

OPINION

by Assoc. Prof. Ivan Hristov Ranchev, PhD
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Member of the Scientific Jury in the procedure for the acquisition of the PhD educational and scientific degree in the field of higher education 3. Social Sciences, Economics and Law, professional field 3.6. Law, announced at Paisii Hilendarski University of Plovdiv, with part-time doctoral student Maria Atanasova Dzaneva at the Department of Criminal Law Sciences, supervised by Assoc. Prof. Dr. Ekaterina Salkova,

REGARDING dissertation thesis on the topic: CONSTITUTION OF AN ACCUSED PARTY

1. General Presentation of the Procedure and the Candidate

Pursuant to Order № RD-22-1682/17.07.2025 of the Rector of Paisii Hilendarski University of Plovdiv, I was appointed as a member of the scientific jury for the above-mentioned procedure.

Maria Dzaneva graduated in Law at the Faculty of Law at Paisii Hilendarski University of Plovdiv in 2020. Since 2022, she has been working as a lawyer at the Plovdiv Bar Association as well as an assistant in Criminal Procedure at the Faculty of Law at Paisii Hilendarski University of Plovdiv.

She was enrolled as a part-time doctoral student in the doctoral program “Criminal Procedure” at the Department of Criminal Law Sciences of the Faculty of Law at Paisii Hilendarski University of Plovdiv on 01.03.2021, with a period of study of four years, until 01.03.2025. She has been discharged with the right to defense as of 01.03.2025.

The doctoral candidate submitted the required documents related to the procedure in accordance with art. 36 of the Rules for the Development of the Academic Staff of Paisii Hilendarski University of Plovdiv. She also has three publications in connection with the dissertation.

The topic has been developed up to this point and is directed towards public defense in accordance with the procedures provided for in the legislation and subordinate regulations.

The scientific supervision of the doctoral candidate throughout the entire four-year period has been carried out by Assoc. Prof. Dr. Ekaterina Salkova. The relatively limited practical experience of the doctoral candidate in the chosen subject matter is evident, as she has worked for about three years as a lawyer and as an assistant in Criminal Procedure. However, her comprehensive engagement exclusively in this field has provided her with the full opportunity

to complete the necessary publications and the timely completion of her dissertation thesis.

2. General Remarks on the Dissertation and Its Evident Merits

The title of the dissertation is “Constitution of an Accused Party”, and its volume is 195 printed pages.

The dissertation has the required volume, and the discussed subject matter is related not only to the Bulgarian criminal law, but also to several international and European legal acts, as well as judicial practice. This is a sign of the author’s ambition, since the subject is highly specific to be comprehensively addressed within the framework of such a scientific study.

The topic has always been relevant for several reasons. On the one hand, the matter is fundamental to the emergence of the procedural figure of the accused in pre-trial proceedings and the realization of his right to defense, around which the other parties to the process are subsequently constructed once the case enters the trial phase. On the other hand, this allows the author, as a practicing lawyer and assistant in criminal procedure, to also make proposals for legislative improvement.

Doctoral candidate Dzaneva’s dissertation is structured chronologically into an introduction, an exposition divided into three chapters with separate sections, and a conclusion. The scientific literature used is duly listed – titles in Bulgarian and in foreign languages. The author has made 191 footnote references, based on the legal literature used, which includes 109 sources in Bulgarian and 27 sources in foreign languages, including electronic sources, numerous legal acts and judicial practice. This gives the exposition both a scientific and an educational character, i.e. it is directed towards a broader audience of practicing jurists. Five proposals for amendments to the legislation have also been made.

3. Analysis and evaluation of the dissertation

The structure of the dissertation follows a logical sequence. The title accurately reflects the author’s idea to carry out a comprehensive scientific study of this key part of pre-trial proceedings.

The first chapter of the dissertation named The Concept of “Constitution of an Accused Party” consists of five sections.

In the first section, the concept of criminal liability is examined according to the representatives of the legal doctrine.

In the second section, the specific features of the concept are compared as defined in the Constitution of the Republic of Bulgaria in contrast to the meaning attributed to it in criminal law theory concerning the status of the accused.

The third section discusses the concept in the context of art. 286, para. 2 of the Criminal Code.

The fourth section examines the essence of the concept according to the current Criminal Procedure Code, the Law on Extradition and European Arrest Warrant, the European Convention on Human Rights and the judicial practice.

In the fifth section a comparison is made between the concept and other related notions, such as the initiation of criminal prosecution and the accusation of committing a crime within the meaning of art. 2, para. 1, item 3 of the State and Municipalities Responsibility for Damage Act. The doctoral candidate has also presented her view on the necessity of adopting a second interpretation regarding the expression used by the legislator, considering Decision № 50009/08.02.2023 in civil case № 932/2022 of the Third Civil Division of the Supreme Court of Cassation.

Chapter Two – Constituting an Accused Party under the General Rules of the Criminal Procedure Code – is fundamental for the scientific research conducted.

In the first section a historical overview is presented and the current legal framework of criminal prosecution pursuant to the Criminal Procedure Code of 2005 is examined.

In the second section are discussed in detail the prerequisites to constitute a person as an accused party under art. 219, para. 1 of the Criminal Procedure Code and under art. 219, para. 2 of the Criminal Procedure Code. Consideration is given to the specifics of the removal of immunity as a special prerequisite for bringing a person as an accused, the scope of immunity for Members of Parliament and Constitutional Court judges, candidates for parliamentary office, and the acquisition of immunity both prior to and after being constituted as an accused party.

In the third section the legal nature and content of the acts of constituting a person as an accused party are examined – the decree under art. 219, para. 1 of the Criminal Procedure Code and the record under art. 219, para. 2 of the Criminal Procedure Code. The requisites of the acts of bringing an accused, their mandatory and optional content, are discussed.

