OPINION

by Assoc. Prof. Dr. Ekaterina Salkova,
appointed by Order№ RD-38-180/28.03.2025 of the Rector of Sofia University "St. Kliment Ohridski" as a member of the scientific jury for the public defense of a dissertation for the degree of Doctor of Education and Science at

Pavel Georgiev Panov - PhD student in the part-time form of study in the doctoral programme "Criminal Procedure Law", professional field 3.6. Social, Economic and Legal Sciences", on the topic:

"COMMITTAL TO COURT AND PREPARATORY ACTIONS FOR THE HEARING OF THE CASE"

1. **Biographical data about the PhD student and data about the PhD studies**

Pavel Georgiev Panov graduated from the Sofia University "St. Kliment Ohridski"Administration of Justice", "International Law and International Relations" and "Public Administration". As a student, he participated in various circles and in the Summer European University in European Law. He has many years of practical experience, having interned at law firms and at the Pardon Commission of the President of the Republic of Bulgaria during his studies at the University, and he also worked at a law firm during his practical training in 2016. In the first months after graduating from law school, she worked as a legal advisor in a bank, and after winning a competition for a junior judge and training at the National Institute of Justice, she has been a junior judge at the Sofia City Court since July 2018 and a judge at the Sofia District Court since July 2020.

Pavel Panov was enrolled in the PhD (part-time) program "Criminal Procedure Law" in 2017 under the scientific supervisor Prof. Margarita Chinova. In 2021 he was graduated with the right to defence. From the attached documents it is established that ***the dissertant complies with the minimum national requirements*** - a dissertation and a list of three publications on the topic of the dissertation, published in established legal journals (two in Contemporary Law and one in "Society and Law").

2. General characteristics of the dissertation

The dissertation is ***312 pages long*** *and contains* ***256 footnotes***. The bibliographical reference includes ***62 sources, 53 of which are in Bulgarian and 9 in English and French***. The dissertation contains a title page; a table of contents; a list of abbreviations used, an introduction; eight chapters; a conclusion, references used and a list of the dissertator's publications. The content of each chapter is structured by the division of paragraphs into bullet points and sub-points.

I find the topic **topical and relevant** insofar **as** the discussion on the rationality of the dispositional hearing regulation introduced in 2017 continues and the practice of its application shows that there is a need for its refinement.

In the **introduction,** the PhD student briefly motivates the choice of the research topic and states his main conclusions.

Chapter one of the dissertation contains a historical overview of the legal framework of the transfer of the accused to court in Bulgaria. Not only the legal framework, but also the theory and the relevant case law on the essential issues during the periods of the operation of the Criminal Act, the Military Justice Act of 1949, the Code of Criminal Procedure of 1951 and the Code of Criminal Procedure of 1974 are thoroughly examined. Thus presented, the historical analysis is not limited to a compilation of repealed legislation and issues already discussed back in time, but is valuable in its own right for the arguments that the dissertation puts forward in it, comparing past and legislation in order to good examples and to justify proposals for improving the legislation.

Chapter Two analyses the legal framework of the first stage of the trial in the current Criminal Procedure Code until the amendments of 2017, which introduced an order hearing in cases of a general nature. A comparative legal analysis is also made, selecting for this purpose the legislation of the Kingdom of Spain, the Federal Republic of Germany and the French Republic. The comparisons made by the dissertant in this part of the study of the legislation in force in our country with that of some of the European countries with good traditions are a good basis for the conclusions and proposals in the dissertation.

The content of **Chapter Three** focuses on the main conceptual issues that necessitated the changes in the CCP in 2017. After comparing the original regulation in the CCP and the one adopted in 2017, it is justified to conclude that the reasons for the delay of cases should be sought elsewhere, and not in the order and manner of bringing the accused to court and the preparation of the hearing. Based on a critical analysis of the changes adopted by the legislature, and comparing their outcome with their purpose stated in the bill's reasons, the dissertation assumes that they are ineffective, practically

unjustified and not based on the achievements of the Bulgarian criminal law doctrine and case law. The conclusion is confirmed by the case law, which shows that in some cases, instead of speeding up the criminal proceedings, the 2017 amendments lead to their delay.

