which has been discussed in the literature for a long time, but this fact does not affect the answer: codifying civil law seems not worth the effort today.

It is worth focusing on the technical side of the book for a while. It attracts the reader with a modern, eye-catching cover, decorated with a fragment of an abstract painting by the Bulgarian artist Julian Tsvetanov. It contains lists of cases, legislation, and abbreviations, but no bibliography of the literature referred, which certainly does not make the life of the reader easier. However, what is particularly surprising is the fact that all the titles of Bulgarian books, articles and other papers that appear in the footnotes were translated to English and appear in English only. So, when I first looked through the book and the footnotes, my impression was that a surprisingly great deal of literature about Bulgarian law has been written in English. First doubt came with the realization that some of these "English" titles were published in the interwar period, when the language of Dickens was not yet a *lingua franca* for continental lawyers. Finally, the author herself wrote in the introduction to the first chapter that when she started to write about Bulgarian law in English around 2012, there had been only two articles on that matter in this language (p. 1). It is of course perfectly understandable why the translations of the referenced titles were provided, yet it remains mysterious why the original, Bulgarian titles were completely omitted. Apart from this, however, the book's editing cannot be faulted. Thanks to the consistent and clear division of the text into editorial units, it is easy to navigate, which, combined with the quality of the author's writing, makes reading pleasant, which is not necessarily the standard of legal monographs.

If only for the reasons already given at the beginning of this review, the book by Vassileva would undoubtedly be a valuable addition to a library of every scholar interested in comparative law and legal history. Although decades have passed since the fall of communism and even since the integration of Central and Eastern European nations with the Euro-Atlantic political structures, Western Europe still has the same difficulties with understanding the specifics of politics and law of the region. Works such as Vassileva's book are the drops of water that wear away this stone. On the other hand, for lawyers representing other nations of the region, they undo the curse preventing us from "knowing thy neighbor." Regardless of this, the reviewed book is, above all, a reliable and engaging comparative law study, the reading of which will broaden your perspective and enrich your reflection on private law.

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