In the fourth section attention is given to the report prepared when constituting a person as an accused party.

The fifth section examines in detail the procedural order for constituting a person as an accused party as well as its procedural forms under art. 219, para. 1 and 2 of the Criminal Procedure Code.

In the seventh section the presentation of the act of constituting a person as an accused party is discussed. The competent authorities for presenting the accusation, the subjects to whom it is presented and the rules for summoning are analysed.

In the ninth section the specific features of presenting an accusation during an investigation conducted in the absence of the accused are examined.

Section nine is devoted to the defense of the accused against the charge presented in the context of conducting his interrogation, the possibility of making evidentiary requests and presenting evidence, as well as the control exercised over this procedural and investigative action.

Section ten examines the renewed bringing of charges against the accused, the procedural form and the contents of the act of renewed accusation.

Section eleven covers the specific features of bringing a person to criminal liability in private prosecution cases, the filing of a complaint before the respective first-instance court and the procedural actions of the court in accepting and proceeding with the complaint in a court hearing.

Chapter Three addresses the specific requirements for bringing a person to criminal liability under the Special Rules of Part Five of the Criminal Procedure Code for crimes of a general nature – in fast-track proceedings, crimes committed by minors or by persons who do not speak Bulgarian, crimes under the jurisdiction of the military courts and those committed by the Prosecutor General or his deputy.

The author's views in the concluding part of the dissertation are of particular interest, and I endorse some of the proposals *de lege ferenda*.

Of particular interest is the doctoral candidate's first proposal — to repeal the provision of art. 219, para. 2 of the Criminal Procedure Code and to introduce a new legal figure – a “suspect” /respectively “implicated person” or “investigated person”/, which would be constituted at an earlier stage, when it is necessary to undertake actions against a person for whom there is evidence that they may be the perpetrator of the act. However, this figure is not new to our legal system and doctrine, as it existed in the provisions of the Criminal Procedure Code of 1974 /repealed/, where it preceded the constitution of the accused party against whom charges were formally brought. Under the relevant prerequisites of art. 202, para. 1 – 2 of the Criminal Procedure Code /repealed/, such persons could be initially detained for a period of 24 hours by the investigating authority /investigator/, with the prosecutor being able to extend the detention to 72 hours under art. 203, para. 1 – 3 of the Criminal Procedure Code /repealed/. Suspects could also be detained in cases of urgency by private citizens under art. 204 of the Criminal Procedure Code /repealed/. Measures of restraint could be imposed on them under art. 205 of the Criminal Procedure Code, as well as regulation of their rights in accordance with art. 206, para. 1 – 2 of the Criminal Procedure Code. This amendment could fill the legislative gap concerning the status of persons who are initially detained under the Ministry of Interior Act for a period of 24 hours, with the possibility of extension by the prosecutor under the Criminal Procedure Code up to 72 hours, depending on whether there is sufficient evidence to bring them to criminal liability and grant

them the status of accused persons, or, if such evidence is lacking, to release them.

The second alternative proposal, in case the provision of art. 219, para. 2 of the Criminal Procedure Code is not repealed, is to regulate the constitution of the accused party before any investigative action is undertaken against them. I find this to be illogical and practically unfeasible, since the initial step is always the procedural and investigative action, as a result of which evidence is collected regarding the person's involvement in a crime of a general nature, and this in turn leads to their being brought to criminal liability either by an entry in the same record or by a decree explaining their procedural rights as an accused.

The third proposal for the mandatory regulation in the respective acts of the clarification of the rights of the accused party under art. 47, 53, and 96 of the Criminal Procedure Code, alongside those under art. 55 of the Criminal Procedure Code I consider logical and feasible, and it could be implemented through the corresponding amendment.

The fourth proposal could also be adopted by providing for the obligation to present not only the decree of indictment under art. 219, para. 1 of the Criminal Procedure Code, but also the record under art. 219, para. 2 of the Criminal Procedure Code with appropriate revisions to the heading and the provision of art. 219, para. 4 of the Criminal Procedure Code.

The fifth proposal corresponds to the previous one, suggesting that art. 221 of the Criminal Procedure Code could be amended more generally to state that "after the presentation of the act of constituting the person as an accused party", the pre-trial investigation authority shall immediately proceed to the interrogation of the accused in accordance with the relevant procedure.

The dissertation demonstrates the author's ambition to fully encompass all statutory requirements and specific features in the legal doctrine and judicial practice over the years on this issue, and I believe that she has been exceptionally successful in accomplishing the task. However, if she decides to publish her dissertation, she should pay attention to certain repetitions that ought to be avoided or eliminated.

In conclusion, the materials submitted by the doctoral candidate Dzaneva comply with the requirements of the Law on the Development of the Academic Staff in the Republic of Bulgaria, its Implementing Regulations and the Rules on the Conditions and Procedures for the Acquisition of Academic Degrees and Academic Ranks and for Holding Academic Positions at Paisii Hilendarski University of Plovdiv.

Despite some minor shortcomings in Maria Dzaneva's dissertation, I can express my positive assessment of its scientific and practical merits.

My opinion is that the required scientific work has been presented in terms of both volume and depth, and that the three mandatory publications in scientific journals demonstrate the doctoral candidate's research abilities,

contribute to the achievement of the dissertation's objectives and are the author's own work.

The dissertation contains certain original scientific and applied contributions, as well as the necessary solid scientific qualification of the doctoral candidate Dzaneva is evident.

For this reason, after reviewing and analysing the submitted dissertation, I give my positive assessment and recommend that the Scientific Jury vote to confer upon the candidate the PhD educational and scientific degree.

09. 09. 2025
City of Plovdiv

PREPARED BY:
/Assoc. Prof. Ivan Ranchev, PhD/