

THE UNIVERSITY OF NATIONAL AND WORLD ECONOMY
FACULTY OF LAW

REVIEW

By: Assoc. Prof. Diana Marinova Marinova; UNWE, Faculty of Law

Subject: Dissertation for awarding the educational and scientific degree „Doctor”, field of higher education 3. Social, Economic and Legal Sciences, professional field 3.6. Law (PhD programme: International Law and International Relations), Topic: International Legal Aspects of Child Trafficking, with the author Tanya Nikolaeva Kostadinova, a full-time PhD student in the PhD programme “International Law and International Relations” of the Department of Public Law Sciences of the Faculty of Law of the Plovdiv University „Paisii Hilendarski”.

I am submitting this review on the basis of Order RD-21-2053 of 15.11.2024 of the Rector of PU "P. Hilendarski", by virtue of which I am included in the scientific jury.

1. Data about the PhD student.

The doctoral candidate Tanya Nikolaeva Kostadinova graduated in law at the Faculty of Law of PU „P. Hilendarski“, after which she was a fulltime PhD student at the same faculty in the period 2020-2023. She has also graduated from two other specialisations at Plovdiv University - International Relations and Bulgarian Language and History.

She is an assistant professor at the Faculty of Law of PU „P. Hilendarski“ in the disciplines of Public International Law and Law of the European Union.

Along with her teaching work, she is active in the public sphere as a coordinator and participant in numerous projects related to the topic of her dissertation - the project „Construction of a youth centre in the town of Plovdiv“, project, „Let's accept every child“, a project of the Faculty of Law of the Plovdiv University for legal protection of children and persons with intellectual disabilities and mental disabilities, etc. She is the secretary of a local committee for combating human trafficking - Plovdiv.

She has been involved in organizing campaigns among groups at risk of being trafficked, in volunteer teams, and in training professionals in this field. She has been active in events in partnership with various NGOs – Bulgarian Red Cross, Plovdiv. The project is active in NGOs, foundations and associations. She participates in the examination of

educational cases of youth with problematic behaviour and in initiatives to prevent antisocial behaviour of youth.

She holds numerous certificates for participation and internships in institutions related to the problems of human trafficking.

She speaks English, Greek and Russian at a good and very good level.

The PhD student has fulfilled the minimum eligibility requirements for awarding the education and scientific degree of Doctor of Philosophy.

2. Dissertation Data.

2.1. General characteristic of the dissertation.

The topic of the presented dissertation – „International Legal Aspects of Child Trafficking“, is undeniably topical, given the tendency of increasing trafficking in the era of globalization, as well as the increased activity of international organizations for the protection of children.

The dissertation identifies and analyses the problems related to the legal situation and protection of one of the most vulnerable categories of persons in all respects - children.

The scientific work represents a novelty in the Bulgarian legal doctrine, which lacks an independent and comprehensive monographic study on the topic. Separate scientific publications treat only different manifestations of human trafficking.

The subject of the study is the international legal aspects of child trafficking, but the historical, political and social dimensions of trafficking are also evident in the presentation.

The goals and objectives that the author has set for herself have been successfully fulfilled. A profound in-depth analysis of the international legal framework has been carried out, identifying gaps and inconsistencies. Attention is also paid to doctrinal opinions and practice in the area under consideration. As a result, measures for more effective international legal protection of children from trafficking are outlined.

The dissertation makes skilful use of normative, formal-logical, deductive and inductive methods, as well as legal-historical and comparative legal analysis.

Among the sources, the reference to and analysis of the preparatory acts (*travaux préparatoires*) on the adoption of the international conventions and protocols is noteworthy, indicating the thoroughness of the research. The citation of Soft law sources (e.g. recommendations and guidelines) is also a testament to the expert knowledge of the subject.

The dissertation has a volume of 207 pages. The structure consists of a preamble, three chapters and a conclusion.

In the introduction, the relevance of the chosen topic, the subject and object of the study are stated, the aim and objectives of the dissertation are specified, as well as the scientific methods used. The structure and content of the thesis are described. Attention is paid to its practical significance.

