

REVIEW

by Prof. Dr. Denitsa Georgieva Topchiyska

Law Department of New Bulgarian University

Scientific specialty: associate professor in the field of higher education 3.Social,
economic and legal sciences, professional direction
3.6. Law (theory of the state and law)

regarding the dissertation work of Veronika Samuilova Doychinova

on the topic: "Migration processes in the context of the theory of the legal
system"

presented for awarding the educational and scientific degree "doctor"
in science area 3. "Social, economic and legal sciences", professional direction
3.6. "Law", scientific specialty/doctoral program "Theory of the State and Law"
in Faculty of Law of Plovdiv University "Paisii Hilendarski"

Reason for presenting the review: participation in the composition of the
scientific jury for presentation of a dissertation, established by Order No. RD-21-
1532 of 07/20/2023 signed by the Rector at the University.

Dear members of the scientific jury,

As a member of the scientific jury, determined by Order No. RD-21-1532
of 20.07.2023 signed by the Rector of the University for evaluation of the
dissertation with the title "Migration processes in the context of the theory of the

legal system" by Veronika Samuilova Doychinova from the "Theory and History of Law" department of the Faculty of Law of the University, I present review prepared on the basis of Art. 10, para. 1 of The Law on the Development of the Academic Staff of the Republic of Bulgaria, art. 32, para. 1 of the Regulations for the implementation of The Law on the Development of the Academic Staff of the Republic of Bulgaria. In accordance with the requirements of the Law and Regulations for the acquisition of scientific degree "doctor" before the scientific jury, the candidate has presented a dissertation work and five scientific publications in Bulgarian. The dissertation corresponds to the formal requirements provided for in art. 27, para. 2 of the Regulations for the implementation of The Law on the Development of the Academic Staff of the Republic of Bulgaria.

1. Information about the Phd student

Veronika Doychinova obtained a master's degree from the Academy of Sciences in the specialty "Law" in The Faculty of Law and History of the Southwest University "Neofit Rilski" in 2012. As a doctoral student in the Department of "Theory and History of Law" of the Faculty of Law of the Plovdiv University, she is dismissed with the right of defense on 1.08.2022. According to Art. 34, para. 1 of the Regulations of attestation of academic staff in Plovdiv University the dissertation work of Veronika Doychinova on the topic "Migration processes in the context of the theory of the legal system" was presented and discussed at a meeting of Department of "Theory and History of Law" of the Faculty of Law of the Plovdiv University, held on 4.7.2023. The faculty council has taken a positive decision on the readiness for public presentation of the submitted dissertation work and allowed it to be publicly presented. In the protocol of meeting, it is stated that the PhD student has fulfilled the minimum national requirements in accordance with Art. 9, para. 2 of the Law on the Development of the Academic Staff of the Republic of Bulgaria and the

appendix to art. 1a from Regulations for the implementation of The Law on the Development of the Academic Staff of the Republic of Bulgaria.

Veronika Doychinova worked as an inspector on the investigation of crimes and carrying out a preliminary check according to the Law of the Ministry of Interior. In the period by 2011 to 2013, her work was aimed at implementing cooperation on projects and exchange of good practices between the Bulgarian and French police services. From 2013 to the present, Veronika Doychinova has been working as an investigative police officer under the detection of crimes related to the violation of the border regime.

She has participated in seminars and conferences in the field of migration and the implementation of Bulgarian and European legislation.

Within the current procedure for public presentation before a scientific jury Veronika Doychinova has submitted the necessary materials: dissertation work, abstract, autobiography and information about the author's scientific contributions, five publications on the topic of the dissertation. The dissertation declaration of originality and credibility in connection is attached with the conduct of the procedure to acquire the scientific educational degree "doctor".

2. General characteristics of the presented dissertation work.

The dissertation work on the topic "Migration processes in the context of the theory of the legal system" is 243 pages long. The structure of the dissertation includes an introduction, three chapters, a conclusion and a bibliography in Cyrillic and Latin (76 titles in Cyrillic, 39 titles in Latin). In developing the dissertation labor is also used practice of the Constitutional Court of the Republic of Belarus and the European Court on Human Rights (ECHR) as well as internet resources that are listed in the bibliography to the dissertation work. The sources used are sufficient for to be a prerequisite for complex and reasoned academic research.

