

REVIEW

From: Assoc. Prof. Dr. Konstantin Vassilev Pehlivanov, Associate Professor at the Faculty of Law at the Paisii Hilendarski University of Plovdiv, Higher education area 3. Social, Economic and Legal Sciences, Professional direction 3.6 Law

Subject: dissertation for the award of the educational and scientific degree "Doctor" by Tanya Nikolaeva Kostadinova entitled "International Legal Aspects of Child Trafficking"

Reason for submitting the review: Order No RD-212053/15.11.2024 of the Rector of Plovdiv University 'Paisii Hilendarski' and a decision of the scientific jury taken under Protocol No 1/18.11.2024, which instructed me to prepare a review

Dear members of the scientific jury,

After issuing the above-mentioned order of the Rector of the University of Plovdiv and the decision of the honorable scientific jury, which commissioned me to prepare a review, I set out my conclusions on the presented dissertation for the acquisition of the doctoral degree and the accompanying set of documents.

Tanya Nikolaeva Kostadinova (enrolled in a doctorate with the Ivanova family) has submitted a complete set of documents required by Development of the Academic Staff in Republic of Bulgaria Act, the Regulation on its implementation and the Rules for the Development of the Academic Staff of the University of Plovdiv. The abstract is formed correctly, reflects the exact structure of the dissertation, and is translated into a foreign language traditionally used in the professional field. The author has three publications, which fulfill the minimum national requirements. As a result, the procedure is admissible for consideration on the merits before a scientific jury.

My conclusions on the merits of the scientific work are as follows:

The dissertation has a total volume of 207 pages. It includes a title page, a table of contents, a list of abbreviations used, an introduction, three chapters, a conclusion and a list of

literature used. The actual analytical text of the three chapters is 150 pages. I find the total volume satisfactory and consistent with the established in practice criteria for scientific work. A total of 23 sources are cited in Bulgarian and Russian, 37 in English; Articles and electronic sources in Bulgarian and Russian - 10, in English - 63; jurisprudence – 13 acts; normative acts and documents of international practice - 157. I find the source base satisfactory on a problem that has not been studied very much in our doctrine.

The introduction sets as a goal of the scientific research by clarifying the international legal aspects of child trafficking to identify the most appropriate measures for their protection at international level; identify specific gaps and inconsistencies in international law leading to problems in the implementation of child protection. In order to achieve these goals, the following work tasks have been set, the realization of which reaches the final goal of the dissertation: classification of international legal acts regulating child trafficking; examining the provisions of the Palermo Protocol and other international treaties regulating the protection of children from trafficking; analysing the nature of international aspects of child trafficking, examining the existing different age limits determining the starting and ending moments of childhood in international treaties on the protection of children from trafficking. The latter task I find particularly important in order to draw up practical guidelines for the work of law enforcement and judicial authorities. I find the objectives of the dissertation achieved, for which I set out considerations below.

The methodology of the study includes the normative, formal-logical, deductive and inductive method; comparative legal and legal-historical analysis.

An application in the dissertation is also found in the analysis of the practice of international courts, as well as in the method of critical analysis of the views in the doctrine. Due to insufficient consideration of the topic in Bulgaria, priority is given to foreign sources. The recommendations made to Bulgaria by the Committee on the Rights of the Child, the Council of Europe Group of Experts on Combating Trafficking in Human Beings, as well as the case-law of the ECtHR and the Inter-American Court of Human Rights are also discussed. I welcome the examination of the recommendations, which, although not a formally binding act, due to the high authority of the issuing authorities are important in the law enforcement and the process of elaboration of future legal sources, i.e. we have acts of the *soft law* category.

The nature and characteristics of child trafficking and the international legal protection of children from trafficking are defined as the subject of the scientific study, and the international legal aspects of child trafficking and the problems related to their protection are the subject of study.

Chapter One of the dissertation is entitled 'Review of the legal regulation of the problem of child trafficking in international law'. Section 1 details the historical development of international instruments on child trafficking by examining international instruments adopted by the League of Nations (UN) and the United Nations (UN). The author has chosen the chronological criterion, which I find practically justified for the purposes of the study. In addition to the main international anti-trafficking treaties, the provisions governing the law on child trafficking, as well as the obligations of the countries that have ratified the relevant treaties, are also addressed. It also provides a legal and historical overview of the development of the definition of child trafficking in the International Convention for the Prevention of the White Slave Trade of 4 May 1910 until the adoption of the Palermo Protocol of 2000. Attention is paid to the processes related to the trade in 'white slaves', which help to develop the fight against trafficking in human beings and children. The study of the legal framework as a whole is appropriately combined with the study of law enforcement and interpretation issues in specific cases, applying the case study research method.

