

STATEMENT

on the PhD thesis "**Crime against the Tax System**" for the acquisition of the PhD educational and scientific degree in the scientific area 3. Social, economic, and law sciences; professional field 3.6. Law; Faculty of Law, Criminal Law Department at "Paisii Hilendarski" University of Plovdiv, "Criminal Law" doctoral program, authored by **Daniela Minkova Stoyanova**, by prof. **Lazar Gruev**, PhD, Faculty of Law at "St. Kliment Ohridski" University of Sofia

I do not have any co-authored publications and I have not participated in any scientific activities with the PhD candidate. I do not know her in person and I am acquainted with her solely via the documents presented in view of the present PhD procedure as well as via the candidate's PhD thesis and dissertation abstract which are discussed in this statement.

The topic of the thesis – *Crime against the Tax System* – is interesting, labor-consuming and challenging to every author dealing with it. This is due to a number of factors, of greatest importance being the following: the significance of a well-functioning tax system to the overall "financial health" of the country, contributing to the realization of major policies pertaining to various spheres of public life; the complex character of the topic which necessitates thorough analysis, not only on a national, but also on an EU level; the clear demarcation of the role and place of criminal law among the variety of legal instruments used by the state in the regulation of such complex public relationships, by taking into account a typical feature such as the dynamics (the regular fluctuation) of legal regulation mechanisms and a simultaneous retention of the idea of the relative stability of criminal law norms.

Daniela Stoyanova understands this complex character of the topic, which is evident in her development of the PhD thesis. She pays attention to the

most important literature on the doctrine related to the topic; she is well acquainted with the case law concerning the application of the provisions analyzed (not only those issued by the High Court of Cassation/ the Supreme Court, which is good); she visualizes and discusses the topic through the prism of relevant EU law; she discusses accurately and in detail the legislative measures of tax law which address directly the issues related to the topic of the PhD thesis.

The structure of the PhD thesis is traditional: each chapter is well balanced, the analysis is structured logically in order to correspond to the topic under study, thus allowing for the successful achievement of the objectives of the research. The offences against the tax system are discussed in detail not only on the basis of legally stipulated features, but also via contrastive analysis with other similar offences having to do with the special part of the penal code.

The overall analysis allows the author to formulate the necessary, in her opinion, considerations *de lege ferenda*, which justifies a positive evaluation of every scientific study in the sphere of law.

The PhD thesis author correctly quotes and makes references to other authors. The dissertation abstract is in accordance with the norms and the traditionally established criteria concerning its structure.

Everything said up to now shows that the national requirements as regards the preparation and defense of the PhD thesis have been observed and its author has earned the right to acquire the PhD educational and scientific degree in the sphere of law.

I also have some critical remarks and I would be glad if the PhD candidate discusses them because I think that this is more important as regards Ms Stoyanova's future development both as a magistrate and as a scientist.

I have the feeling that some parts of the text are too verbose. This is typical of the narratives produced by most young authors. For instance, in Chapter One it is hardly necessary to discuss in such detail the historical developments of the legal framework, especially considering the fact that the period in question produced a great number of studies of other authors who dealt with the topic of interest. I would be more interested in finding there some instances of comparative law, examples from other countries, which would make (at least) the text even more informative. In this respect, I would like to point out that, when analyzing certain problems, at times the author pays too much attention to widely known, basic facts concerning criminal law institutes, such as: subject of the crime (p. 106 and after); the concept and the types of documents (p. 160 and after); the concept and the types of statutory limitations (the end of Chapter III), etc. I do not insist that these have no place in the thesis. I am just pointing out that their discussion should correspond to the prism through which the topic and tax crime issues are viewed, the discussion in greater generality thus being avoided.

I also think that the author has missed the opportunity to discover and substantiate in more categorical terms her opinion concerning the system of offences against the tax system in the context of their place in the special part of the penal code. What I have in mind are: the ‘new’ Chapter Seven titled “Crime against Financial, Taxation, and Social Security Systems”; Section Four of Chapter Six titled “Crime against Monetary and Financial Credit Systems”; the provisions in Article 313, Subparagraph 2 from the penal code. I mean that to a large extent this is inadequate if we have in mind the precision in the systematicity of criminal law since it is hardly necessary to discuss in detail the idea that the monetary system and the credit system belong to the financial system, or – which is indisputable – that the tax system is also part of the financial system of the state. The latter, by the way, is also claimed by the author of the PhD thesis (pp. 57 and 76). The author should have objected more

categorically to this and she should have also formulated more clearly what she suggests to be altered so that the legislative measures concerning the offences in question become more adequate, unified by the rubric of 'harm'.

One can also criticize the title, as well as part of the text, of Chapter Three, & 1 of the dissertation – “continued OR undisrupted”. I think that such a statement is intolerable. The concepts “continued crime” and “undisrupted crime” differ in essence and we cannot pose the question in this way – by using OR. Continued crime is one of the forms of complicated crime, well known for its characteristic features. Undisrupted crime is not a form of crime in view of its being a complicated crime since it is a means of committing any (different in character, including continued) crimes. Analyzing the composition of the offences pertaining to the special part of the code with respect to a given point in time as regards the development of law, we can always tell which (how many) are continued criminal acts but it is impossible to tell which (how many) are undisrupted criminal acts because, let me repeat, this depends not on the composition of the offence but on the means of committing the offence and, provided the conditions under Article 26 from the penal code are present, then we can conclude that in a particular case we are not dealing with a uniform real set of crimes, but with one crime committed in the context of undisrupted criminal activity. I believe that in this part the thesis needs to be corrected, including expressions like “committing an offence as undisrupted crime” (p. 201).

I would like to make a final remark. Logically at first glance, in view of the degree of seriousness of the crime, its frequency, the great damages to the revenue, etc., Daniela Stoyanova substantiates the necessity *de lege ferenda* to increase the sanctions for particular crimes against the tax system with the help of the idea that this will enhance and optimize their counteraction. This sounds logical, I repeat. But I suggest that the author considers whether it may be more

expedient to reanalyze, clarify and even simplify part of the material tax laws in order to provide for more flexible and readily applicable administrative measures, including a greater number of penal law incentives which will be better coordinated with the specificities of these criminal acts. Irrespective of the number of years of imprisonment we stipulate, this is unlikely to automatically solve the problem with crime prevention. I believe it is justified from the viewpoint of the public when the aim of legislators is focused on the actual (although sometimes belated) payment of taxes and replenishment of revenues, rather than on the imprisonment of the perpetrator of the crime. After all, the PhD candidate also thinks that criminal law should be ultima ratio.

I would be glad if my critical remarks are considered to be well intentioned suggestions for further thought, including in the case of probable future treatments of the topic on the part of the PhD candidate, something which I would like to encourage.

In **CONCLUSION**: I positively evaluate the PhD thesis presented for public defense, titled “**Crime against the Tax System**”, and I believe that its author **Daniela Minkova Stoyanova** is to be awarded the educational and scientific degree of “Doctor” in the scientific area 3. Social, economic, and law sciences; professional field 3.6. Law.

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Prof. Lazar Gruev