ABSTRACTS

of the scholarly works of Assoc. Prof. Dr. Ekaterina Salkova Getova,

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I. Monograph

Topical Issues of Criminal Procedural Functions

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ISBN 978-619-281-112-9, 187 pp. (standardized 201 p.)

The monograph aims, building on the achievements of criminal procedural theory, to offer an analytical examination and the author's perspective on a number of topical issues related to functions in criminal proceedings. This concept, introduced into Bulgarian criminal procedural theory under the influence of Russian doctrine, is not characteristic of the legal systems of other European states and, quite logically, in the process of aligning Bulgarian legislation with the requirements of the European Convention on Human Rights and the acts of the European Union, gives rise to certain questions, such as which function the court performs during the pre-trial phase of the proceedings.

The study substantiates the view that the activity of the court cannot be defined as a control function, a position that has become widespread in recent years, nor can it be subsumed under the traditional function assigned to the court in criminal proceedings—namely, the function of directing and adjudicating in the trial phase. The specific nature of the court's criminal procedural activity in the preparatory phase of the criminal process, at a stage when the judicial authority has not yet been seised by an act of a subject authorised to initiate criminal prosecution, as well as the orientation of the court's activity— including in cases where the power to decide is originally vested in the court rather than in another authority whose act is subject to judicial review (for example, when ordering pre-trial detention)—

supports the author's conclusion that the function exercised by the court is a rights-protective one.

The author aligns with the view expressed in the past by a number of other scholars that, in the pre-trial phase, investigative activity should be clearly distinguished and defined as a separate function, different from both the function of directing and adjudicating and the function of prosecution. The position of the new subject introduced in 2025 as a party to the trial phase of criminal proceedings is also analysed, with the conclusion that this party performs a defence function.

The author further argues that the institution of the civil claim in criminal proceedings is necessary, and in many cases contributes to better justice, but should not be allowed to become a means of obstructing criminal proceedings. The monograph also proposes the author's views on refining the terminology and clarifying the content of certain functions that remain the subject of scholarly disagreement.

As a result of the research, several *de lege ferenda* proposals are put forward, which could be considered within the framework of the existing model of pre-trial proceedings, insofar as the adoption of a different model—although regarded by the author as more effective—would cause certain disruptions in practice.

The monograph comprises three chapters: the first is devoted to the function of directing and adjudicating (including an examination of the need to distinguish two new functions within the process); the second addresses the two main opposing functions of the process (prosecution and defence); and the third focuses on the two auxiliary functions.

II. **Studies**

1. **Crime in continuation – Genesis, Evolution, and Prospects**. – B: **Academic works of the Institute of Legal Studies**. Vol. I (2004). Current legal issues. Sofia, BAS, 2004, ISSN 1312-3149, p. 7 – 72.

The Crime in continuation is analysed as a form of complex criminal activity, which constitutes a typical example of an apparently homogeneous real concurrence of offences and must be distinguished from a genuine homogeneous real concurrence of crimes. The historical development of the institute is examined, together with its application in practice and the reasons that led to its repeal from the legislation and the subsequent restoration of its legal regulation.

2. **The Legal Institution of Attesting Witnesses in Bulgarian Criminal Proceedings**. – **Legal Theory**, 2018, № 4, ISSN 1310-7348, p. 101 – 122, ***co-authored with Yanko Roychev***

The study focuses on issues of significant importance for both theory and practice concerning the participation of attesting witnesses in criminal proceedings. It analyses the requirements applicable to persons involved in the capacity of attesting witnesses, as well as their procedural rights and obligations. Particular emphasis is placed on the reasons for the existence of the institution of attesting witnesses and on its effectiveness as a guarantee of legality and of establishing the objective truth in criminal proceedings.

