

TO
THE SCIENTIFIC JURY APPOINTED
FOR THE DEFENCE OF THE HABILITATION THESIS
OF NIKOLETA KUZMANOVA WITH ORDER OF THE
RECTOR OF SOFIA UNIVERSITY “ST. KLIMENT
OHRIDSKI

REVIEW

by Prof. Boris Vladimirov Velchev, Dr. Sc., professor at Sofia University St. Kliment Ohridski on the habilitation thesis presented by Nikoleta Kuzmanova – chief assistant in criminal law at Sofia University entitled “Freedom of Religion and Criminal Law” for assuming the academic position “Associate Professor” in the field of higher education 3.6. “Law”, specialty “Criminal Law”.

Nikoleta Kuzmanova graduated from the Faculty of Law at Sofia University and obtained scientific degree Doctor in Criminal Law. Upon graduation she became a professor at the Academy of the Ministry of Internal Affairs where she became a chief assistant. Since 2000 she was a part-time assistant at Sofia University and later – a full-time assistant. During that time on multiple occasions she was appointed an expert on commissions at the National Assembly and bodies of the executive power. She was head of a political cabinet of a vice-prime minister and of a Minister of Foreign Affairs.

Nikoleta Kuzmanova has long been more than an assistant in the department. She is a respected professor, her excellent teaching skills are highly evaluated by the students and she is an independent examiner. Her camaraderie is highly appreciated in the entire faculty and the time when she was its scientific secretary is well-remembered.

The minimum requirements are fully met with total number of points collected on all indicators is 387.5. The author has presented 24 citations.

Apart from the main habilitation thesis, she participates in the competition with four articles and four studies. The titles of these works illustrate the wide-range scientific interests of Dr. Kuzmanova.

Two of the articles focus on an analysis of the interpretative practice of the General Assembly of the Criminal Bar Association. Based on the analysis made, Kuzmanova came to a number of critical conclusions, including the one that interpretation in many cases is not only useless but leads to problems for the legal profession. Valuable conclusions have been made about the boundaries of the

interpretative practice of the Supreme Court of Cassation in order to prevent the court from becoming a legislative body.

The third article is dedicated to the legality of the administrative penalty “detention in a division of the MoI”. Based on a thorough analysis of this administrative penalty the author comes to the conclusion that it should be revoked because it blurs the distinction between criminal and administrative liability.

The last article explores the analysis of some forms of criminal act in the Criminal Code. The *de lege ferenda* suggestions related to the use of a number of notions denoting the use of physical power on physical items are clearly justified.

All four studies examine relevant legal issues.

The first one /in co-authorship/ discusses one unapplied regulation in the Constitution – article 40, paragraph 2. This issue has not been studied in the theory so far. The study concludes with some interesting suggestions for a change in the legislation.

The second study continues Dr Kuzmanova’s attempts to distinguish between criminal and administrative criminal liability. The main conclusion drawn is that the set of infringements in the Criminal Code which get penalized in compliance with the administrative code are still perceived as crimes.

The third study looks at the main topic of the habilitation thesis – legal protection of freedom of religion. Here the author provides a structured system of the essential and non-essential crimes of the respective crimes.

The last study is an attestation of the wide-range of scientific interests of the author and focuses on the legal protection of the financial system. Justified suggestions are made concerning the changes in the legislation related to economic crimes.

Of particularly great relevance to the competition is the habilitation thesis.

The choice of the topic deserves high appraisal.

Interest in religion and its protection is multifaceted and presupposes in-depth knowledge in both history and philosophy, as well as theology. Along these lines, the choice of the topic is already a scientific challenge. Dr. Kuzmanova has managed to deal successfully with that challenge.

The complexity of the topic predetermined the structure of the habilitation thesis. The paper logically starts by clarifying the key notion – freedom of religion. This makes it possible for the author to build a convincing term-based corpus while drawing the required distinctions between extremely close notions.

The second chapter continues with an analysis of the legal protection of religion and a discussion of all relevant sets of infringements in the Criminal Code. In the last chapter the author analyzes the possibilities for realization of criminal liability

when violating bans and restrictions in order to be able to exercise freedom of religion.

The language used in the paper is readable, analytical and in compliance with the requirements for scientific writing. The style of the paper makes it interesting for a larger audience beyond the legal profession.

I fully agree with the assessment made on Dr. Kuzmanova's scientific contributions. I would like to point out some which I find particularly important.

It is worth mentioning Dr. Kuzmanova's merit to attempt to clarify and distinguish between similar notions like "religion", "faith", "cult", "church" and to justify the use of the notion "freedom of religion". Introducing clarity in the chaos of the notions used both in the Constitution and in a number of laws is a considerable scientific contribution. The notion itself "freedom of religion" as an instrument used to define the object of legal protection is strongly justified.

The idea about a constitutional change related to the formal strengthening of the freedom of religion is perfectly justified and in my opinion – adds value /p.57/. The same goes for the suggestion made on p.196 about a change in article 13 of the Constitution of Republic of Bulgaria and in article 37, paragraph 2 of the Constitution /p.204/.

I attach special importance to the entire chapter which explores the boundaries of the legal regulation of the freedom of religion /p.74-78/.

Valuable from scientific point of view conclusions can be outlined, focusing on the object of crimes against freedom of religion /p.90-93/.

The classification of crimes against religion as veritable and non-veritable /p.103 and the next/ also adds value.

The analysis of the individual types of crimes against freedom of religion is presented when using an approach that differs from the traditional one. The leading criterion used is the type of crime, not the time when the respective infringement occurred. This approach allows within presenting the characteristic traits of the infringements to follow their peculiarities in all Bulgarian criminal laws where such infringement exists and to draw justified conclusions about the will of the state concerning the boundaries of protection which are presented in the respective historical period.

The suggestion for a structural change in identifying crimes against religion /p.175/ and the *de lege ferenda* suggestions made /p.177/ should be supported.

The subject matter of penalty liability for infringement of bans and restrictions related to freedom of religion is based on clarifying the essence of their constitutionally-based grounds set forth in all Bulgarian Constitutions as well as the

ones in international acts where the Republic of Bulgaria is a party and the legal acts of the European Union which are comparable. The conclusions about the applicable definitions of crimes during the respective historical period are based on the content of each reason for each ban and restriction clarified in the research. The author's conclusion that there is no need for creating special definitions which should criminalize different types of infringements of bans and restrictions /p.238/ should be supported. The same goes for the proposal to decriminalize the crime under art.166 of the Criminal Code.

I have no critical remarks which could impact my final assessment of the qualities of the habilitation thesis.

The habilitation thesis fully meets the requirements of the law for occupying the academic position "Associate Professor" in criminal law. The applicant meets the minimal national requirements under art.2b of the LDAS in the Republic of Bulgaria and the habilitation procedure has been legally conducted.

I strongly recommend that the scientific jury should adopt a decision to support the appointment of Nikoleta Kuzmanova to the academic position "Associate Professor" at the Department of Criminal Law Studies at the Faculty of Law at Sofia University.

Prof. Boris Velchev, D. Sc.