The introduction of the dissertation convincingly substantiates the relevance of the scientific study in view of the significance of migration processes at the beginning of the 21st century, as well as the shortcomings of the current legislation in the field of migration, which is a prerequisite for the ineffectiveness of the legal system. In relation to solving of the posed problem, the subject, object, goals and the tasks of the dissertation work in the field of the general theory of law. Main goal of the dissertation work is to define migration processes as social a factor that influences the development of legal systems and the interaction between them, as well as to trace the relationship of migration as a social phenomenon with the elements of the legal system. In view of the set goal, specific tasks are defined, to the solution of which the individual chapters of the study are directed.

In the development of the dissertation, the dissertation student used normative, legal-sociological, comparative-legal and systemic approach, which provide an opportunity for a complex study of the problem and reaching justified conclusions from the point of view of the general theory of law. They are used formal-logical methods of research, and the formulated conclusions are based above all of the inductive and deductive method. The methodology used is responsible of the specifics of general theoretical research and is a prerequisite for valid general theoretical conclusions regarding the interaction between legal systems in connection with migration.

In the first chapter of the dissertation, the author aims to analyze the interaction between migration, as a social factor, and law, as a fundamental one institution and element of the social system, together with the economy, politics, culture and traditions. The analysis is based on general theoretical models for the validity and functionality of legal systems, as from the point of view of the general theory of law, the research is directed in two main directions. On the one hand, yes analyze the criteria for identification (validity) of the legal system in context of migration processes, which become the basis for the transfer of legal culture

and traditions. On the other hand, the author examines the question of the social effectiveness of the law under relation to the regulation of social relations resulting from migration (functionality of the legal system).

In view of this, in the dissertation work are explored the theoretical views on the legal system that justify its validity through the functionality and efficacy of law. In the process of analysis the author directs his attention both to the legal system as a whole and to its individual elements, in order to examine the impact of migration processes over them.

The analysis presented in the dissertation is based on a wide range of theoretical views within early, classical and modern legal positivism and normativism. The theory of John Austin, a representative of early positivism, focusing on his views on the status of the foreigner in society. Venelin Ganeyev's theory was also studied in detail for law as a system of sociological and normative elements. The accent is placed upon his views on legal sanction, as a manifestation of state coercion in law. The dissertation takes the thesis that the timely and an adequate legal sanction is a sign of the efficiency of the legal system, as it should be to comply with the changes in the migration legislation.

In the context of legal normativism, the author directs his attention to Hans Kelsen's theory of law, which is juxtaposed with the theoretical views of J. Raz on the criteria for the existence and validity of the legal system. In the context of John Rawls's theory, the dissertation brings out and emphasizes the thesis of migration as a carrier of legal culture and even of a legal system which is actually established as part of another legal system. As representatives of modern positivism, the author analyzes and compares the theories of H. Hart, J. Raz, Rosen Tashev. The dissertation emphasizes the role of jurisdictions (judicial bodies) with a view to identifying the legal systems and turns attention to their essential role in the formation of that part of the legal system that contains normativity regarding foreigners and migrants (e.g. the jurisprudence of the European Court of Human Rights (ECHR)). The author assumes that, in relation

to migration, the functionality of the legal system must be discussed in two directions: 1/ with a view to realizing the purpose of the laws, and 2/ regarding the protection of migrants' rights. To achieve the goals of the research, the author tries to define and distinguish between the concepts of efficiency and inefficiency of the legal system. Adopted understanding that efficiency (the possibility of the right to perform its functions) is expressed in the social effectiveness of the legal system or the ability of the legal system to respond to the needs of society, including in relation to migration.

In the first chapter, the dissertation also analyzes certain theories about the structure of the legal system, drawing attention to migration as a social factor that influences the development of the legal system as a whole and of its own items separately. In the analysis of D. Valchev's theory, the author perceives the thesis, that the immediate environment in which law develops influences both the process of its development, as well as models its essence and orientation. Niklas Luhmann's theory is also presented, emphasizing his point of view for law not as a system of legal norms, but as a system of concepts, based on which logically the research is further aimed at defining some basic concepts in the field of migration law. The thesis adopted by the dissertation about the legal system as dynamic heterogeneous unity, was deduced and substantiated through an analysis of the theoretical views of authors, including Van de Kerkhof and F. Ost, D. Radev, L. Dachev and Rosen Tashev. In the context of the theory of the structure of the legal system, the dissertation justifies the thesis regarding the need to separate a legal branch (with a narrower scope than administrative law and broader than refugee law) to regulate relations related to migration processes and to contribute to clarity and non-contradiction of legislation in the relevant area.

Regarding the functions of the legal system, the author points out that in the field of migration, the regulatory and integration ones have the most essential importance function of law. The role of law as an instrument through which avoid and solve social conflicts as far as migration can be viewed not only as a social

phenomenon, but even as a social conflict. In this connection the dissertation notes that in the context of modern migration processes in Europe, there are two important issues - to limit the migration flow to Europe, as well as for the integration of migrants into the European legal order.

