

STANDPOINT

of

Professor Doctor Gergana Marinova

member of a scientific jury in the defence of a thesis for the awarding of a PhD educational and scientific degree under the doctoral program “Criminal Procedure Law”, professional area: 3.6. “Law”,

with reference **to a thesis titled “Termination of Criminal Proceedings in a Court Session” by Debora Milenova Valkova-Terzieva** – a PhD student in the Department of Criminal Law Studies of the Law Faculty with Sofia University St. Kliment Ohridski.

I was appointed as a member of the scientific jury based on Order ПД-38-134/24.03.2023 issued by the Rector of Sofia University St. Kliment Ohridski. It was decided at the first meeting of the jury that I shall present a standpoint on the thesis written by Debora Milenova Valkova-Terzieva, titled “Termination of Criminal Proceedings in a Court Session”.

Information about the PhD student and her thesis

In 2017, Debora Valkova graduated from the Law Faculty of Sofia University St. Kliment Ohridski, and in 2018, she started her professional career as prosecutor's assistant in the Sofia City Prosecutor's Office. She won a competition for junior judges, and after attending a training course in the National Institute of Justice (2019 – 2020), she was appointed as a junior judge in the Vidin District Court (2020 – 2022). Since November 2022, Debora Valkova has been working as a judge in Sofia Regional Court, and in 2019, she was enrolled as a part-time PhD student in the Department of Criminal Law Studies of the Law Faculty with Sofia University St. Kliment Ohridski. Her PhD training has been conducted in compliance with all statutory requirements.

As evident from the documents submitted within the thesis procedure, Debora Valkova has met the minimum national requirements, for she has presented her thesis along with 3 related articles on the topic of her paper. The

thesis was verified in the Sofia University plagiarism prevention system and no plagiarism was established, nor has the scientific jury received any reports of plagiarism.

Information about the thesis and the Author's Summary

The thesis prepared by Debora Valkova covers 185 pages and consists of preamble, three chapters with separate sections, conclusion and bibliography referring to 39 titles, of which 2 are in English.

The Author's Summary specifies in a correct manner the thesis' structure and contents, supplementing it to a certain extent due to the fact that it is the Author's Summary that clarifies the relevance of the topic and the research's objectives, tasks, subject, object and methodology employed. The Author's Summary includes also a contributions report and a list of publications.

In the thesis' preamble, Debora Valkova has specified the scope of its subject. The dissertation paper explores the termination of criminal proceedings only in a first instance court session and exclusively in cases of general nature. The preamble briefly describes the contents of the various chapters and expresses the author's expectation that some of her arguments will not be accepted indisputably and will provoke a scientific discussion, which she defines as one of the goals of her work.

Chapter One is focused on the historical development of criminal proceedings' termination in a court session and clarifies the essence of this instrument. Chapter Two is devoted to the termination grounds, and Chapter Three deals with the termination of criminal proceedings by the first instance court and the judicial supervision exercised over its ruling. The conclusion summarizes the *de lege ferenda* proposals that have been made.

Assessment of the thesis

At first glance, the topic of the thesis does not give rise to any special challenges. It has been developed (with a broader scope) as a dissertation paper that had later on been published as a monography (Salkova, E. Termination of Criminal Proceedings. S: Feneya 2007). Yet, based on this study and other works, the PhD student has managed to upgrade them by presenting her views (especially in terms of the new termination grounds as per Art 24, para 1, item 8a of the Criminal Procedure Code and the *ne bis in idem* principle) and formulating her suggestions mostly on the basis of her interpretation of the rulings delivered by the European Union Court of Justice and the European Human Rights Court.

The thesis is written in a clear and concise manner, and although the style is strictly legal, the paper is easy to read. The arguments are stated in a categorical way, and the long-term and so far indisputable judicial practice of the national courts is criticized with an enviable courage. The PhD student has demonstrated knowledge and obvious respect for the relevant legislation of the European Union and the practice of both the European Union Court of Justice and the European Human Rights Court.

In general, I accept the contributions stated in the Author's Summary. A major portion of these constitute various *de lege ferenda* proposals, which is why I shall focus my attention on them. I agree with some of the contributions, as for example: to empower the court to terminate criminal proceedings in a disposition hearing pursuant to Art 25, para 1, item 5 of the Criminal Procedure Code; to oblige the court to impose educational measures and to eliminate the possibility of terminating the criminal proceedings in a first instance court session by sending the materials to the respective Commission for combating the anti-social behavior of minors and underage persons.

Other proposals seem to be debatable and unconvincingly argued. For example, the PhD student claims the following: "The blanketness observed in the practice of judicial deeds terminating the criminal proceedings due to death is illegal. Depending on the specific hypothesis, the court must engage itself with the defendant's guilt by analyzing the respective evidence and shall include it in the motivational section of its ruling." (page 56). For me, the view that the court should rule on the guilt of the deceased person is a very disturbing notion. A number of questions emerge in my mind and I cannot find the answers to them in the thesis. If death has occurred and has been established before the start of judicial investigation, then based on what evidence will the court "commit itself to the guilt of the defendant", and more precisely: should the court assess the guilt based on evidence collected during pre-trial proceedings in the absence of competitiveness and publicity, without clarifying the order under which this evidence shall be included (provided no judicial investigation has been conducted) and what is the standpoint of the parties involved? If the court has decided on the defendant's guilt, why has it done that by a ruling, and not by a verdict as required by Art 32, para 1, item 1 of the Criminal Procedure Code? How could the deceased person defend himself/herself and dispute the court's decision on his/her guilt, including the evidentiary analysis made? Why is it assumed that the ruling on the guilt of the deceased defendant is the exact way of protecting his/her party rights and the presumption of innocence (pages 150, 162, 180)? Finally, what is the point of the court issuing a ruling on the deceased person's guilt? He/She won't get a fair punishment anyway, at least not from this court.

Examples of debatable issues could be continued in relation to other termination grounds, but this shall be completely unnecessary for the purposes of the present standpoint. However, I am convinced that the goal specified in the thesis' preamble, i.e. to provoke a scientific discussion, has indeed been achieved, which shall become evident once the paper is published.

In conclusion, and based on my overall assessment of the thesis, I believe that it meets the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria, its implementation regulations and the respective rules of Sofia University. My assessment is positive, and I think that the honorable scientific jury should award Debora Milenova Valkova-Terzieva the educational and scientific degree "Doctor".

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Professor Doctor Gergana Marinova