

## REVIEW REPORT

by **Daniela Sevdalinova Doncheva**, PhD – Associate Professor at the Faculty of Law of “Paisii Hilendarski” University of Plovdiv

on a PhD thesis for the acquisition of the educational and scientific degree of “Doctor” in the higher education area 3. Social, economic, and law sciences, professional field 3.6 Law, Criminal Law doctoral program

**Author:** Daniela Minkova Stoyanova

**Topic:** “Crime against the Tax System”

**Supervisor:** Prof. PhD Yonko Kunchev, “Paisii Hilendarski” University of Plovdiv

### 1. General description of the documents presented.

By Order № P33-5781/03.Dec.2020 of the Rector of “Paisii Hilendarski” University of Plovdiv, I have been appointed as Member of the scientific jury participating in the public defense procedure of the PhD thesis titled “**Crime against the Tax System**” for the acquisition of the educational and scientific degree of “Doctor” in the higher education area 3. Social, economic, and law sciences, professional field 3.6 Law, Criminal Law doctoral program. The author of the PhD thesis is **Daniela Minkova Stoyanova** – an independent doctoral candidate at the Criminal Law Department of “Paisii Hilendarski” University of Plovdiv, whose supervisor is Prof. PhD Yonko Kunchev.

The set of printed documents, presented by the PhD candidate Daniela Stoyanova, is in accordance with Art. 36 (1) of the Rules for the Development of Academic Staff at PU (PRASPU) and it includes the following:

- application to the Rector of Plovdiv University for opening a PhD thesis defense procedure;
- European-format CV;
- preliminary defense minutes from the department meeting discussion of the candidate’s PhD thesis and her preparation for oral defense;
- PhD thesis;
- doctoral dissertation abstract;
- list of scientific publications on the subject of the PhD thesis;
- copies of the scientific publications;
- declaration for originality and authenticity of the attached documents;

The candidate has enclosed three articles published by “Studia Iuris”, an e-journal issued by the Faculty of Law at “Paisii Hilendarski” University of Plovdiv.

The above-mentioned documents have been adequately prepared and presented in due time.

### Brief biographical data on the doctoral candidate

The doctoral candidate Daniela Minkova Stoyanova finished her secondary school education in 1992 graduating from the School of Music “Plovdiv”. Her higher education degree, an MA in Law and the professional qualification of “legal professional”, she acquired /1994 - 1999/ at the Faculty of Law of Plovdiv University.

Since then she has worked as: a judicial candidate for the District Court in Plovdiv; Senior Legal Advisor for TDD - Plovdiv; Senior and Head Legal Advisor for “Appeal and Enforcement Management” department (OUI), Plovdiv, at the Central Office of the National Revenue Agency (NAP). Since 2012 to date, she has been prosecutor for the District Attorney’s Office (Okrazhna prokuratura), Plovdiv. In 2018, she became prosecutor at the appellate prosecutor’s office (Apelativna prokuratura).

She has a good knowledge of English and the necessary computer skills.

By Order № P33-2317/14 May 2019 of the Rector of Plovdiv University, Ms Stoyanova started her education as an independent doctoral student at the Criminal Law Department of the Faculty of Law at Plovdiv University and Order № P33-1167/05 March 2020 established her earlier termination of her doctoral education and her right to public defense.

### 2. Relevance of the topic and adequacy of the posited goals and objectives.

Daniela Stoyanova’s PhD thesis treats relevant subject matter. Crime against the tax system is no longer considered to be novel to Bulgarian criminal law since its existence was acknowledged almost twenty-five years ago, a period witnessing some significant amendments to tax-related law. However, there are not many studies devoted to this subject matter. Daniela Stoyanova has diligently acquainted herself with a great number of studies interested in taxes, not only from a criminal-law perspective, but also from the point of view of financial law, administrative law, and the respective procedures. She uses a complex approach in order to describe and analyze crime of this type.

The object of the study encompasses the offences against the tax system in their initial formulation, as well as their relevant revisions reflecting legislative changes aiming at the improvement of the prevention of such crime. The PhD thesis makes a comment on the question as to whether and to what degree, by means of the amendments to the law, legislators have paid attention to the critical remarks to be found in legal theory and how this has affected the application of the laws.