3. **Unpunishability of active bribery under art. 306 of the Criminal code**. – De Jure, 2019, 1, ISSN:2367-8410 (Online), 1314-2593 (Print), p. 12-33, ***co-authored with Yanko Roychev***

The article analyses the prerequisites for the exemption from punishability of active bribery under Article 306 of the Criminal Code, namely that the perpetrator was coerced by an official, an arbitrator, or an expert to offer, promise, or give a bribe, and that the perpetrator immediately and voluntarily notified the authorities. The historical development of the provision is examined, together with its nature, objectives, and characteristic features. The article supports the view that the current wording of the rule, which requires the cumulative fulfilment of all prerequisites, best serves its purpose, the state interests in the field of criminal repression, and the practical conduct of criminal proceedings in bribery cases.

4. **Maximum duration of the measures of remand detention in custody and house arrest in criminal cases**. – De Jure, 2019, № 2, ISSN:2367-8410 (Online), 1314-2593 (Print), p. 138-162, ***co-authored with Yanko Roychev***

The maximum duration of the measures of procedural coercion—pre-trial detention and house arrest—in criminal cases is examined. A number of issues concerning the calculation of the time limit and its starting and ending points are analysed, including situations involving the return of the case by the court to the prosecutor, the imposition of the measures on an accused detained on different legal grounds, as well as cases related to changes in the legal classification that establish a different maximum duration. Particular emphasis is placed on the controversial aspects of the duration of these time limits with regard to juvenile defendants.

5. **Legal consequences of violations of the provisions on procedural terms in criminal cases against underage accused parties**. – **Legal Theory**, 2020, № 1, ISSN: 1310-7348, p. 72 – 97, ***в co-authored with Yanko Roychev***

The consequences of breaches of the provisions establishing time limits for the examination and adjudication of criminal cases are analysed in situations where the accused committed the offence as a juvenile. It is established that when the excessive length of criminal proceedings against juveniles results in the accused reaching adulthood during the course of the proceedings, it renders meaningless the special rules tailored to the offender's age set out in Articles 61 and 64 of the Criminal Code and in Chapter Thirty of the Criminal Procedure Code. Unlike violations of the principle of adjudication within a reasonable time, the exclusion of the application of these provisions cannot be remedied under the current legal framework, which creates preconditions for unequal treatment of persons who committed offences as juveniles based on circumstances beyond their control.

6. **Bulgaria: the EAW, EIO and Regulation 1805/2018 in the Bulgarian Legislation and Case Law**. – In: Facilitating Judicial Cooperation in the EU. A Computable Approach to Mutual Recognition in Criminal Matters. Leiden / Boston, Brill / Nijhoff, 2025, ISBN 978-90-04-70578-4 (hardback), ISBN 978-90-04-70579-1 (e-book), DOI 10.1163/9789004705791, p. 69 – 101, ***co-authored with Miroslava Manolova***

The introduction and application in Bulgarian legislation and judicial practice of three key European Union instruments of mutual recognition in criminal law are analysed: the European Arrest Warrant (EAW), the European Investigation Order (EIO), and Regulation (EU) 2018/1805 on the freezing and confiscation of property. The authors examine the degree of compliance between national rules and EU law, with particular emphasis on legislative amendments adopted under the influence of the case law of the Court of Justice of the European Union. Special attention is paid to the protection of fundamental rights, the principle of proportionality, and the rights of suspects and accused persons. Problems arising from the lack of judicial review and effective legal remedies are analysed, together with the ways in which they have been addressed through subsequent legislative reforms. In conclusion, it is emphasised that the Bulgarian legal framework has generally been brought into line with European requirements, but that this process is the result of dynamic interaction between national courts, the legislature, and the jurisprudence of the Court of Justice of the European Union.

III. **Articles and reports**

1. **Evaluating Evidence in Criminal Proceedings: Challenges Posed by the European Investigation Order**. – In: European perspectives for the development of criminal legislation. Collection of the reports. St.

Kliment Ohridski University Press, Sofia, ISBN 978-954-07-3722-5, 2014, p. 319 – 331

The nature of the assessment of evidentiary material is analysed, with clarification of the relevance, admissibility, reliability, and sufficiency of evidence and evidentiary means, in light of a comparison between Bulgarian legislation and the proposals for the adoption of a European Union directive aimed at regulating the European Investigation Order. Problematic issues relating to the standards governing the admissibility of evidentiary material are identified.

