

REVIEW

by Prof. DSc Georgi Ivanov Mitov,

Department of Criminal Law Sciences

at the Faculty

of Law of Sofia University "St. Kliment Ohridski"

for the dissertation work of Gabriel Rosenov Rusev,

part-time doctoral student at the Department of Criminal Law

Sciences at the Faculty of Law

of Plovdiv University "Paisiy Hilendarski"

on the topic "The Preliminary Hearing under the Criminal Procedure Code"

for the award of the educational and scientific degree

"doctor" in the scientific field:

3. Social, Economic and Legal Sciences, professional field

3.6. Law scientific specialty Criminal Procedure

Dear members of the scientific jury,

At the first meeting of the Scientific Jury, I was assigned to prepare a review, which I present to your attention.

DISSERTATION STUDENT DATA

Gabriel Rosenov Rusev graduated from the Faculty of Law of the Plovdiv University "Paisiy Hilendarski" in 2011 and obtained a Master's degree.

After completing his higher education, he worked as a legal consultant and lawyer. Since 01.07.2020, he has been a junior judge at the District Court - Kardzhali, and since 01.07.2021, he has been a judge at the District Court - Plovdiv. This practical experience of his has helped a lot in revealing many

practical issues in the subject under consideration and in seeking their theoretical, legislative and practical solution.

DOCTORAL STUDENT DATA

Gabriel Rosenov Ruseve successfully passed all exams according to the curriculum. All requirements for doctoral students have been met - the final version of the dissertation was discussed at a meeting of the department, which received a positive assessment and the right to open a procedure for public defense. The scientific jury, which will evaluate the work and conduct the defense, was selected by the Faculty Council of the Faculty of Law upon the proposal of the Department of Criminal Law and was appointed by order No. RD 22 – 1655/15.07.2025 of the Rector of Plovdiv University “Paisiy Hilendarski”.

No violations were committed in the procedure for the implementation of the dissertation and the public defense.

DATA ABOUT THE DISSERTATION AND AUTHOR'S ABSTRACT

The dissertation is 167 pages long. It is structured in a title page, table of contents, introduction, four chapters, conclusion and bibliography. Each of the chapters is divided into sections, and some of the sections – into paragraphs. There are 191 footnotes. 129 literary sources in Bulgarian and Russian are indicated. All titles are cited in the dissertation. Gabriel Rousseve's work is the result of purposeful and independent work and possesses originality. It meets the requirements for a dissertation for the award of the educational and scientific degree of "doctor".

The presented abstract meets the regulatory requirements and correctly presents the reviewed work.

On the topic of the dissertation - the dispositive session in the criminal process of the Republic of Bulgaria, research has been done in the criminal law literature so far, mainly by doctoral students, but due to the unsuccessful legislative framework and the contradictory judicial practice, each new study is useful in view of new aspects of the issue. Therefore, the work represents a new study of the issues under consideration and therefore is a contribution to the development of this important theoretical criminal procedure problem. This can be indicated as an independent contribution of the reviewed work.

In the introduction, the author should motivate the relevance of the issues, his scientific interest in the topic, outline the scientific tasks of the study in analyzing and developing the problems and give the structure of the work.

Chapter one is devoted to the historical development and essence of the first instance pre-trial hearing in cases of a general nature. The first part is of cognitive importance and it examines the legislation of the pre-trial hearing under the repealed procedural laws – the Administrative Procedure Act of 1897, the Code of Civil Procedure of 1952 and the Code of Civil Procedure of 1974 and the current Code of Civil Procedure of 2005 until its amendments in 2017, when the pre-trial hearing was introduced in its current form. Useful for science is the analysis of the regulations under the Administrative Procedure Act related to the prosecutor's possibilities to eliminate significant procedural violations admitted in the preliminary proceedings. The author thoroughly examines the development of the elimination of significant procedural violations of the preliminary proceedings in the repealed procedural laws. It is not an end in itself, but aims to find the essential features of this control and the possibilities for accelerating the proceedings. This can be indicated as an independent contribution of the study.

The second part is theoretical and clarifies the essence of this new control mechanism. The author has correctly determined the main purpose of conducting an injunction hearing - the verification by the court in an open, public and adversarial hearing of a remediable material violation of the pre-trial proceedings admitted to the pre-trial proceedings, which led to the restriction of the procedural rights of the accused, the victim, or his heirs, and the introduced preclusion for them in the subsequent stages of the procedural development of the case, to achieve speed and efficiency of the criminal proceedings and the implementation of the principle of a reasonable time. This can be indicated as an independent contribution.

The second chapter examines the issues that are discussed in the injunction hearing of the first instance in cases of a general nature. The rich practical experience of the dissertation as a judge allowed him to discover the essential and important problems that arise when discussing the issues under Art. 248, para. 1 of the Code of Criminal Procedure and to propose appropriate and well-motivated solutions. This chapter is of great theoretical and practical importance and this is an independent contribution of the study.

Without dwelling in detail on all the points in it, I would point out some important points that show the author's ability for a comprehensive approach to studying problems and the ability to find a solution to complex issues.

The thesis that a remediable material procedural violation can also be a shortcoming or defect in the preparation of the indictment deserves support - the lack of a description of all constituent elements from the objective and subjective side of the crime, the indictment does not correspond to the content specified in Art. 246, para. 2 of the Criminal Procedure Code or contradicts the interpretative decision No. 2 - 2002 - OSNK of the Supreme Court of Cassation.