Chapter Four is devoted to the first stage of the first phase of the trial - the initiation of the proceedings. I find the dissertator's conclusions on the need for the president of the court to make a judgment as to whether the documents submitted by the citizens constitute a complaint that can serve as a basis for initiating court proceedings correct. What is new in this study is the analysis of a number of issues related to the digitalisation of criminal procedure. The performance of procedural actions, such as the initiation of proceedings, in an electronic environment represents a serious test for the administration of justice, with regard to compliance with the criminal procedure form. I accept as correct the dissertator's conclusion, drawn after an analysis of relevant case-law, that the availability of the original paper copy of the judicial decisions is of key importance for legal certainty.

Chapter Five is devoted to the actions defined as the second stage of the first phase of the trial - the scheduling and preparation of the dispositional hearing. It analyses the powers of both the Judge-Rapporteur and the competent Trial Chamber in an interlocutory hearing. A novelty in this part of the study is the analysis of the power of the judge rapporteur to terminate the criminal proceedings in the cases under Article 250, par. 1 of the Code of Criminal Procedure, as well as the reintroduced ground for termination of criminal proceedings under Art. 250, al.1 p.2. CCP from 2005. On the basis of the analysis carried out, the new legislative decision to appeal against the order to discontinue a criminal case of a private nature under Chapter Twenty-two instead of Chapter Twenty-one is supported. The case law on a number of issues that are essential to the proper conduct of the dispositional hearing is analysed in detail.

Chapter Six is devoted to the conduct of the dispositional hearing, defined as the third stage of the first phase of the criminal procedure in this part. After tracing the discussion in theory and jurisprudence regarding the starting point from which the rule of the immutability of the trial panel operates, the dissertation supports the opinion that, after the amendments to the CCP of 2017, is held in theory (that immutability applies from the beginning of the trial), while practice predominantly advocates the opposite opinion (that the rule of the immutability of the trial panel applies from the dispositional hearing). The analysis of the possibility of collecting evidence also before the adjournment of the adjournment hearing is useful not only for theory but also for practice, and in this respect I again find it appropriate to support the dissertation's conclusions as correct.

The focus of **Chapter Seven** is on the issues to be discussed in the deliberative session. It is well founded that even if the court has not yet ruled on the requests to constitute non-binding parties, the persons concerned have the right to be heard, including in cases where the persons who have suffered damage as a result of the offence have not requested to be constituted. I agree with the arguments offered by the dissertator in his critical analysis of the provision of Art. 250 para. 1(1) of Code of Criminal Procedure in relation to the impossibility to dismiss the case in an adjournment hearing on the basis of Art. 24 para. 1(5) of the Code of Criminal Procedure, but I am afraid that the proposals for overcoming this legal omission, which emerged after the introduction of the dispositional hearing, by means of an adjustment in the case law, would not be in accordance with the law (a contradiction in the reasoning of the proposal of p. 193-194 and the conclusions regarding the applicability of the rule of immutability of the trial panel to the possibility that the dispositional hearing could be considered as part of the trial in the first instance). In so far as the law contains an express and exhaustive enumeration of the grounds on which the court, as a public authority, may exercise its power to terminate the proceedings, it is not permissible either to extend the list through case-law or to apply a power which is provided for at another judicial stage. The only way to resolve this issue is through a change in the law, because the stability of the legal order does not permit the judiciary and the legislature to take over each other's functions. The dissertation correctly identifies the legislator's attempt to create a "catalogue" of substantive procedural violations that are grounds for remanding a case to the pretrial phase as unsuccessful.

Chapter Eight is devoted to some of the most significant issues in practice - which authority has jurisdiction to bring the accused to trial, the constitution of the non-binding parties in the proceedings, the exercise of appellate review over the orders made at the dispositional hearing and the correction of manifest error of fact. After following the scholarly discussion, the dissertant formulated his opinions in support of the thesis that the commitment to trial is carried out by the court and not by the prosecutor and of the thesis that the constitution of parties by a special order of the court is more appropriate to be done after the court has answered the questions under Art. 248 para. 1 of the Code of Criminal Procedure, and not immediately after the case has been opened and before the orderly hearing. It is well argued that it is de lege ferenda to provide that acts of the court which are not subject to annulment or revision by the panel which issued them may be subject to a procedure similar to that laid down in Article 248a of the Code of Criminal Procedure.