2. **The Right to Effective Remedies and Criminal Proceedings as an Instrument for the Protection of Substantive Rights**. – B: Criminal legislation – traditions and perspectives, St. Kliment Ohridski University Press, 2016; ISBN 978-954-07-4170-3, p. 381 – 393

The right to effective legal remedies in cases of violations of fundamental rights in criminal proceedings is analysed in the light of national law, international instruments, and the case law of the European Court of Human Rights. The content of the State's positive obligations is examined, including the obligation to conduct an effective investigation and to ensure accessible and effective mechanisms of protection. Particular attention is paid to those provisions of the Criminal Procedure Code that call into question the effectiveness of the protection of the rights of victims and other participants in the proceedings. The rules concerning refusals to initiate pre-trial proceedings, the securing of costs in criminal cases, and the guarantees for the examination of cases within a reasonable time are subjected to critical analysis. Inconsistencies between the national legal framework and the standards of the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights are identified.

3. **On the (In)Effectiveness of Criminal Justice**. – B: Law and Order: Justice in Five Steps, Sofia, Move.bg, 2016, p. 40 – 49, https://move.bg/pravo-i-red-spravedlivost-v-pet-stapki

The reasons for the ineffectiveness of criminal justice in Bulgaria are analysed, with particular emphasis on the very weak real prevention of crime despite severe penalties and a high rate of convictions. Problems at all stages of state intervention are examined—from law-making and criminal policy, through the regulation and application of the Criminal Code and the Criminal Procedure Code, to the enforcement of criminal sanctions. The tendency towards normative inflation, populist increases in penalties, and the duplication of criminal and administrative liability is critically assessed, as these lead to legal uncertainty and unequal treatment. In conclusion, it is emphasised that the effectiveness of criminal justice requires a comprehensive approach, stable legislation, high-quality personnel selection, legal culture, and the authority of state power.

4. **The Examination of a Civil Claim in Criminal Proceedings**. – B: Scholarly readings in memory of Venelin Ganev and Nikola Dolapchiev. Collection of the reports. Sofia, St. Kliment Ohridski University Press, 2017, ISBN 978-954-07-4260-1, p. 199 – 217

The purpose of the publication is to present an in-depth theoretical and practical analysis of the institution of the civil claim in criminal proceedings, tracing its historical development, doctrinal foundations, and contemporary application. The arguments in favour of and against the joint examination of the civil claim together with the criminal charge are examined, with emphasis on the advantages of procedural economy, the avoidance of contradictory decisions, and the more prompt compensation of victims. Particular attention is paid to the controversial issue of the admissibility of civil claims for non-constitutive damages and to the possibility for a civil claim to be examined even after the termination of criminal proceedings.

5. **Discrepancies Between Concrete Legal Norms and the Principles of Criminal Procedure**. – B: Scholarly readings: Legal norms and legal principles. Collection of the reports, St. Kliment Ohridski University Press, 2017, ISBN 978-954-07-4321-9, p. 235 – 245, ***co-authored with Yanko Roychev***

Discrepancies between specific provisions of the Criminal Procedure Code and the fundamental principles of criminal proceedings are examined, with emphasis on their significance for the lawful and fair conduct of the process. The nature of legal principles and their role as the foundation of the criminal procedural system are analysed, as well as the ways in which they are reflected in individual legal norms. Specific contradictions between legal provisions and fundamental principles—such as the right to defence, the principle of inner conviction, and the requirement that cases be examined within a reasonable time—are identified. In conclusion, it is emphasised that such inconsistencies not only undermine the effectiveness of the principles of criminal procedure but also create preconditions for contradictory judicial practice, the resolution of which requires, above all, precise legislative activity.

