

STANDPOINT

from Prof. *Margarita Ivanova Chinova*, Doctor of Laws, professional direction "law" (3.6.) in the scientific specialty "criminal process", teacher at SU "St. Kliment Ohridski", Faculty of Law appointed by Order No. ПД-38-204 of 26.04.2023 to the Rector of SU "St. Kliment Ohridski" for an external member of a scientific jury for the competition for the defense of a dissertation work for obtaining the educational and scientific degree "doctor" with candidate **Rusi Viktorov Alexiev**, professional direction "law" (3.6.) in the scientific specialty "criminal law".

Rusi Alexiev graduated in law in 1998 at the Faculty of Law of Sofia University "St. Kliment Ohridski". He was a prosecutor in the Sofia District Prosecutor's Office, and from 2019 to the present he is the deputy chairman of the Sofia City Court and head of the Criminal Department. From February 2022, he was enrolled as a doctoral student of independent training in the scientific specialty "criminal law" at the department "Criminal Sciences" at the Faculty of Law of the SU "St. Kliment Ohridski" with the topic of the dissertation work "Mental coercion according to the Bulgarian Penal Code".

The dissertation "*Mental Coercion under the Bulgarian Criminal Code*" is in a volume of 218 pages. Structurally, it includes a table of contents, a list of abbreviations used, an introduction, four chapters, a conclusion and a bibliography. The dissertation contains 242 footnotes, and the bibliography includes 98 titles in Bulgarian and other languages.

The topic of the dissertation is current and significant. Crimes related to mental coercion occupy a significant share of violent crime and are characterized by a number of specifics that require serious scientific analysis. In the Bulgarian legal literature, there is no monograph specifically dedicated to this topic.

A definition of the concept of mental coercion is proposed; the possible forms of impact on the victim's psyche are examined in detail; the relationship between mental coercion and other legal figures is clarified; a classification of the various manifestations of the victim's behavior and their criminal law significance is justified. The theoretical understanding of the legal essence of mental coercion, as a form of criminal assault, is also important for the correct application of the criminal law, as it answers a number of questions in connection with the

qualification of acts committed through coercion. A review was made of the composition of crimes regulated in the Special Part of the Criminal Code involving mental coercion. The criminal law significance of the behavior of the victim of mental coercion for the criminal liability of the criminal has been clarified. The practice of the Bulgarian courts and the European institutions regarding the rights of the person subject to mental coercion has been followed and correctly analyzed, and in the context justified criticisms have been made for the incomplete transposition of acts of the European Union.

The dissertation also contains a number of thoroughly motivated and scientifically substantiated proposals for amending and supplementing the legal regulations. It is true that some of the proposed theses and standpoints are controversial, especially regarding the liability of legal entities, but this is also valuable, as it opens the way for future discussion and rethinking of one or other positions.

The main **contributing moments** in the dissertation work can be outlined as follows:

Chapter one is dedicated to clarifying the legal nature of mental coercion. There is no unified concept of mental coercion in the doctrine and judicial practice. It is given its own definition of mental coercion, as a criminal institution, which, due to its originality, represents a contribution to science. The possible manifestations of mental coercion have been studied, and the presented ones are richly illustrated with examples, which would greatly facilitate legal practitioners. A contributing point is the study of the behavior of the person exercising the coercion and its legality, as well as the behavior of the person in relation to whom the coercion is being exercised. An unequivocal answer has been given to the essential question of criminal law, namely whether the victim needs to take the behavior desired by the perpetrator in order to be considered a crime related to coercion. The thesis is convincingly argued that both undertaking and not undertaking the relevant behavior has its criminal law significance, depending on the elements of the composition of the relevant crime. The clarification of the relationship between the concept of mental coercion and other criminal law concepts and institutions, such as mental impact, intimidation, threat of a crime, torture, domestic violence, etc., should be positively evaluated.

Chapter two of the dissertation objectifies the results of scientific research in the field of the criminal law significance of the exercised mental coercion for the

responsibility of the criminal - a topic that is central to the research. An essential point of contribution is the analysis of the application of various institutes of the General Part of the Criminal Code in the case of mental coercion - the stages of intentional criminal activity, complicity, the totality of crimes, etc. Of great theoretical and practical importance is the work in the part devoted to identification and analysis of the criminal law norms of the Special Part, referring to criminal acts committed through this type of coercion. The thesis is convincingly argued that the composition of a number of criminal offenses needs to be supplemented by elevating the use of coercion as a qualifying feature.

In the *third chapter* of the dissertation, the criminal law significance of the behavior of the victim of a crime related to mental coercion is subjected to an in-depth analysis. The levels of behavior of the person subjected to mental coercion and their significance for the criminal liability of the criminal were investigated. The various manifestations of the victim's behavior are clarified, with their specific impact on the responsibility of the perpetrator, and the presentation is supported by convincing examples to help legal practitioners. It is beyond doubt that the long-term work of the doctoral student in the judicial authorities allowed him not only to form valuable conclusions, but also to identify the problems in the practice of the application of the substantive law and to offer adequate solutions. It convincingly substantiates the thesis that the victim of a formal crime related to coercion should also have effective means of protection provided for in the Criminal Code.

Chapter four of the dissertation is devoted to the issues of property liability of legal entities that have enriched themselves or could enrich themselves from a crime related to coercion. The study of the mechanism by which a legal entity can enrich itself is original and innovative in Bulgarian criminal law science. A contribution is the analysis of the circumstances that should be taken into account in the process of individualizing the property liability of legal entities and of some special circumstances that exclude the possibility of engaging the liability of the legal entity. Useful proposals *de lege ferenda* have also been made - to expand the catalog of crimes determining the property liability of legal entities; to regulate the legal consequences for the legal entity, in case it is enriched or an opportunity is created for its enrichment from the commission of two or more crimes.

In this sense, a ***summary conclusion*** can be drawn that the dissertation contains scientific and applied results that represent a contribution to science, practice and legislation and that it meets all the requirements of the Law on the

Development of the Academic Staff in the Republic of Bulgaria and the Rules for its Implementation. The dissertation convinces that Rusi Alexiev possesses in-depth theoretical knowledge in the scientific specialty "criminal law", demonstrating the necessary qualities and skills for conducting scientific research.

The abstract is developed on 23 standard pages. It reflects both the content and the structure of the peer-reviewed work. It precisely defines the object, purpose and tasks of the dissertation research. Contributions and scientific publications are accurately reflected in the abstract.

The publications on the dissertation work are six in number, which is enough for admission to public defense.

From the reference table attached to the competition, it is clear that the minimum national requirements under Art. 26 of the Law on the Development of the Academic Staff in the Republic of Bulgaria for the acquisition of the educational and scientific degree "doctor".

In view of the above, in *conclusion* - I give a positive assessment of the dissertation work - "Mental coercion under the Bulgarian penal code" and I propose to the honorable scientific jury to award the educational and scientific degree "doctor" to Rusi Viktorov Alexiev, professional direction "law" (3.6.) in scientific specialty "criminal law".

May 2023
Sofia

Prepared the standpoint:.....
/Prof. dun Margarita Chinova/