Chapter One is devoted to the legal regulation of child trafficking in international law. It consists of three sections. The first section traces the historical development of the international legal framework, with the acts arranged in chronological order. The content of this section highlights the legal framework on child trafficking. The author's legal and historical review of the definition of child trafficking is an interesting approach. In the second section, definitions of slavery, trafficking and sale of children are provided from the perspective of international law. It is emphasized that the issue of the distinction between slavery and trafficking in children has not been comprehensively explored in doctrine and is not sufficiently clearly settled in international instruments. The third section focuses on the definition of "child" and draws attention to the fact that the pre-1989 Convention instruments do not contain such a definition. The beginning and ending points of childhood are focused on. The jurisprudence of the ECtHR, the Inter-American Court of Human Rights and the US Supreme Court regarding the lower and upper age limits of childhood is referred to and analysed. Attention is drawn to the new dimensions of trafficking - embryo smuggling and surrogacy.

Chapter Two, „Trafficking in Children and the UN Convention on the Rights of the Child“, also consists of three sections. The first section compares the definition of child trafficking in Article 35 of the 1989 Convention and in the Palermo Protocol. The process of adoption of this Protocol is examined. The second section outlines the relationship of Article 35 of the 1989 Convention to its other provisions. Convention principles that underpin the rights of the child and are also relevant to child trafficking are outlined. The third section focuses on the provisions of the Second Optional Protocol, in which the key issue of legal regulation is the sexual exploitation of children, but it also contains definitions of child trafficking, child prostitution and child pornography. Importantly, the summary conclusion drawn is that distinguishing between trafficking and sale of children facilitates the prosecution of perpetrators, the identification of victims and the determination of the best interests of the child.

The third chapter presents the institutional system for the protection of children from trafficking, identifying and analysing universal, regional and national protection instruments. The third chapter also consists of three sections. The first section outlines the work of the UN

bodies on child trafficking - the General Assembly, the Security Council, ICOSOC, the Human Rights Council, UNICEF, the Office on Drugs and Crime, and treaty monitoring bodies such as the Committee on the Rights of the Child and the Conference of the States Parties. Attention is also drawn to specialized international organizations such as the ILO and the International Organization for Migration. The second section analyses regional instruments for the protection of children from trafficking. Attention is drawn to the activities of the African Union, the Organization of American States, the Council of Europe, etc. The third section clarifies the issue of the role of national instruments for the protection of children from trafficking by reviewing the protection of children's rights in the Republic of Bulgaria, the United States and the FRG and the specialized state bodies therein. In particular, for Bulgaria, the focus is on the activities of the national Commission for Combatting Trafficking in Human Beings (NCCTHB) under the Council of Ministers.

The conclusion systematizes the findings of the analysis.

The bibliography contains 22 titles in Cyrillic and 34 titles in Latin, as well as 72 electronic sources, including articles. Footnotes number 516. A reference to the case-law analysed and a list of normative instruments and other acts are appended.

2.2. Advantages of the thesis.

- Relevance and importance of the topic;
- Profound theoretical knowledge in the field of public international law and other legal fields, for example international criminal law, as the subject of trafficking in human beings, in particular children, is closely related to the commission of crimes and issues such as prevention, prosecution, etc.;
- Skilful presentation of practical problems through analysis of case law;
- Use of a rich scholarly apparatus, with particularly impressive reference to foreign sources;
- Ability to think independently and give reasoned opinions;
- The PhD candidate's work in organizations with a subject of activity close to the topic of the dissertation contributes to the proficient handling of the matter;
- The thesis may be useful for those working in this field, as well as for lawyers and specialists in other fields.

3.3. Scientific contributions.

- First monographic study of the topic in Bulgarian legal literature;

