

**TO THE MEMBERS
OF THE SCIENTIFIC JURY FOR
A THESIS DEFENCE**

STANDPOINT

expressed by Associate Professor, Doctor Nikoleta Kirilova Kuzmanova on a
thesis for the awarding of PhD educational and scientific degree

Scientific area: 3. Social, economic and legal sciences

Professional field: 3.6. Law

Scientific major: Criminal Procedure Law

Scientific supervisor: Professor Georgi Mitov, Doctor of Legal Sciences

Faculty: Faculty of Law with Sofia University St. Kliment Ohridski

Department: Criminal Law Studies

Thesis title: Termination of Criminal Proceedings in a Court Session

PhD student: Debora Milenova Valkova-Terzieva

Reason for the expression of the standpoint: member of a scientific jury for the defence of a thesis as per Order № RD-38-134 issued on 24.03.2023 by the Rector of Sofia University St. Kliment Ohridski for the preparation of a standpoint in accordance with Protocol № 1 from the meeting of the scientific jury held on 28.03.2023.

I. Information about the PhD studies, the thesis, the author's summary and the publications

In 2017, Sofia University St. Kliment Ohridski awarded Debora Milenova Valkova-Terzieva a Masters educational and scientific degree in major "Law" after

her passing of the state exams with excellent results. Between 22.10.2018 and 30.09.2019, she was assistant prosecutor in Sofia City Prosecutor's Office, and in the period 01.10.2019 - 30.06.2020, she was a candidate for a junior judge at the National Institute of Justice and was later appointed as a junior judge in Vidin Regional Court, where she worked from 01.07.2020 until 28.11.2022. Since 29.11.2022, she has been a judge in Sofia Regional Court and along with her professional development as a magistrate, the PhD student has also been, since 01.10.2019, a part-time assistant in Criminal Procedural Law at Sofia University St. Kliment Ohridski. In the same year, she was also enrolled in part-time PhD studies under professional field: 3.6. "Law", major "Criminal Process (Criminal Procedure Law)" at the Faculty of Law with Sofia University St. Kliment Ohridski.

The presentation of the thesis titled "Termination of Criminal Proceedings in a Court Session" is structured in the generally accepted internal organization for such type of scientific papers (preamble, three chapters and conclusion), with a total volume of 182 pages. Attached to it there is a bibliography with more than 30 titles of sources in Bulgarian and 3 titles of sources in a foreign language, all of which are quoted in the paper as a total of 168 footnotes.

The scope of Chapter One is also fully consistent with the standards established in the professional field. It covers the two basic research topics: the historical review and the legal essence of the termination of criminal proceedings in the first instance court session in cases of general nature. It is highly appreciated that the PhD student has chosen to approach the development of the instrument in the country' procedural laws through its parallel comparison with the applicable Criminal Procedure Code. Thus, on the one hand, it reveals the dynamics of legislative decisions in the discussed issues, and on the other hand, it shows the depth of Debora Valkova's knowledge, not only in the analyzed part, but also in the entire subject of criminal procedure. The same comparative approach has been

consistently applied in clarifying the legal essence of terminating criminal proceedings in a court session for cases of general nature, where these proceedings have been compared to other similar instruments used in the criminal process.

Chapter Two is dedicated to the grounds for the termination of criminal proceedings at the judicial stage discussed in the research. Most of these grounds are directly related to the substantive criminal law. Therefore, a positive assessment should also be given to the finding of a balance in the presentation of the grounds from a criminal law point of view so that the information would supplement the logic of the researched procedural focus and not displace it. The analyzed judicial practice of the Bulgarian courts, the European Human Rights Court and the European Union Court of Justice is fully relevant to the arguments presented in the topic researched.

Chapter Three describes the order for terminating criminal proceedings in a court session and the rules the first instance court adheres to when supervising this activity.