Another current issue explored by the dissertation in the first chapter of dissertation, is related to legal pluralism, which is defined as coexistence of several legal systems in one territory and is confirmed as a legal phenomenon in the period of globalization. In this context, the author directs attention to the interaction between national law, EU law and international law in the regulation of relations related to migration. Migrants becoming bearers of their right, legal, is affected tradition and culture in the new society where they settle, which in case of contradiction with the established legal order can create tension. The dissertation emphasizes the need for interaction between different legal systems, which appears a prerequisite for the stability of migration regulation in the long term plan.

The second chapter of the dissertation aims to analyze migration processes as a social factor that has an impact on the development of legal systems. In this context, the historical, the social, political and economic aspects of migration. At the beginning of the second chapter is a legal-historical analysis of the impact of migration processes on legal systems in three main historical periods: time of the Roman Empire, as a result of the Great Migration and after military conflicts in the XIX-XX centuries. Reasonable conclusions have been made that, from one country, migration processes lead to the development and improvement of legal systems in view of the need for them to adapt and effectively regulate the new ones public relations. On the other hand, migration becomes a prerequisite for the spread of legal culture and experience in other regions of the world.

A significant part of chapter two is devoted to defining the essence, the causes and consequences of migration processes in Europe. In the process of analysis and the author successfully manages to define the presented issues from

the point of view of the law, the concepts of migration, migrant, economic migrant, illegal migrant, such as a distinction is made between the concepts of migrant and refugee. Concepts are developed in the context of legal theoretical conclusions about legal systems, to which the author has reached in the first chapter. In the second chapter, the dissertation also further argues his thesis about the need to distinguish a separate branch of migration law within the legal system, stating that such an industry is already defined in EU law and accordingly, it has its place in our national legal system.

The third chapter is aimed at analyzing the rights of migrants – their justification and protection in legal systems. The dissertation takes the idea of the rights of man as natural rights arising from the biosocial essence of the person, which are closely related to the Enlightenment ideas - humanism, liberalism and individualism. Consistently, correctly and completely, the author analyzes the legal mechanisms to protect the rights of migrants in international law, EU law and the Bulgarian national legal system. The dissertation states that the rights of migrants can be considered in three main aspects. First, all the basics rights arising from the human nature of the individual are recognized and guaranteed for migrants in international law, EU law and domestic law. Second, migrants have rights that are linked to the status of foreigners within of national law directly related to the institution of citizenship. Thirdly, the PhD student points out that international human rights and humanitarian standards, characteristic of modern society, require the introduction of special protection for migrants when they meet certain criteria for a vulnerable group of persons.

In section second of the third chapter, the rights and obligations of migrants are discussed in detail. Of special interest in the dissertation is the last section of chapter three, which directs attention to specific theoretical and practical applications issues of the protection of the rights of migrants related to the regulation of migration flows in Europe that are relevant to the whole world. For example, the dissertation states that the current legal mechanism includes legal

regulation of initial actions in dealing with illegal migrants, but no regulates their residence in the respective territory. On the basis of the analysis made, the author comes to the conclusion that the unresolved migration issues cause international political controversy and become one of the factors that threaten the stability of international relations. Pointing is the need for greater commitment on the part of individual countries in view ensuring equality before the law and guaranteeing the rights of migrants.

In the dissertation, an in-depth study of the judicial system was carried out practice of the ECHR and the CJEU in the field of protection of the rights of migrants, such as considered problems in the implementation of the European and national legislation. Conclusions are drawn regarding the human rights violations of migrants, who are violations of international humanitarian law and so on translate into non-refoulement, pushback and violent attacks against migrants, arbitrary and indefinite detention under inhumane conditions, exploitation, torture and other forms of abuse. A major conclusion of the dissertation's research is that the protection of migrants' rights can be seen as an indicator of effectiveness of the legal system in view of the modern concept of law and the human rights functionstate owned.

In the conclusion, the scientific arguments are correctly presented in a summary these and scientific contributions are presented.

3. Evaluation of scientific and scientific-applied results

The scientific results are in the direction of enriching the theory of law and also this would greatly assist the development of legislation aimed at to the regulation of migration processes. In terms of legal theory, scientific results are related to the analysis of a specific significant social problem in the context of the Theory of the Legal System as well as its enrichment through the aspect of specifically emerging problems in the field of migration. For the development of

dissertation work, the dissertation student used normative, legal-sociological, comparative-legal and systematic approach and has successfully applied the formal-logical methods. The work is oriented to a discussion of the meaning of legal-philosophical problems significant for the development of the theory of law.

