

OPINION

by Associate Professor Dr. Daniela Sevdalinova Doncheva - Plovdiv University “Paisii Hilendarski”, Faculty of Law

on dissertation for the award of the educational and scientific degree

“Doctor”

of: field of higher education 3. Economic, social and legal sciences

professional field 3.6. Law

Doctoral programme: Criminal procedure

Author: **Veselina Yordanova Stavreva**

Topic: **“JUDICIAL REVIEW IN THE CRIMINAL PROCESS OF THE REPUBLIC OF BULGARIA”**

Scientific supervisor: **Associate Professor Dr. Ivan Ranchev** - Plovdiv University “Paisii Hilendarski”, Faculty of Law

By Order No. RD-21-1982/14.11.2023 of the Rector of the University of Plovdiv “Paisii Hilendarski” I have been appointed as a member of the scientific jury for conducting a procedure for the defense of a dissertation on the topic “Judicial Review in the Criminal Procedure of the Republic of Bulgaria” for the acquisition of the educational and scientific degree “PhD” in the field of higher education, professional field 3, 3. Social, Economic and Legal Sciences, professional field 3.6. Criminal Procedure.

The author of the dissertation work is Veselina Yordanova Stavreva - PhD student in the independent form of study at the Department of Criminal Justice Sciences of the Faculty of Law of the Plovdiv University, as scientific supervisor is Associate Professor Dr. Ivan Ranchev.

Veselina Stavreva graduated in Law from Plovdiv University “Paisii Hilendarski” in 2001. She has also completed a Master's degree in Social and Legal Psychology at Sofia University “St. Kliment Ohridski” in 2012. Her professional experience to date has been gained as a lawyer, legal advisor, senior expert assistant in the National Assembly of the Republic of Bulgaria, a judge in a district court, and currently a judge in the Sofia City Court.

The dissertation is 326 pages long, the bibliographic reference includes 279 sources, of which 22 in Latin and the rest in Cyrillic (Bulgarian and Russian languages). There are 624 footnotes.

The dissertation is structured into an introduction, three chapters, a conclusion and a bibliography, with the contents of each chapter having separate paragraphs and bullet points. A declaration of the originality of the research is also presented.

The topic of judicial review in the Bulgarian criminal procedure has been studied by various authors, but it is nevertheless extremely challenging not only in view of the recent changes in the Criminal Procedure Code in this direction, but above all in view of the focus on judicial

review as a fundamental procedural guarantee of the rights of the participants in the criminal process. This comprehensive monographic study is undoubtedly relevant and significant not only because of the author's thorough analysis of the doctrine and practice on the subject, but also because of how conscientiously she has worked to cover the issues of such a broad topic, taking a retrospective look at the emergence and development of judicial review and examining the contemporary institution in our criminal process.

In her monographic research Veselina Stavreva shows an excellent knowledge of the subject she works on. She skillfully manages to pose a certain problem, analyze it and propose an option for its solution. She reflects on the notion of control and compares it with other similar institutes, brings out the basic premises for the existence of judicial control as a modern institution. Balanced attention is paid to the study of judicial review in pre-trial and trial proceedings and the main achievements of science in the country and abroad are presented, and own conclusions on its content are drawn. The issue of the relationship of the judiciary and justice (in particular criminal justice) with judicial review in criminal proceedings is addressed. An attempt is made to compare them not only through scientific methods but also by extracting the essence of the acts of a number of national and supranational courts.

The PhD student Stavreva has achieved her goal - to make a complex scientific study of the judicial review in the two phases of the criminal process, clarifying its more essential features in individual stages, as well as highlighting the shortcomings in the current legal framework, for which she has given *de lege ferenda* proposals for their elimination.

In her scientific research the PhD student has used different methods - legal-historical, comparative law, normative, as well as the basic methods of analysis, synthesis, inductive and deductive methods.

The introduction of the dissertation contains the motives of the doctoral candidate for the choice of the topic, sets the considerations for its relevance and significance.