6. **Human rights in the context of counter-terrorism**. – In: Globalization, the State and the Individual, 2(14), 2017, ISSN:2367-4555, p. 85 – 93, ***co-authored with Yanko Roychev***

The relationship between counter-terrorism measures and the protection of fundamental human rights is analysed, with emphasis placed on the need to achieve a balance between the public interest and individual freedoms. The standards of the European Convention on Human Rights and the case law of the European Court of Human Rights concerning the permissible limits of restricting

rights in the context of combating terrorism are examined. The absolute nature of the prohibition of torture and inhuman or degrading treatment is emphasised, as well as the importance of effective judicial control and the right to a fair trial. In conclusion, it is stressed that effective counter-terrorism requires not only a special regulatory framework but also genuine safeguards against arbitrariness, in accordance with the requirements of the rule of law and the standards of the European Convention on Human Rights.

7. **Věk trestní odpovědnosti a prevence kriminality mládeže**. – In: Právník, 11, 2017, ISSN:0231-6625, p. 989-998, ***co-authored with Yanko Roychev***

The article examines the issue of the minimum age of criminal responsibility and its role in the prevention of juvenile delinquency, drawing on historical, comparative, and international legal analysis. The authors trace the development of the fourteen-year age threshold in criminal law, particularly in post-Soviet and Eastern European legislation, and compare it with United Nations standards and practices in other jurisdictions. The psychological and social characteristics of child development that justify the need for a differentiated approach to responsibility and sanctions for juveniles are analysed. Particular attention is paid to so-called status offences, with the argument that their punishment often leads to stigmatisation and secondary criminalisation. The authors examine possible state responses to child and juvenile delinquency and emphasise the importance of specialised procedures and institutions. In conclusion, the article recommends the decriminalisation of status offences, the introduction of restorative justice, and enhanced institutional specialisation tailored to the age and individual characteristics of the child.

8. **Return of the Case by the Court to the Pre-Trial Phase of Criminal Proceedings**. – In: Criminal Jurisdiction – Traditions and Perspectives. St. Kliment Ohridski University Press, 2018, ISBN 978-954-07-4405-6, p. 44 – 60

The institution of the return of a criminal case by the court to the pre-trial phase is examined, tracing its historical development and its contemporary regulation in Bulgarian criminal procedure. The analysis is placed in the context of the 2017 amendments to the Criminal Procedure Code, which aim to limit the possibilities for repeated returns of cases and to accelerate the administration of justice by strengthening the central role of the trial phase. On the basis of statistical data from prosecutorial practice, it is concluded that the proportion of returned cases is not high, and that the main reasons for their return are shortcomings in the work of pre-trial authorities and violations of the procedural rights of the parties. The grounds and powers for returning a case at each stage of the trial phase are examined in detail, with a comparison drawn between the

regulation in different historical periods. In conclusion, it is emphasised that increasing the effectiveness of criminal justice requires comprehensive measures aimed primarily at improving the quality and professionalism of pre-trial authorities, rather than relying solely on legislative changes.

9. **Procedures for Holding Juvenile Offenders Liable for Socially Dangerous Acts and Their Preventive Role in Crime Trends**. – In: The Role of Criminology and Allied Sciences in Crime Prevention. Collection of reports, Mediatech, 2018, ISBN:978-619-207-150-9, p. 14 – 22, ***co-authored with Yanko Roychev***

It is argued that a comprehensive reform of the justice system with regard to minors who have committed antisocial acts or criminal offences can be effective only if it is based on a thorough analysis of the causes of juvenile delinquency and offences committed by children, and on a clear concept of the measures necessary to overcome the legislative, structural, and organisational shortcomings that currently prevent the achievement of maximum preventive effect.

10. **Sustainable Development of Academic Staff and the Continuing Reform of Its Legal Framework**. – In: Legislation on Academic Development in the Republic of Bulgaria, ISL – BAS, 2018, ISBN 978-954-9583-35-9, p. 9 – 21

A critical analysis of the existing legal framework governing the development of academic staff is carried out. After identifying the main deficiencies in the regulation since 2010 and examining their consequences for the quality of higher education and scientific research, the most significant directions of the 2018 amendments are analysed.