The thesis is written in an accessible and clear language, with a precise use of the vocabulary specific to both the major and the topic of research. The paper highlights the PhD student's ability to distinguish in a meaningful way the various hypotheses, which are important for the respective part of the research, and her willingness to discuss these hypotheses in their logical sequence. Hence, the text is easy to be read and understood even by people who are not experts in the field of criminal procedural law.

It can be concluded from the findings presented that the thesis meets the requirement for originality and complies with the prerequisites for a scientific work aimed at the awarding of a PhD educational and scientific degree in the major "Criminal Procedural Law", professional field: 3.6. Law.

The Author's Summary submitted by the PhD student contains a plain and accurate abstract of the thesis, which provides a correct picture of the thesis' structure and contents. The relevance of the topic, its theoretical and practical importance and the scientific contributions are described in individual sections.

The PhD student has three publications on the subject of the thesis:

1. *Criminal proceedings' termination under a verdict in cases of general nature as per the Criminal Procedure Act*", De jure, 2021, № 1, pages 133-144, ISSN 2367-8410 (Print), ISSN 1314-2593 (Online);
2. *Termination of criminal proceedings by the first instance court in cases of general nature pursuant to Art 24, para 1, item 5 of the Criminal Procedure Code and its compliance with the European Union legislation*", De jure, 2021, № 2, pages 295-302, ISSN 1314-2593 (Print), ISSN 2367-8410 (Online);
3. *Termination of criminal proceedings by the first instance court in cases of general nature pursuant to Art 24, para 1, item 8a of the Criminal Procedure Code*" – B: "The 2020 reform of the administrative punishment", collection of reports, University Publishing House "St. Kliment Ohridski", C.2021, pages 192-205, ISBN 978-954-07-5359-1. Despite being directly related to the thesis, all three publications explore its contents in more detail, as a result of which each of them has its own scientific value and an independent place in the paper prepared by the PhD student.

It can be concluded that the quality and quantity of scientific output provided by PhD student Debora Valkova meets the minimum national requirements within the meaning of Art 26, paras 2 and 3 of the Law on the Development of Academic Staff in the Republic of Bulgaria, in connection with Art 25 of its implementation regulations. The PhD student has a total score of 80 points in terms of scientometric indicators for the obtaining of a PhD educational and scientific degree in professional field: 3.6. "Law".

II. Thesis' scientific contributions

In addition to the scientific contributions referred to herein, I fully agree with those mentioned by Debora Valkova in item IV of her Author's Summary.

Criminal proceedings' termination in the first instance court session requires a profound and detailed scientific research with a special emphasis on it, and this is exactly what has been included in the discussed thesis. The said research is based on the starting position that the specific features of the first instance court session have also a direct impact on the termination of criminal proceedings in this session. On the one hand, the court, being a guiding and a decision-making body, may terminate the proceedings only on the grounds explicitly defined in the Criminal Procedure Code. On the other hand, however, it is the essence of the respective reason that determines the scope of the court's activity in its application. Therefore, a serious contribution element in the thesis study is the consistent clarification of the following topic: in the presence of which reasons for criminal proceedings' termination should the court rule on the following issues: has an act been committed; who has committed the act; has the act been committed in a culpable manner; and on what grounds this shall not be necessary. Based on this analysis, the PhD student has reached the logical and absolutely justified conclusions that the termination activity of the court is in compliance with the European standards applicable to the relevant reason.

It is really impressive that the PhD student has provided arguments and has given her opinion on each of the topics discussed in the thesis (for example, page 64 et. seq. deal with the court's ruling on a civil claim in criminal proceedings' termination due to death, statute of limitations or amnesty, whereas page 92 and et. seq. explore the compliance of the national legal framework with the European standards under Protocol № 7 of the European Convention on Human Rights, etc.).

The so proposed changes in legislation are presented in a logical, consistent and reasoned manner. In terms of lawmaking, this approach constitutes a contributory element in both scientific and practical aspect. It is exactly the substantive motives which clarify the grounds and viewpoint for each scientific concept and each legislative change.

