

OPINION

By prof. Georgi Ivanov Mitov, D. Sc.
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on the dissertation work of Veselina Yordanova Stavreva, a PhD student of
independent training at the Department of Criminal Sciences of the Faculty of Law
of the Plovdiv University 'Paisii Hilendarski'

Dissertation topic: "Judicial review in the Criminal Procedure of the
Republic of Bulgaria"

for awarding the educational and scientific degree of Doctor
in the field of science: 3. Social, economic and legal sciences
Professional direction: 3.6. Law
Doctoral Programme: Criminal law

DETAILS OF THE DOCTORAL STUDENT

In 2001 Veselina Yordanova Stavreva was awarded a Master's degree in Law at the Faculty of Law of the Plovdiv University 'Paisii Hilendarski'. In 2012 she was awarded a Master's degree in Social and Legal Psychology at the Sofia University 'St. Kliment Ohridski'.

After completing her university education she started working as a lawyer, legal advisor and senior expert assistant at the National Assembly. In 2008 she started serving as a judge at the Sofia District Court, and since 2015 she has been serving as a judge at the Sofia City Court.

DETAILS OF THE DOCTORAL STUDIES

Veselina Yordanova Stavreva has successfully passed all the exams included in the curriculum. All requirements pertaining to PhD studies have been met - the final version of the dissertation was discussed at a meeting of the department and after receiving a positive evaluation it was referred for public defense. Following the proposal of the Department of Criminal Sciences, the Faculty Council of the Law Faculty elected a scientific jury to evaluate the work and conduct the defense; the jury was appointed by order No. ПД 21 – 1982/14.11.2023 of the Plovdiv University 'Paisii Hilendarski'.

No violations were identified during the dissertation and public defense procedure.

At the first meeting of the Scientific jury I was assigned to deliver an opinion.

DETAILS OF THE DISSERTATION AND AUTHOR'S ABSTRACT

The dissertation is 326 pages. It contains a title page, a list of abbreviations used, a table of contents, an introduction, three chapters, a conclusion and a bibliography. The total number of footnotes is 624. There are 279 bibliography references in Bulgarian, Russian, English, German and French. All titles are cited in the dissertation.

Veselina Stavreva's dissertation is the result of her consistent and independent work and is distinguished by its originality. It complies with the dissertation requirements for awarding the educational and scientific degree 'Doctor'.

The presented abstract meets the regulatory requirements, and accurately presents the reviewed work.

The dissertation topic - the judicial review in the criminal procedure of the Republic of Bulgaria, has been studied in the criminal law literature, but the studies carried out have covered only some aspects of the issue and its individual manifestations. Therefore, the dissertation work represents the first comprehensive study of the matter under consideration and is a contribution to the development of this important theoretical and practical criminal law issue. This can be identified as an independent point of contribution of the reviewed work.

In the introduction the author highlights the relevance of the issues, her scientific interest in the topic and outlines the scientific tasks of the research as well as the methodology used for analyzing and developing the viewpoints.

Chapter One focuses on the nature of judicial review; it is theoretical in nature and deals with clarifying the basic concepts of the subject matter under consideration. On the basis of the analysis of the bibliography provided, the dissertation author formulates and clarifies the main features of control as one of the main forms of government, and emphasizes that 'control is perceived as a particular type of review and observation activity aimed at analyzing existing non-conformities, uncovering their causes, and making proposals for their elimination' (par. 1). On this basis, the author seeks the projection in the field of judicial review, its prerequisites (par. 3) and its relation to the principle of separation of powers. This can be identified as an independent point of contribution of the study.

The historical development of judicial review and its manifestations in foreign laws as well as in the third Bulgarian state are of cognitive relevance. (par. 2).

Based on the theoretical conclusions reached, the concept and essence of judicial review in criminal procedure is revealed (par. 4). The author makes a

successful attempt to define the concept of judicial review and its relationship with other related concepts - judicial power and justice (par. 5).

The exploration of the limits, forms and types of judicial review in the criminal procedure of the Republic of Bulgaria (par. 6), as well as the distinction between control and supervisory activities (par. 8) can be identified as a point of contribution.

Chapter Two deals with the judicial review in pre-trial proceedings. The dissertation author has correctly grouped the main forms of judicial review in the pre-trial phase of criminal proceedings and has made a successful attempt to clarify the principal guidelines of the court's review activity and the distinction and specificity of the individual control proceedings. The author's thesis on the nature of this activity as being specific and different from the judicial function of the court is particularly worthy of support.

On the basis of a profound analysis of the case law, *de lege ferenda* proposals are made for changes and additions to the regulatory framework of pre-trial proceedings. The idea of creating an institute of a judge responsible for the control of the pre-trial proceedings or for a deliberate separation in the criminal divisions of the larger courts of judges who exercise control in the pre-trial phase of the procedure and those who administer justice, or for their exchange during a certain period of time, is controversial and needs more in-depth and comprehensive analysis in the light of legal tradition, the basic principles of criminal procedure and the organization of criminal justice and the judicial system.