Chapter One examines the concept and nature of judicial review. Attention is focused on the history of the formation of the court, the criminal process and the system of control functions of the court. In this chapter, the examination of the case law of the European Court of Human Rights and the Court of Justice of the European Union in outlining the main characteristics of judicial review may be noted as a contribution. The doctoral student has classified the types of judicial review in criminal procedure according to its structure, participants and functions, the nature and types of acts in criminal procedure and the deviations from the general procedure in special rules. I agree with the logical and reasoned *de lege ferenda* proposal to provide for the possibility of holding an open hearing in the case of a review under Chapter 22 of the Criminal Procedure Code. In this chapter the doctoral candidate has set out her view of judicial review as a legal principle of a complex nature. Her thesis on the consideration of judicial review in the pre-trial phase as a fundamental principle is argued. The attempt to distinguish the concepts of control and supervision should also be distinguished.

Chapter Two is devoted to judicial review in pre-trial proceedings. The general characteristic of the judicial control in pre-trial proceedings is made, the judicial control over the procedural coercive measures in pre-trial proceedings, the judicial control over the investigative actions, over the termination and suspension of pre-trial proceedings, over the agreement on the resolution of the case in pre-trial proceedings is examined. Attention is drawn to other cases of

judicial review in pre-trial proceedings. In connection with the conclusions, a proposal is made for the establishment of an institute of a judge in charge of the control over pre-trial proceedings, and arguments for this are systematized in detail, which are justified.

Chapter Three is devoted to judicial review in the trial phase. At the beginning, the doctoral student's attention is focused on exploring the nature of judicial review in the trial phase - whether it constitutes a judicial activity or not. It is argued that judicial review in the dispositional hearing, in the appeal and cassation proceedings and in the reopening of criminal cases has its own life and manifestations. In some cases, judicial review manifests itself in the form of justice - in the instance review and in the reopening of criminal cases, and in other cases - unrelated to the review of verdicts/decisions - as an independent criminal procedural function of protection (restoration) of the constitutionally regulated rights and freedoms of the participants in criminal proceedings (i.e. an expression of the human rights function of the judiciary). The article deals with the judicial review at the stage of "Referral to court and preparatory actions for hearing the case in court", a general characterization of the judicial review in the appeal and cassation proceedings is made, the appeal proceedings as a form of judicial review in criminal cases are considered, also the peculiarities of the judicial review in the review of the appellate court's rulings and orders. In this chapter attention is paid to the nature of cassation proceedings as a form of judicial review and to the nature and content of judicial review in proceedings for the reopening of criminal cases. The analyses of the control powers of the court in the first stage of the judicial phase, including the amendments to the Criminal Procedure Code of 2023, are of a contributory nature.

The conclusion covers the conclusions and proposals de lege ferenda made by the PhD student.

The dissertation has a serious scientific and practical significance. The contributions are in several directions - on the one hand, the currently existing literature and case law on the topic is collected and analyzed, scientific discussions on various relevant issues are presented, on the other hand, a specific author's opinion on them is presented in an argued manner. The conclusions drawn are well-founded, and the proposals de lege ferenda are not merely purposive, but logically and legally sound.

The abstract meets the requirements and correctly reflects the content of the dissertation.

CONCLUSIONS:

The dissertation contains scientific, scientific and applied results that represent an original contribution to science and meet all the requirements of the Development of Academic Staff in the Republic of Bulgaria Act (DASRBA), the Regulations for the Implementation of the DASRBA and the relevant Regulations of Plovdiv University "Paisii Hilendarski".

The dissertation shows that the PhD student Veselina Yordanova Stavreva possesses in-depth theoretical knowledge and professional skills in the scientific specialty, demonstrates qualities and skills for independent scientific research.

I therefore express my positive opinion and propose the members of the scientific jury to vote positively for the acquisition of the educational and scientific degree "PhD" by Veselina

Yordanova Stavreva in the professional field 3.6. Law, doctoral programme “Criminal Procedure”.

18.01.2024

Daniela Doncheva