11. **Voluntariness and Promptness of Reporting Active Bribery as Conditions for Exemption from Criminal Liability under Article 306 of the Criminal Code**. – In: Counteracting Corruption in the Republic of Bulgaria. Ruse University Academic Publishing House, 2019, ISBN:978-954-712-758-6, 31-38, p. 31 – 38, ***co-authored with Yanko Roychev***

The paper examines two of the prerequisites for exemption from punishability of active bribery under Article 306 of the Criminal Code—voluntariness and immediacy of the reporting of the bribe. It is argued that these two requirements are interrelated yet have independent significance, in that immediacy must be assessed on a case-by-case basis, while the decisive criterion in determining whether the report was made voluntarily is the presence or absence of influence exerted by a competent authority.

12. **On the Power of the Criminal Court to Impose an Administrative Penalty**. – In: 50 Years Administrative Offences and Penalties Act: History, Traditions, Future. Collection of reports. St. Kliment Ohridski University Press, 2020, ISBN:978-954-07-4975-4, p. 175 – 191, ***co-authored with Yanko Roychev***

The analysis focuses on the new power of the criminal court, introduced by the 2017 amendments to the Criminal Procedure Code, to establish the commission of an administrative offence and to impose an administrative penalty in proceedings initiated by an indictment. The new regulation aims to ensure compliance with the *ne bis in idem* principle, which should be assessed positively; however, procedural rules cannot remedy deficiencies in substantive law—namely, the extensive duplication of criminal offences and administrative violations, which creates preconditions for breaches of that principle. In addition, uncertainty arises with regard to the possibility of exercising cassation review over appellate decisions in which the court acquits the defendant of a criminal offence but imposes an administrative penalty, finding that the act constitutes an administrative violation.

13. **The Concept of an Unlawful Judicial Panel in Criminal Proceedings**. – In: Spring Law Days 2020. Volume 2. Paisii Hilendarski University Press, Plovdiv, 2021, ISBN: 978-619-202-724-7, p. 301 – 316

The content of the concept of an "unlawful judicial panel," regulated as an absolute substantial violation of procedural rules under Article 348(3)(3) of the Criminal Procedure Code, is examined. The requirement that a case be heard by an independent and impartial court established by law is analysed through the prism of the principles of the rule of law and the right to a fair trial under Article 6 of the European Convention on Human Rights. Controversial issues concerning the consequences of breaches of the principle of random case allocation are analysed in detail, and the view is defended that this rule has an organisational rather than a procedural character and does not, in itself, lead to an unlawful judicial panel. Particular attention is paid to contradictory judicial practice relating to the composition and numerical structure of the judicial panel.

14. **Implementation of the Principle of Examination and Deciding Cases within Reasonable Time in Criminal Cases against Underage Accused Parties** – In: Thirty Years Since the Adoption of the Convention on the Rights of the Child: Challenges and Prospects. Proceedings of an International Scientific Conference, 10 December 2019, New Bulgarian University, New Bulgarian University Press, 2021, ISBN:978-619-233-198-6 (online), 978-619-233-200-6 (Print), p. 226 – 237, ***co-authored with Yanko Roychev***

The subject of the analysis is the manifestation, in cases involving offences committed by juveniles, of one of the two new principles introduced by the current Criminal Procedure Code into the system of principles of Bulgarian criminal procedure—namely, the examination and adjudication of cases within a reasonable time. Taking into account the specific characteristics of minors, a Plenum Resolution of the Supreme Court from 1975 emphasised the crucial importance of expeditious proceedings in cases against juveniles for the prevention of juvenile delinquency. These requirements, set out in binding judicial practice, are consistent with Article 40(2)(b)(iii) of the United Nations Convention on the Rights of the Child, and their practical observance is of essential importance both for crime prevention and for the right of defence of the juvenile accused, as well as for the possibility of applying Articles 61 and 64 of the Criminal Code and Chapter Thirty of the Criminal Procedure Code.

