

OPINION

By Assoc. Prof. Dr. Zdravka Vladimirova Krasteva, Department of Criminal Law at the Sofia University St. Kliment Ohridski

Subject: Thesis for awarding a scientific and educational degree Ph.D. in Law in higher education 3. Social, economic, and legal sciences, professional field 3.6 Law, scientific specialty Criminal Procedural Law

Candidate: Gergana Ivanova Ivanova, a Ph.D. student at the Department of Criminal Law at the Faculty of Law of Sofia University St. Kliment Ohridski

Scientific adviser: Prof. Georgi Ivanov Mitov

Thesis topic: VIDEO RECORDINGS AS EVIDENCE IN CRIMINAL PROCEEDINGS

1. Brief presentation of the procedure and the candidate

Ph.D. student Gergana Ivanova was enrolled with order no. RD 20-1404/27.09.2018 of the Rector of SU "St. Kliment Ohridski" as a part-time doctoral student in the doctoral program "Criminal Process" - criminal procedural law at the Faculty of Law of the Sofia University "St. Kliment Ohridski."

The set of materials presented follows the provisions of the Law on the Development of the Academic Staff of the Republic of Bulgaria and the Regulations for its implementation. Therefore, the requirements regarding the procedure's course and the dissertation's design have been met.

By education, Gergana Ivanova holds a master's degree in law from the Sofia University "St. Kliment Ohridski ."Her professional path from completing higher education until now has been as a legal consultant, junior lawyer, and lawyer at the Sofia Bar Association. In recent years, the dissertation student also leads seminars on criminal procedure as a part-time assistant at the Faculty of Law of the Sofia University "St. Kliment Ohridski."

2. General characteristics of the dissertation

The dissertation consists of a table of contents, a list of abbreviations used, an introduction, three chapters, a conclusion, a bibliography, and an appendix with suggestions de lege ferenda. The volume of work as presented is 290 pages, corresponding to 292 standard pages.

The structure of the dissertation is logically built and follows the classic construction of a scientific work, consisting of three chapters divided into sections and paragraphs.

Chapter one contains a brief historical overview of the video recordings in the Bulgarian criminal procedural legislation, regulated as a physical evidential means for securing information in visual form within the framework of the criminal proceedings. Given the lack of regulation of the inclusion of records created outside of the trial in the evidence body, the comparative legal review included in this chapter of the German, Romanian, Serbian and Russian legislation in this area, as well as the relevant practice of the European Court of Human Rights, is of interest. In chapter two, the essence of video recordings is examined in two aspects - technical and legal. The author presents the technical characteristics of the recording devices and the records prepared with them, reviewing the types of recording devices depending on different classification criteria. The technical subject matter, which is not typical for legal analysis, is presented in an understandable and non-self-serving way, with relevant

conclusions drawn, including those with a forensic focus. A concept of the legal nature of video recordings created outside the process as physical evidence, electronic evidence, and computer-information data and classification of these recordings as accidental and created by a specific person on a particular occasion is also proposed. In a separate section of the same chapter, distinctions are made between private records and other objects identified by the dissertation as similar figures. The last chapter, the third, is justifiably the largest in volume as it deals with the essential issues related to the use of video recordings created outside the trial, namely their admission, collection, assessment, and verification in criminal proceedings. In the conclusion, the author presents the main findings in the work's separate chapters.

3. Relevance of the topic

The relevance of the topic of the dissertation is convincingly substantiated with arguments about the dynamics in the development of visual and digital technologies and the numerous questions that this process poses to the legislator and the practice in the use of video recordings created outside the criminal proceedings. An additional argument for the need for such a study is the lack in the Bulgarian law literature of a comprehensive study of private video recordings from a criminal-procedural point of view. This is the principal scientific novelty of the presented work.

4. Novelties and remarks

The contributions presented in the abstract are given in good faith and correctly. A contributing point in the research is the dissertation's proposed concept of the legal nature of private video recordings as electronic evidence and computer information data.

The author's proposed distinction of records as accidental and intentional, i.e., prepared by a specific person on a particular occasion, is of theoretical and practical importance. This distinction has been made consistently throughout the entire territory of the presented work. Moreover, this classification is tied to significant conclusions regarding the admissibility and evaluation of the two categories of records.

The criteria proposed by the dissertation for the admissibility of private video recordings are also a contributing point. Finally, the detailed analysis of applying the principle of proportionality deserves special mention.

A novelty is the systematic and comprehensive study of the specifics in applying the methods of proof through which private video recordings are collected. These questions are only partially addressed by other authors, while in the discussed dissertation, the approach to clarifying them is exhaustive and comprehensive. Moreover, the author demonstrates excellent knowledge not only of the procedural but also of the forensic aspects in applying the means of proof.

I may make some remarks to the author, which does not affect the overall positive assessment of the submitted work.

The otherwise helpful distinctions in Chapter Two of private video recordings from other similar objects, constituting video recordings provided for in the NPC as a legal-technical means, should be narrower. Insofar as they all have one main difference with private video recordings, namely that they are created within the framework of criminal proceedings, the detailed examination of the essence of each of these means (especially the problematic issues from the point of view of the right of defense in the video conference) does not contribute to the clarification of the legal nature of private video recordings, but in my opinion, unnecessarily complicates the presentation.

As an editorial and technical note, the term "digital charge" used several times in the exposition may be mentioned. However, it does not accurately reflect the

implanted meaning and evokes associations with words from forensic ballistics rather than digital technologies.

I am interested in the doctoral student's opinion on one issue that is only hinted at in the dissertation: the dual nature of recordings representing video messages exchanged in electronic applications. I would like to hear her opinion on whether they should be treated as correspondence and following which procedure they may be seized.

5. Conclusion

I find that the presented thesis, VIDEO RECORDINGS AS EVIDENCE IN CRIMINAL PROCEEDINGS, meets the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria and the Regulations for its implementation - it contains scientific and applied results, which represent an original contribution to science and shows that the candidate has in-depth theoretical knowledge in the respective specialty and abilities for independent research, which is why I strongly suggest to the Scientific Jury to give the Ph.D. student Gergana Ivanova Ivanova the educational and scientific degree Ph.D. in the professional field 3.6. Law (Criminal Procedural Law).