I fully agree with the PhD student's opinion stated by her in the preamble of the thesis that some of the concepts included in the paper could become subject of discussion. There is no doubt that any legal idea could give rise to the formulation of an opposing concept. The thesis is meant to present the author's view on the issues deliberated. That's exactly what the author has done in her research by bringing forward her ideas and presenting arguments for each of them. This enables the debate on the various viewpoints to become a discussion on the arguments, with the scientific nature of the thesis presuming its further development on the pages of special science publications or within scientific forums.

III. Conclusion

I recommend the thesis to be published. In this regard, the PhD student may take into consideration the following suggestions:

1. It is true that different standards have been used for citations in recent years. But it is also true that the various options of marking the way in which the respective source has been used follow the same general logic. Where the text includes a literal citation, it shall be put in quotation marks. As evident from the overall content of the thesis, the PhD student has strictly observed this rule. Certain inaccuracies are noticed in other possible hypothesis of citation. If the text is presenting in a meaningful way only a concept or another author's arguments, it is advisable to indicate this in a footnote such as "In this sense, please see...". Should

the text present in a meaningful way only part of an idea or its arguments stated in another source, it would be recommendable for the footnote to read as follows: "For more details, please see...". Thus, there will be no confusion as to how the respective content of the foreign source shall be inserted in the text that is being discussed. In some of the citations made in the thesis, which are relevant to these two hypotheses, the respective explanations are not indicated in the footnotes, as a result of which it becomes unclear if this is a full meaningful citation or just part of the concepts or arguments stated in the source quoted.

For a science paper it is also very important that when its text makes an explicit reference to the doctrine having a certain view, its source shall be indicated in a footnote. In some parts of the thesis such footnotes are missing, as for example in the last paragraph on page 132, the first paragraph on page 138, the second paragraph on page 139, the second paragraph on page 145, the second paragraph on page 149, etc. This requirement is applicable to those cases where a reference is made to judicial deeds, with the same omission having been established on page 140 of the thesis. It becomes indisputably evident that the PhD student has carefully implemented the citation rules. Since most of the gaps are observed in the end of the research, I would rather consider them being the result of the author's fatigue accumulated in the process of composing the thesis.

The overcoming of established lapses should be based on a comprehensive inspection of the footnotes and the way they have been presented in the wording of the dissertation paper.

2. The scientific style of expression implies using only one verb tense throughout the whole document, avoiding past and future tenses, if possible. Despite this detail not having at first glance a direct relationship to the text itself, the parallel use of multiple verb tenses makes the contents of the thesis look unconvincingly. This is quite clear in places where different verb tenses are used in

successive sentences or paragraphs. For example, the following expressions can be found on pages 91 through 100: “can be cancelled”, “it would be in violation”, etc.; on page 112: “the court will decide”, and then “the court could decide”; on page 119: “it would be right”, “to be declared as”, “to be applied”, etc. This way of expression creates difficulties in figuring out what the author actually means, e.g. is the hypothesis being discussed a violation; is the subject of analysis a possible conclusion from the court’s decision, etc. This ambiguous message of the text, resulting from the mixing of verb tenses, is especially visible in the thesis’ conclusion – undoubtedly, the purpose of the research being “to raise essential issues” and “conduct relevant studies and make proposals” is not about to happen, for this purpose has already been achieved in the contents of the paper prior to its conclusion.

These suggestions do not change the findings and conclusions stated herein on the merits of the thesis. Therefore, **I assess positively** the scientific merits of the thesis defended by PhD student Debora Milenova Valkova-Terzieva, titled “Termination of Criminal Proceedings in a Court Session”. The scientific paper meets the requirements of Art 6, para 3 of the Law on the Development of Academic Staff in the Republic of Bulgaria and Art 27, para 2 of its implementation regulations for the awarding of PhD educational and scientific degree. Accordingly, **I propose that the honorable scientific jury awards the scientific degree "Doctor"** to Debora Milenova Valkova-Terzieva in scientific area: 3. “Social, economic and legal sciences”, professional area: 3.6. “Law”, scientific major “Criminal Procedure Law”.

05th of April 2023

Prepared by:

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