

S T A T E M E N T

**by PhD Rumens Iliev Markov – Professor and Head of
the “Criminal Law” Department at the Faculty of Law
of the University of National and World Economy, Sofia**

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

Author of the PhD thesis:

Daniela Minkova Stoyanova

Topic of the PhD thesis: **“Crime against the Tax System”**

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

1. 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” whose author is Daniela Minkova Stoyanova, an independent doctoral candidate at the Criminal Law Department.

The set of printed documents presented by Daniela Minkova Stoyanova is in accordance with Article 36 (1) of the Rules for the Development of Academic Staff at Plovdiv University.

Excerpts from the PhD thesis have been published as three papers, in “Studia Iuris” journal, an e-journal of the Faculty of Law at Plovdiv University, respectively in Issue 2 in 2019 and Issues 1 and 2 in 2020.

2. The doctoral candidate Daniela Stoyanova was born on April 22nd, in 1973. In 1999, she completed her studies at the Faculty of Law, “Paisii Hilendarski” University of Plovdiv. From November 15th 2000 to June 18th 2012, she worked as Senior Legal Advisor, then as Head Legal Advisor for “Appeal and Enforcement Management” department (OUI), Plovdiv, at the central office of the National Revenue Agency (NAP). On June 25th, 2012, she became prosecutor for the District Attorney’s Office (Okrazhna prokuratura), Plovdiv, and on April 11th, 2018 she became prosecutor at the appellate prosecutor’s office (Apelativna prokuratura).

3. The topic of the PhD thesis is undoubtedly up to date. The offences pertaining to crimes against the tax system were stipulated in Bulgarian criminal law not earlier than the year 1997, the year 2006 witnessing significant legislative changes. Since then, in this relatively short period of time, the provisions concerning such criminal acts have not been studied in great detail having in mind that their thorough analysis necessitates an excellent knowledge of tax law.

The non-payment of taxes is to the detriment of the state budget and constitutes a high level of public risk when it is evaluated as serious and exceptionally serious. Moreover, we can also see a sustained increase in tax system crime and in tax evasion sums which may amount to millions of leva, irrespective of the great number of criminal proceedings and convictions. All this substantiates the necessity to suggest possible modifications to the legislative measures concerning the offences in question and their penalties.

4. The doctoral candidate is well acquainted with the topic discussed, the legislative instruments concerning it, and the theoretical background of the

issue. She convincingly substantiates her views. In this respect, she can lean on her practical experience as a legal advisor for NAP and as prosecutor.

5. The goal of the dissertation is to analyze in detail the essence of tax system crime, delineate the problems in practice, and ground considerations *de lege ferenda*. The comparative, history-oriented interdisciplinary approach, alongside formal logic instruments (analysis, synthesis, and comparison), traditional means of interpretation, and the author's excellent knowledge of prosecutor and court practices, allow for the successful completion of the tasks.

6. The PhD thesis amounts to 321 pages. It contains an introduction, four chapters and a concluding part. The scientific literature used includes 87 sources. There are 322 footnotes.

Chapter One makes a parallel between the repealed and the relevant norms of Article 255 and after, penal code. The emphasis falls on the historical development of the legislative measures against tax system crime. Special attention is paid to the harmonization of Bulgarian legislation with EU law, and more specifically to the incorporation in domestic law of Council Directive 2006/112/EC as of November 28th, 2006 concerning the common VAT system.

Chapter Two is devoted to the general discussion of tax system crime. It is interested in its object and subject. The objective side of these crimes is clarified. This chapter identifies the possible subjects in view of the possible participation of other parties who as traders will have responsibilities, stipulated by tax law. A distinction is made between crime and administrative violation of the tax system.

Six paragraphs in Chapter Three discuss thoroughly the objective and subjective features of the offences pertaining to all types of crime against the tax system: evasion of the establishment or payment of tax obligations (Art. 255, penal code); evasion of the establishment or payment of tax obligations via adjustment or execution of a transaction (Art. 255a, penal code); acquisition from the government budget of non-allocatable amounts of money or enabling

another person to acquire them (Art. 256, penal code); illegal obstruction of tax authorities (Art. 258, penal code); establishment of non-profit legal persons or foundations with the purpose of tax exemption or the generation of tax benefits (Art. 259, penal code); presenting incorrect evaluation or conclusion; certification of incorrect annual reports (Art. 260, penal code).

A separate paragraph pays attention to the application of limitation periods making prosecution lapse in the case of crime against the tax system.

The final chapter of the PhD thesis compares a number of crimes against the tax system (Art. 255, subpar. 1, points 2 and 4, 256, subpar. 1, penal code) to document fraud as stipulated in Art. 313, subpar. 2, 316, Art. 313, subpar. 2 and 319, penal code; crime under Art. 256, subpar. 1 to document fraud under Art. 212, penal code; crime under Art. 258, penal code, to illegal obstruction of authorities under Art. 270, penal code, and coercion under Art. 269, penal code.

7. The PhD thesis is a broad, systematic study of crime against the tax system with the following aspects of scientifically applicable contribution:

- a) detailed, in-depth analysis of the offences pertaining to such crime;
- b) accurate comparison of the offences pertaining to crime against the tax system to the offences pertaining to similar crime;
- c) concrete substantiated suggestions concerning the modifications of the penal code. Among these, we can point out those regarding the modifications of punishment related to crime under Art. 255, 255a and 256, subpar. 2, penal code; the criminalization of non-registration under the VAT Law (ZDDS) as a form of conduct under Art. 255, subpar. 1, penal code; identification as ‘victims of crime’ under Art. 258, penal code, of tax collectors as well; the replacement of the term “annual account” in Art. 260, subpar. 2, penal code, by “annual financial statement”.

8. The PhD thesis itself and the results achieved are products of the personal merit of the doctoral candidate.

9. The dissertation abstract complies with the necessary requirements. It accurately and entirely summarizes the content of the PhD thesis and its scientifically applicable contribution.

CONCLUSION:

The PhD thesis has scientifically applicable contribution and **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.

I evaluate positively the PhD thesis titled “Crime against the Tax System” and **I encourage** the honorable members of the scientific jury **to grant the educational and scientific degree of ‘Doctor’ to Daniela Minkova Stoyanova** in the higher education area 3. Social, economic, and law sciences, professional field 3.6 Law, “Criminal Law” doctoral program.

Author of the statement:

(Prof. PhD Rumens Markov)