The author’s goal is to conduct an in-depth analysis of the subject matter, including research on the character of crime against the tax system and analysis of the offences pertaining to such crime, identification of the problems in practice and of those legislative measures which, due to the dynamics of the crime under study, necessitate modifications.

3. In order to accomplish her goal, the candidate has achieved the following objectives:

- She has studied the characteristic features of every offence pertaining to crime against the tax system;
- She has analyzed the judicial practices concerning criminal proceedings within the competence of courts of first instance and appeal courts, rulings of the High Court of Cassation;
- She has discovered certain defects in the law and she has suggested respective amendments.

#### 4. Knowledge of the problem.

The PhD candidate has worked on the topic diligently. She has analyzed the regulation of crime against the tax system in the penal code. Due to the blanket character of the norms, she has also studied all legal acts of significance to the research. The author shows her knowledge on the publications on the topic concerning not only its criminal-law aspects, but also on many publications devoted to the question of taxes. She has analyzed the issue of the harmonization of Bulgarian domestic law to that of the European Union by emphasizing the obligations for adopting laws concerning indirect taxes.

#### 5. Research methodology.

The dissertation demonstrates a contemporary approach to the analysis of problems and it resorts to various research methods. The author uses the dialectic method. She also opts for the comparative-law method and the historical method, as well as for all the means of interpreting legal norms.

#### 6. Description and evaluation of the PhD thesis.

The PhD thesis is 321 pages, of which the main text amounts to 314 pages, 6 of them comprising the list of references – scientific literature and legal acts /from EU law/. The scientific literature contains 87 sources: 71 Bulgarian authors, 14 foreign authors, and 2 websites. There are 7 legal acts from EU law and 322 footnotes.

The structure of the study includes an introduction, four chapters, and a conclusion.

**The introduction** briefly mentions the reasons why the topic is of relevance. It clarifies the object of the study and its goals and objectives. It pays attention to the main research methods to be used in the dissertation, as well as to its scientifically applicable contribution.

**Chapter One** amounts to 66 pages and comprises 3 paragraphs which deal with the issue of the initial regulation of the criminal-law protection of the tax system. It makes a parallel between the active amendments and the repealed amendments to criminal-law norms and it studies the factors which necessitated the modifications of those relatively new criminal law offences. This chapter analyzes the prerequisites for the harmonization of domestic law to European Union law, as well as the areas of synchronization which directly or indirectly bear upon the protection of the tax system against criminal activity.

**Chapter Two** contains 57 pages and is subdivided into 3 paragraphs studying the criminal-law description of crime against the tax system. It is interested in the object of crime, the objective aspects of crime, and the characteristics of the subject of such types of crime. A distinction is made between crime and the administrative violation of the tax system.

**Chapter Three** has 153 pages and comprises 7 paragraphs. It is devoted to the types of crime against the tax system and it analyzes in great detail basic crime definitions, aggravated crime definitions, and minor crime definitions. This chapter mentions cases from case law. It also focuses on the especially relevant question of the limitation of criminal proceedings as regards such crime in view of the complexity and the specifics of its investigation. The author discovers some defects in the laws concerning the different types of offences.

**Chapter Four** amounts to 26 pages and is structured in 3 paragraphs. It conducts comparative analysis of the types of crime against the tax system and other, general types of crime and it identifies a number of similarities between them. This chapter also clarifies the differences between these types of crime, which is necessary when we have to determine if a given illegal activity is punishable as crime against the tax system or as crime against a different kind of societal relations protected by the penal code. The awareness of these similarities and differences is necessitated by the adequate description of the illegal activity from the viewpoint of crime definitions.

**The conclusion** summarizes the author's opinions and contains some suggestions for future improvements of laws concerning part of the crime definitions studied in the PhD thesis. This chapter outlines the major conclusions made in the dissertation. It also explains its considerations de lege ferenda.