The thesis is correct that the procedural violation is material only when it has violated the procedural rights of the accused and imposes return of the case to the prosecutor, if it cannot be eliminated in the judicial phase of the trial. The thesis that the procedural violation can be successfully overcome in the judicial phase of the criminal trial does not require the return of the case is also worthy of support. The conclusions and proposals for violating the procedural rights of the victim or his heirs in the pre-trial phase are correct, since in most of the hypotheses they do not constitute a significant procedural violation that would require the return of the case from the prosecutor's dispositive hearing, but can be compensated in the judicial proceedings.

A useful point is the part on the essence of the obvious factual error and the ways to eliminate it. The solutions given to some practical issues are useful and an analysis of case law on the issue of eliminating the obvious factual error is made.

Chapter three discusses the procedural order according to which the open dispositive hearing of the first instance in cases of a general nature is held (section 1). Useful for practice are the developed casuistic hypotheses for initiating the injunction hearing in view of the failure of any of the participants. The appellate control over the court's ruling issued in the injunction hearing is examined, albeit very synthesized and briefly (section 2).

Chapter four is devoted to limiting the scope of application of the injunction hearing of the first instance in cases of a general nature and the applicability of the differentiated procedures under the Code of Criminal Procedure after conducting an injunction hearing of the first instance in cases of a general nature. The dissertation has made a successful attempt to resolve some practical issues related to the immediate consideration of the case in accordance with the

differentiated procedures under the Code of Criminal Procedure after conducting an injunction hearing. The specifics of the individual differentiated proceedings (expedited proceedings - Chapter Twenty-Four of the Code of Criminal Procedure, release from criminal liability with the imposition of an administrative penalty - Chapter Twenty-Eight of the Code of Criminal Procedure, resolution of the case by agreement - Chapter Twenty-Nine of the Code of Criminal Procedure) and the requirements for their implementation immediately after the dispositive session are outlined.

The conclusion summarizes the conclusions drawn in the study in a synthesized form and the *de lege ferenda* proposals in the subject under consideration are indicated.

SCIENTIFIC CONTRIBUTIONS

I share the scientific contributions indicated by the dissertationist in the abstract.

Along with the specific contributions indicated above, several more general ones can be additionally indicated:

The dignity and value of this work lies in the relevance and complexity of the scientific study of the problems under consideration, which can be distinguished as an independent contribution.

The author seeks practical aspects in the implementation of the institutes under consideration. This makes the work practically oriented and useful. Therefore, I recommend its publication as a separate monograph.

The dissertation makes a comprehensive analysis of the issues that are discussed in the injunction hearing and the conduct of the differentiated proceedings immediately after its conclusion, but refracted through the practice that he has as a judge. This makes the study useful for a wide range of readers - researchers, legal practitioners and others.

The results achieved from the scientific research are systematized in proposals *de lege ferenda*, some of which can be shared, and others will cause discussion or disagreement with them.

In the work, the dissertation candidate, through an analysis of the theory and case law of the Bulgarian courts, the Court of Human Rights and the Court of Justice of the European Union, explores significant and important issues of

criminal procedural law for the theory and practice. In it, the author provides convincing arguments in support of the positions advocated and to refute the criticized opinions in a correct tone of scientific polemic. The supported theses are justified and express the author's position. The bibliographical sources are correctly cited.

With this dissertation work, Gabriel Rusev demonstrates the ability to work with various literary sources and case law. The study proves his good theoretical preparation and independence in the development of significant theoretical problems.

The work is readable, properly structured and this makes it easy to use. It is written in good legal language.

PUBLICATIONS AND PARTICIPATIONS IN SCIENTIFIC FORUMS

Gabriel Rosenov Rusev has four publications on the topic of the dissertation, according to the submitted reference:

1. Limiting the scope of the procedural hearing under the Code of Criminal Procedure. – In: UI: Law in the 21st Century, Challenges and Perspectives, Volume 2, PAISI Hilendarski University, Plovdiv, 2023, Collection of Reports from an International Scientific Conference, held on the occasion of the 30th anniversary of the establishment of the Faculty of Law of Plovdiv University, October 13 and 14, 2022;

2. Applicability of the differentiated procedures under the Code of Criminal Procedure after the procedural hearing. – In: Collection, XIII National Conference of Doctoral Students and Young Scientists and the Field of Legal Sciences, organized by the Institute of State and Law at the Bulgarian Academy of Sciences from June 30 to July 02, 2023 in the city of Sofia;

3. What are the essential procedural violations requiring the termination of the judicial proceedings and the return of the case during the pre-trial phase. – In: PU “Paisiy Hilendarski”, STUDIA IURIS, No. 1, 2024, ISSN 2367-5314 and

4. Some of the procedural rights of the victim or his heirs, which are subject to discussion in an orderly session of the first instance in cases of a general nature. – In: PU “Paisiy Hilendarski”, STUDIA IURIS, No. 1, 2025, ISSN 2367-5314.

CONCLUSION

Based on the above, I believe that the presented dissertation on the topic "The Preliminary Hearing under the Criminal Procedure Code" meets all the requirements specified in the Act on the Development of the Academic Staff in the Republic of Bulgaria, the Regulations for its implementation and the Regulations for the Development of the Academic Staff of the Plovdiv University "Paisiy Hilendarski" regarding the awarding of the educational and scientific degree "doctor".

Therefore, I give a positive assessment and I confidently propose to the esteemed scientific jury to make a decision on the awarding of Gabriel Rosenov Rusevna the educational and scientific degree "doctor of law".

Reviewer:

Prof. DSc Georgi Mitov

01.10.2025