The conclusion summarizes the main conclusions of the dissertation, drawn as a result of the research, the problematic issues identified by the dissertation, as well as the proposals de lege ferenda.

3. Evaluation of scientific and applied contributions

The presented dissertation work shows ***a thorough theoretical knowledge*** of the dissertant in the scientific specialty "Criminal " and reveals ***abilities for independent scientific thinking and creative approach to the researched issues***. It deals with numerous issues that are significant for theory, legislation and jurisprudence practice. It analyses both the current and repealed legislation to the topic of the study, summarizes the case law, and provides a comparative analysis. The scientific discussion of the individual issues is accurately traced and, in keeping with scientific ethics, the author's own opinions are argued. Some of them need additional arguments (e.g. on the failure to mention the counsel in Article 253 of the Code of Criminal Procedure, on the importance of random selection for the legality of the trial panel, etc.), while others I consider to be well founded and should be supported (e.g. on the definition of the dispositional hearing as a stage rather than a stage of the criminal proceedings, on the need to regulate the procedure for the removal of defects in the indictment, on the unsuccessful legislative attempt to prevent the return to the first phase of the trial without providing for m The scientific contributions are correctly set out in the abstract and I accept them as such. I should note that the study is impressive in its thoroughness, which makes it impossible to highlight all the contributions in a single opinion, which is why only some of them are noted above. The dissertation presented for defence is a comprehensive study of the first stage of the trial phase of the criminal process and is distinguished by its completeness, given the comprehensive analysis of criminal procedural activity at this stage of the process. The de lege ferenda proposals made are relevant for the improvement of the legislation and are well argued and can be shared.

The dissertation style is distinguished by clarity, precision and readability. The way it is structured and the content included are characterised by originality and depth of analysis that maintain the reader's interest, regardless of the presence of other publications and dissertations on the issues discussed in the thesis, and are indicative of the personal contribution of the dissertator.

4. Evaluation of the dissertation publications

The PhD candidate has three publications on the topic of the dissertation (two published and one in press), which have provided the opportunity to introduce the main theses of the dissertation research to the scientific community in Bulgaria and to validate results: (1) "Powers of the court when hearing a criminal case in a dispositional hearing with a defendant suffering from a disorder of consciousness that excludes insanity" - Contemporary Law, 2023, No. 1; (2) "Who are "all the parties" when resolving the case with an agreement in court proceedings within the meaning of Art. 384, par. 3 of the CCP?" - Contemporary Law, 2024, No. 2; (3) "Resolution of the issue under Art. 248, para. 1, p. 8 of the Criminal Procedure Code on the scheduling of the hearing and prerequisites for the immediate consideration of the case after the dispositional hearing" -

Society and Law, 2025, №1 (under seal).

5. Evaluation of the abstract

The prepared abstract in structural terms contains five parts: (1) General description of the dissertation, which states the subject, object and methods of the research, its usefulness; (2) Volume and structure of the dissertation; (3) Summary of the main points in the dissertation.
(4) Scientific contributions and (5) List of publications on the topic of the dissertation. The abstract correctly reflects the content of the dissertation.

6. Critical comments, recommendations and questions

Taking into account the fact that everyone has an individual approach to the topics studied, I think that the structure of the study could be reconsidered and optimized in view of the number, volume, content and titles of the individual chapters.

7. Conclusion

In conclusion, a comprehensive, significant and thorough scientific study is presented for defence. The dissertation meets all the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria - it shows that the candidate possesses in-depth theoretical knowledge in the specialty "Criminal Procedure", reveals the candidate's abilities for independent scientific thinking and creative approach to the researched topics and contains scientific and scientifically applied results represent an original contribution to science. Therefore, I confidently express my positive opinion and propose the members of the scientific jury to vote positively for the acquisition of the educational and scientific degree "Doctor" by Pavel Georgiev Panov in the professional field 3.6. Law, doctoral program "Criminal Procedure Law".

Member of the scientific jury:
Assoc. Prof. Dr. Ekaterina Salkova