The second section of this chapter contains an analysis of the definitions of slavery, trade and trafficking in children in international law. In general, the dissertation pays particular attention to the relationship between slavery and trafficking in human beings, since in international legal doctrine this problem is not examined in detail. In legal literature, trafficking in human beings, including children, is often defined as 'slavery' or a 'modern form of slavery' and, on the other hand, slavery is perceived in a way that extends its scope to situations involving trafficking in human beings. I support the author's observation that the terms 'trade in' and 'trafficking in children' are used synonymously in the literature, but in fact they are two different offences. It explores the inclusion of slavery and slavery-like practices in the definition of child trafficking as evidence of an essential link between the two concepts. In this regard, Convention No 182 of the the International Labour Organization of 1999 on Prohibition and immediate action to eradicate the worst forms of child labour and the Rome Statute of the International Criminal Court. The analysis of the use and interpretation of the definitions of trade in and trafficking in children within major international child protection organisations,

including by the UN Special Rapporteur on the issues of child trafficking, child prostitution and child pornography, child sexual abuse material. In practice, these acts often intersect and influence each other.

The third section explores the definition of 'child' in international law acts for protection against trafficking, an analysis of the definition of "child" in the international law. The texts of the international instruments on the rights of the child are examined in detail, impressing the scientific good faith of the author who has tracked down, systematized and analyzed provisions including old acts such as the 1910 Agreement against the Trafficking of White Slaves, modern acts such as the Palermo Protocol of 2000, little known in our country regional acts - the African Charter on Human and Peoples' Rights of 1981, the Arab Charter on Human Rights of 2004, the American Convention on Human Rights of 1969.

The scientific interest of the author is focused on the 2005 Council of Europe Convention on Action against Trafficking in Human Beings, but acts that do not contain an explicit definition of 'child' but are applicable are also analysed. The study of new dimensions in child trafficking, which include embryo smuggling and surrogacy.

The second chapter of the dissertation focuses on the 1989 UN Convention on the Rights of the Child with emphasis on Article 35 thereof, examining the history of the origin of this provision. Legally, I find the comparison made between the definition of child trafficking set out in the Protocol from Palermo and the provision of Article 35 of the Convention on the Rights of the Child. A critical analysis has been made of the original text of the provision and the English translation with the semantic differences that some deviations from the literal translation lead to and suggestions have been made to refine our translation.

The principles of the Convention are analysed in detail and accurately, as well as provisions that may be relevant in specific aspects of child protection. I also find the study of the Second Optional Protocol useful and the examination of the question whether its application should be limited to the purposes of sexual exploitation or to include others analogous to the Palermo Protocol. I support the argument that Article 35 of the Convention does not restrict the trade in children in any way, therefore the focus on sexual exploitation would lead to a direct conflict between the Second Optional Protocol and the Convention. This study makes it valuable for law enforcement to categorise the criteria for the applicability of rules of international law that may be useful in specific investigations.

The third chapter of the dissertation presents the institutional system for protecting children from trafficking, as well as universal, regional and national instruments for their protection. The process of combating child trafficking in the main bodies of the UN and its organizations is analyzed. Section 2 on the protection of children from trafficking under the auspices of the Council of Europe, implemented by the Group of Experts on Combating Trafficking in Human Beings (GRETA).

The case-law of the ECtHR has been studied and the conclusion that child trafficking has been addressed in the case-law of the ECtHR under Article 4 of the ECHR on the prohibition of slavery and forced labour has been substantiated. The institutional provision of the fight against child trafficking in different countries is examined, giving practical useful examples of institutional structures that can be borrowed.

From a general theoretical point of view, I find the most useful first chapter, in terms of practical applicability, I highly appreciate the follow-up and analysis of the authorities involved in the process in different countries in Chapter Three.

Contributing I find: the very fact of scientific research on the issue, which I do not know in Bulgaria, the systematization of acts of international law, including little-known regional sources, the exact analysis of the principles of the UN Convention in their interrelation. I particularly appreciate the analysis of border legal figures who have a relationship to child trafficking. Contributing is the introduction of a conceptual apparatus that can be useful both in doctrine and in practice, by analyzing definitions of slavery, trade and trafficking of children, and are explicitly distinguished from each other.

Particularly useful is the institutional analysis in Chapter Three, since when building adequate bodies in our country, foreign experience should be taken into account and a model should be chosen as the main one.

In summary, I find that the dissertation entitled 'International Legal Aspects of Child Trafficking', prepared by Tanya Nikolaeva Kostadinova, demonstrates the ability to work with numerous international legal sources, including doctrinal and complex conceptual apparatus. The author has worked conscientiously, has analyzed the achievements internationally, has drawn the relevant conclusions and has presented original and contributed scientific work.

My critical remarks are as the editorial side of the work. In case of publication, which I wish, it can be removed.

I have not found evidence of plagiarism and the use of foreign scientific contributions in a manner not regulated by law.

On the basis of the above, I propose that the honourable scientific jury award Tanya Nikolaeva Kostadinova the educational and scientific degree of Doctor in the Higher education area 3. Social, Economic and Legal Sciences, Professional direction 3.6 Law, doctoral program “International Law and International Relations”.

Prepared the review

(Assoc. Prof. Dr. Konstantin Pehlivanov)

27.01.2025

Plovdiv