4. Scientific contributions and practical-applied contributions

The presented dissertation contains a number of scientific contributions. A scientific contribution in the field of legal theory is the conclusions, to which the dissertation student reaches, in terms of validity and functionality criteria of the legal system in the context of the problem of migration and migration processes. Placing the Theory of the Legal System at the core of the interpretation of the problems related to the legal regulation of migration in modern society, makes it possible to reach conclusions which, on the one hand, are significant in view of improving the legal framework in a relevant area and improving the effectiveness of the legal system. On the other hand, the approach used in the dissertation is a prerequisite for the abstract models of legal theory, analyzed and juxtaposed in the context of significant contemporary social problems, enriched and updated. In this sense, a scientific contribution to legal theory represent the conclusions of the dissertation related to defining the functionality of the legal system, as well as defining and distinguishing the standards for its effectiveness and efficiency. A contributing point in the dissertation work is the use of complex methodology (normative, legal-sociological, comparative-legal and systematic approach) in the analysis of the impact of migration, as a social factor, on the legal system. The methodology used is a prerequisite for a richer argumentation of the scientific theses presented, as well as completeness and objectivity of the research.

As a scientific contribution of the dissertation work, the detailed should be indicated analysis of the interaction between law and other social institutions (politics, economy, culture) in the context of modern migration processes. The

done analysis is a necessary condition for enriching the theoretical views on the legal system and allows reaching conclusions about its development. The used one a legal-sociological approach enables the author to reach a well-founded conclusion that since migration processes are a prerequisite for conflict between values and ideals, they can lead to a conflict of legal systems. In this sense the development of the separate legal system is put to the test because its institutionality, durability and homogeneity are broken.

A scholarly contribution in the context of legal system theory also represents the position argued by the author in the direction of distinguishing migration law as an independent branch, as well as the main topic of social law effectiveness of law considered as an element of the human right function of the state. The dissertation's idea of the separation of rights should be supported of migrants on basic and special in view of the humanitarian issues which arise as a result of migration processes.

The specifically made recommendations for development of the conceptual apparatus and in particular for the definition of concepts migration process, migration, migrant, economic migrant, illegal migrant, as well as to improve our national legislation in the field of migration law. The indicated scientific contributions are the author's credit. The literature used is quoted correctly.

5. Evaluation of publications on the topic of the dissertation

The PhD student presents five publications related to the topic of the dissertation labor. All articles have been published in scientific publications specialized in the field of the right. The publications show the author's interest in the considered c the dissertation topic, as well as his ability for scientific discussion.

6. Evaluation of the abstract

Within the framework of the procedure, the Author's abstract of the dissertation work is presented in a volume of 33 pages in which the structure, content and essentials are laid out scientific achievements. A description of the dissertation work is made and they are indicated scientific contributions. The abstract correctly reflects the content of the presented dissertation work.

7. Recommendations

In view of the scientific contributions of the presented dissertation work, I would recommended its publication after further editing to give an opportunity for a clearer and more synthesized expression of the presented scientific theses and ideas.

8. Conclusion

The dissertation "Migration processes in the context of the theory of the legal system" contains scientific and scientific-applied results that represent original contribution to science and meets the requirements of Art. 6, para. 3 of the Law on the Development of the Academic Staff of the Republic of Bulgaria, art. 27, para. 2 of Regulations for the implementation of The Law on the Development of the Academic Staff of the Republic of Bulgaria. The achieved scientific contributions show that Veronika Samuilova Doychinova has in-depth theoretical knowledge and the ability to work independently theoretical thinking, necessary for the scientific specialty "Theory of the State and the right". The dissertation student meets the requirements of Art. 6, para. 1 of the Law on the Development of the Academic Staff of the Republic of Bulgaria and Art. 24-26 Regulations for the implementation of The Law on the Development of the

Academic Staff of the Republic of Bulgaria.

According to Art. 10, para. 1 of Law on the Development of the Academic Staff of the Republic of Bulgaria and Art. 32, para. 1 of Regulations for the implementation of The Law on the Development of the Academic Staff of the Republic of Bulgaria, I give mine positive evaluation for the presented dissertation work.

I propose to a scientific jury to award the educational and scientific degree "doctor" of Veronika Samuilova Doichinova in the field of higher education 3. "Social, economic and legal sciences", professional direction 3.6. "Law", scientific specialty/doctoral program "Theory of the State and Law".

01.10.2023

Sofia city

Reviewer:

Prof. Dr. Denitsa Topchiyska .