#### 7. Contribution and significance of the thesis to science and practice.

The study can be evaluated positively since it deals in detail with the issues from the point of view of their theoretical and practical aspects and it suggests possibilities for overcoming and solving the problems.

The author reviews crime against the tax system from a historical perspective, she analyzes crime definitions and relevant case law by pointing out certain problems. The approach of the working legal professional and prosecutor is interesting in her research on theoretical issues which are compared to judicial practice. The scientific contribution of the dissertation is the following:

- Wide-ranging analysis of crime against the tax system from a historical perspective, comparative-law aspects of specific crime definitions and case law;
- Outline of problem areas and recommendations as to the means of overcoming the defects in the active laws;
- Considerations de lege ferenda which, in the author's opinion, will contribute to the improvement of regulation mechanisms.

#### 8. Evaluation of the publications on the subject of the PhD thesis.

The author has three publications, namely the following: "The Amended Assessment as a Source of Information on Crime under Art. 255, Art. 255A, and Art. 256 from the Penal Code", "Similarities and Differences in Crime against the Tax System and Other Crime Definitions", and "Proportion of Criminal and Administrative Liability for Crime against the Tax System". The articles were published in 2019 and 2020 by "Studia Iuris", an e-journal of the Faculty of Law at "Paisii Hilendarski" University of Plovdiv.

#### 9. Personal contribution of the doctoral candidate.

The PhD thesis presented for review demonstrates the detailed knowledge and diligence of the candidate, evident in her overview of the scientific literature on the subject, the systematization and the analysis of the references, the identification of the problems, their research from a theoretical and practical point of view, and the suggestion of means of solving them.

#### 10. Doctoral dissertation abstract.

The doctoral dissertation abstract complies with the requirements and properly reflects the contents of the PhD thesis.

#### 11. Critical remarks and recommendations.

My critical remarks concerning the PhD thesis are based on several aspects of it. As regards the structure of the thesis, I think that the great imbalance in the size of the chapters leaves the impression that the content has not been adequately organized. The last chapter is too short and can be incorporated into Chapter Three. It is necessary to draw the attention to the improper usage of some terms because it sometimes makes the reader think that the author does not know some basic concepts or terms in criminal law /for instance, 'continued crime' and 'uninterrupted crime' receive equal treatment; 'престъпление' (criminal act) and 'престъпност' (crime) are confused/. I also object to some of the author's suggestions, such as the increase in the severity of the "imprisonment" punishment for particular offences, since in their current state those sanctions are severe enough and their subsequent increase would not help in crime prevention or in the compensation for the damage inflicted by such crime. At times, I am unable to perceive clearly the author's opinion on some

questions, for example, as regards the limitation periods of the types of crime under study. The author leaves the impression that, in her opinion, the limitation periods for the prosecution of the offences under study are too short but she does not present her views clearly or substantiate them.

#### 12. Personal impressions.

My impressions of Daniela Minkova Stoyanova are excellent. I believe that she is a very good, experienced legal professional who has diligently and responsibly worked on her PhD thesis. She has demonstrated exceptional effort and high motivation.

#### **CONCLUSION:**

The PhD thesis has scientific, scientifically applicable and applicable contribution, which shows its authentic contribution to science, and it observes the requirements of the Law for the Development of Academic Staff in the Republic of Bulgaria (ZRASRB), the Rules for the application of ZRASRB and the corresponding Rules of “Paisii Hilendarski” University of Plovdiv. The documents presented and the research results completely correspond to the specific requirements of the Faculty of Law, as adopted in accordance with the Rules of Plovdiv University concerning the application of ZRASRB.

The PhD thesis demonstrates that the candidate Daniela Minkova Stoyanova possesses detailed theoretical knowledge and professional skills, as well as the capability for conducting independent scientific research.

In view of the above, I evaluate positively the PhD thesis, its results and scientific contribution and I encourage the honorable members of the scientific jury to award Daniela Minkova Stoyanova with the educational and scientific degree of ‘Doctor’ in the higher education area 3. Social, economic, and law sciences, professional field 3.6 Law, “Criminal Law” doctoral program.

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Author of the review report:

/Assoc. Prof. PhD Daniela Doncheva/