- Comparison and differentiation of slavery, trade and trafficking in children from the point of view of international law (pp. 41-42) and the related conclusion that there is no uniform definition of these concepts in international law (p. 42); in this regard, the correct conclusion is also drawn that the trade in children has a broader scope and includes trafficking in children;
- An analysis of the provisions of a number of international instruments - the 1989 Convention on the Rights of the Child, the 2000 Palermo Protocol, the Second Optional Protocol, etc.;
- Presentation and study of case law of the ECtHR (pp. 55-59, p. 61), the Inter-American Court of Human Rights (pp. 50-52) and the US Supreme Court (p. 62);
- An analysis of the role of the principal and subsidiary organs of the United Nations in protecting children from trafficking (p. 111 and seq.);
- Analysis of the national legal framework in the Law on Combating Trafficking in Human Beings and in the Criminal Code (p. 153 and seq.);
- Analysis of the legal framework and practice in other countries (p. 158 and seq.);
- Proposal de lege ferenda for a change in the Bulgarian translation of Article 35 of the 1989 Convention, which is inaccurate in defining the difference between „trade“ and „sale“ of children and should be defined as „trade and trafficking in children“ rather than „sale or trade in children“ (pp. 70-71, p. 76); this proposal is the result of research into the semantic meaning of these concepts and the difference between them;
- Reference to embryo smuggling and surrogacy as new forms of exploitation in human trafficking, in particular, of children (pp. 96 and seq.)
- Criticism of the regulation in international instruments, which do not specify a starting point, a lower age limit of childhood, and hence in our national legislation; in this regard, the recommendation to unify the concept of „child“ (pp. 42-43, pp. 63-64), and the proposal to fix a starting point of childhood in a future international treaty;
- A proposal to improve the protection of children from trafficking in the Republic of Bulgaria through greater government involvement in the activities of the NCCTHB and increased financial resources for prevention (p. 160, p. 176).
- At the end of the chapters and sections, summary conclusions are drawn.

4. Critical comments and recommendations.

4.1. Critical comments.

- The Preamble is more appropriately called the „Introduction“ in accordance with common practice;
- In some places, the exposition is mostly descriptive rather than analytical (especially in the historical analysis in Chapter One, which is also quite long (pp. 19 and seq.) in Chapter Three - on the history of the creation of the UN and the United Nations (pp. 111 and seq.) etc.;
- The exposition on sexual exploitation, child pornography and child prostitution is too extensive, thereby shifting the focus from the formulated topic of protecting children from trafficking, even though trafficking is often linked to these crimes (pp. 106-107);
- Is the lack of a definition of „trafficking“ in international law an advantage or a disadvantage, in the author's view? It is pertinent to clearly state the author's position (p. 90);
- Some repetitions are allowed (e.g. on surrogacy and on child trafficking in sports (p. 99 and p. 109), etc.;
- Why is the legal framework in the Federal Republic of Germany is referred to and analysed, since FRG has not adopted a National Action Plan to combat trafficking in human beings, including children, and has not fulfilled its obligation as an EU member state to establish a National Mechanism for the Protection and Referral of Victims of Trafficking (p. 165 and seq.). Could countries with more successful national frameworks and practices be referred to? On what principle was the selection of countries made?
- The Conclusion goes into considerable detail on the individual provisions of the international instruments (paras. 1, 2 and 3);
- The conclusion should set out the de lege ferenda proposals contained in the exposition;
- It would have been better to point out to the scientific contributions in the conclusion;
- Editorial, technical, stylistic and grammatical inaccuracies should be corrected.

The above criticisms do not alter my positive review.

4.2. Recommendations.

- After taking account of the critical remarks, the dissertation should be published given its undeniable scientific contribution, as well as the relevance, novelty and originality of the research.

5. Scientific publications.

Three scientific publications have been submitted on the topic of the dissertation - one article in the journal „Law, Politics, Administration” of the PIF of the South – West University „N. Rilski“ of 2021 and two papers - in the Proceedings of the Jubilee Conference of the Faculty of Law of the Plovdiv university of 2023 and in the Proceedings of the Institute for the State and the Law of the Bulgarian Academy of Sciences of 2022.

6. The abstract is presented in accordance with the requirements and covers information on the subject, object, aims, objectives, methodology, sources and practical significance of the study. The structure, scope and content of the dissertation are presented, as well as a reference to the scientific contributions. The relevance of the chosen topic is emphasized. The scientific publications are mentioned.

7. Conclusion.

The presented dissertation meets the requirements of the Law on the Research and Development of the Bulgarian Academy of Sciences, the Regulations for its implementation and the requirements of the Regulations of the Plovdiv University „P. Hilendarski“.

The dissertation has undeniable scientific contributions, as well as proposals for improvement of the legal regulation. The analysis of the dissertation topic and the summarized conclusions show that the PhD student has a thorough knowledge of the researched topic.

On the basis of the review, I would like to give my positive assessment of the dissertation and propose that the Scientific Jury award the education and scientific degree “Doctor” in the professional field 3.6. Law, (International Law and International Relations) to Tanya Nikolaeva Kostadinova, full-time PhD student at the Department of Public Law at the Faculty of Law of PU “Paisii Hilendarski”.

12.12.2024

Review drawn up by:

(Assoc. Prof. Diana Marinova)