15. **The Legislative Concept of Investigative Authorities. Ministry of Internal Affairs 2030: Challenges Facing Security Policies**. Sofia, Фондация "Society and Security" Foundation, Burgas Free University, 2022, ISBN:978-619-92306-0-2, 29-42, p. 27 – 40

The article analyses the development of the legal regulation of investigative authorities in Bulgarian criminal procedure after 1989, placing it in the context of constitutional changes, reforms of the Criminal Procedure Code, and the influence of European standards. It traces the historical evolution of the types of investigative bodies and the distribution of their competences between the judiciary and the executive, highlighting frequent and inconsistent legislative amendments. Particular attention is paid to the expansion and subsequent restriction of the competences of investigators, the inclusion of various categories of investigative authorities (investigating police officers, customs inspectors, military investigative bodies, etc.), and the absence of a stable conceptual framework for their role. The article emphasises the need for an integrated strategy based on specialisation, professionalism, and a consistent criminal policy as a prerequisite for effective investigation and the administration of criminal justice.

16. **Victim of Crime and Person Injured by Crime, who can Participate in the Criminal Proceedings: The Relationship Between Substantive and Procedural Criminal Law**. – In: Law in the 21st Century, 2, Paisii Hilendarski University Press, 2023, ISBN:9786192029043, p. 282 – 293, ***co-authored with Daniela Doncheva***

A distinction is drawn between the concepts of "victim of the offence" and "injured party" in substantive and procedural criminal law, with emphasis on the differences in their content and the practical consequences of conflating them. The use of both terms is traced in Bulgarian legislation, international legal instruments, and European Union law. Particular attention is paid to the regulation

of the injured party in the current Criminal Procedure Code and to the uncertainties concerning the moment and manner of their constitution as a participant in the proceedings. Contradictory judicial practice regarding the possibility of recognising an injured party in offences not directly directed against the person, including document-related offences and offences against justice, is analysed. It is convincingly argued that the decisive criterion for recognising the status of an "injured party" is the existence of direct and immediate harm, rather than the formal object of the offence.

17. **Legislative Construction of Corpus Delicti through Administrative Prejudices**. – In: Law in the 21st Century, 2, Paisii Hilendarski University Press, 2023, ISBN: 9786192029043, p. 272 – 281, ***co-authored with Daniela Doncheva***

The institution of administrative prejudiciality in criminal law is examined as a specific legislative technique through which criminal liability is made conditional upon the prior imposition of administrative liability. Administrative prejudicial elements are analysed as a mechanism for differentiating criminal liability and for restricting criminal repression to cases in which administrative sanctions fail to achieve their intended objectives. The historical development and gradual expansion of this approach within the Bulgarian Criminal Code are traced through an examination of specific criminal offences. Particular attention is devoted to the increasing complexity of offence definitions and to the procedural difficulties of proof arising from the inclusion of additional legal elements, especially with regard to the subjective element of the offence. Finally, the study examines contradictory judicial practice concerning the proof of intent in offences involving administrative prejudiciality.

18. **Specific Features of the Investigation of Document-Related Offences**. – In: Collection of the reports of a Scientific Conference Dedicated to 110 Years of the Birth of Prof. Dr. Ivan Nenov and the 90th Anniversary of the Birth of Prof. Dr. Tseko Tsekov, St. Kliment Ohridski University Press, 2023, ISBN: 9789540758084, p. 245 – 258

The main challenges in the investigation and proof of document-related offences in the context of rapid technological development and the digitalisation of document circulation are analysed. Practical problems related to the identification of forged and false documents are examined, particularly where such documents are created or altered by technical means and subsequently used in the form of copies. Particular attention is paid to the difficulties in establishing authorship, the role of expert evidence, and the need to rely on indirect and derivative evidence. Specific issues concerning electronic signatures and the use of electronic devices for signing are also analysed, as they give rise to new forms of document-related offences while at the same time complicating their proof. In conclusion, it is emphasised that the effective investigation of document-related

offences requires the timely seizure of documents, the proper formulation of investigative hypotheses, and the extensive use of specialised forensic examinations adapted to contemporary technological realities.