Chapter Three examines judicial review in the different stages of the trial phase. The author of the dissertation has correctly distinguished its two forms of manifestation - as justice - in the instance review and in the reopening of criminal cases, and 'as an independent criminal procedure function of protection (restoration) of the constitutionally regulated rights and freedoms of the participants in the criminal proceedings (i.e. an expression of the human rights function of the judiciary)', and has correctly pointed out the distinguishing criterion for this - the

guilt and criminal responsibility of a person. Although it is impossible to accept unequivocally the author's characterization of the second form, the thesis is well supported, it can be considered as an independent contribution, and provides a solid foundation for further scientific investigation.

On the basis of Veselina Stavreva's extensive judicial experience and the analysis of the case law, the main features of the judicial review in the trial phase are revealed. The research carried out in the 'Referral to court and preparatory actions for the examination of the case in a court hearing' stage and in the proceedings before the appellate instance for review of the rulings and orders, is particularly useful due to the lack of literature in this specific field.

The findings of the study are summarized in the conclusion.

SCIENTIFIC CONTRIBUTIONS

In addition to the specific points of contribution mentioned above, several more general ones can be mentioned:

The value and dignity of the work lies in the relevance and complexity of the scientific study of the issues considered, which can be identified as an independent point of contribution. The author seeks practical aspects for the realization of the institutions under discussion. This makes the work practically oriented and useful. Therefore, I recommend the dissertation to be published as an independent monograph.

For the first time in our criminal procedure literature the dissertation author makes a comprehensive analysis of judicial review in the two phases of criminal proceedings. This makes the study very useful for a wide range of readers - researchers, legal practitioners, etc. This feature contributes even more to the relevance of the dissertation due to the lack of such a comprehensive study in the doctrine of criminal procedure law.

The results of the research are systematized in *de lege ferenda* proposals, some of which may be shared, while others may provoke discussion or disagreement.

In her work, through an analysis of the theory and case law of the Bulgarian courts, the Court of Human Rights and the Court of Justice of the European Union, the dissertation author addresses issues which are significant and important both for the theory and practice of criminal procedure law. She follows the appropriate tone of the scientific polemics and provides convincing arguments both in favor of the supported position and in refutation of the opposing claims. The views supported are substantiated and express the author's position. The bibliographic sources are correctly cited.

In this dissertation Veselina Stavreva demonstrates her ability to work with a range of literary sources as well as with case law. The research proves her excellent theoretical foundation and independence in developing significant theoretical viewpoints.

The work is readable, well-structured and this makes it easy to use. It is written in a precise legal language.

PUBLICATIONS AND PARTICIPATION IN SCIENTIFIC FORUMS

According to the submitted reference Veselina Stavreva has four publications connected with her dissertation topic:

1. Basic Standards for Judicial Review of the Remand Measure “Remand in Custody”, e-journal VFU, *Chernorizets Hrabar* Varna Free University, ISSN 13-7514, issue 18/2022, p. 1396-1410, available at: <https://ejournal.vfu.bg>;

2. The Judicial Review in the Initiation of Pre-Trial Proceedings. Law, Policy, Administration, *Neofit Rilski*, Southwestern University, ISSN 2367-4601, vol. 10, issue 1/2023, p. 63-73, available at <https://lpajournal.swu.bg/wp-content/uploads/2023/04/Veselina-Stavreva-BG.pdf>;

3. Main Differences Between Judicial Review and Prosecutorial Supervision in the Criminal Procedure of the Republic of Bulgaria. Legal Collection, Scientific

Conference on Law and Security, 07-08.10.2022, ISSN 1311-3771, vol. 29, 2022, p. 249-255, available at: https://www.bfu.bg/uploads/pages/jur_sbornik_2022.pdf.

4. The separation of powers and the right to judicial protection as grounds for the emergence of judicial review in the criminal procedure” (in print). In: Collection of reports of the Jubilee Scientific Conference on Law in the XXI Century - Challenges and Prospects, on the Occasion of the 30th Anniversary of the Faculty of Law, held on 13 and 14 October 2022.

CONCLUSION:

On the basis of the above, I consider that the presented dissertation on *Judicial Review in the Criminal Procedure of the Republic of Bulgaria*, meets all the requirements set forth in the Law on the Development of Academic Staff in the Republic of Bulgaria, the Regulations for its application and the Regulations for the development of the academic staff of the Plovdiv University ‘Paisii Hilendarski’, for awarding the educational and scientific degree ‘Doctor’.

Therefore, I give a positive evaluation and confidently propose to the honorable Scientific jury to award the educational and scientific degree ‘Doctor of Law’ to Veselina Yordanova Stavreva.

prof. Georgi Ivanov Mitov, D. Sc.

11.01.2024