REVIEW

by Professor Boris Vladimirov Velchev, Doctor of Science and Lecturer at Sofia University St. Kliment Ohridski, on the thesis titled "Termination of Criminal Proceedings in a Court Session" prepared by Sofia University PhD student Debora Milenova Valkova-Terzieva for the awarding of educational and scientific degree Doctor in the major "Criminal Procedure Law", professional area: 3.6. "Law".

After graduating from the Law Faculty of Sofia University, Debora Valkova–Terzieva has been successively appointed as prosecutor's assistant in the Sofia City Prosecutor's Office, a junior judge in Vidin and a judge in Sofia District Court. Since 2019, she has been a part-time assistant in criminal procedural law at Sofia University, and in the same year she became also a part-time PhD student in the Department of Criminal Law Studies.

Debora Valkova has successfully passed the doctoral minimums. She has published three articles on the topic of her thesis – "Termination of criminal proceedings in a verdict under cases of general nature as per the Criminal Proceedings Act", De jure, 2021, № 1; „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 law", De jure, 2021,

№ 2; “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; “The 2020 reform of the administrative punishment”, collection of reports, University Publishing House "St. Kliment Ohridski", C.2021.

All scientometric indicators have been successfully fulfilled. The thesis meets all formal requirements, and its author should be awarded a PhD educational and scientific degree.

There is no evidence of plagiarism in the thesis, with all the conclusions having been made by its author.

The Author’s Summary provides a truthful and complete description of the thesis’ contents.

The procedure has been conducted in compliance with the rules, and the thesis shall be subject to a public presentation.

The thesis has been written in excellent legal language, being at the same time accessible and clear. The author’s style has allowed for her scientific standpoints to be highlighted and convincingly defended. This has been done based on an in-depth analysis and the excellent knowledge of both the literature and the court practice.

The fact that the PhD student is an active magistrate has enriched the analysis and has enabled her to make reference to her own experience, which adds further value to her work.

The thesis consists of a preamble, three chapters, and a conclusion. It covers 183 pages and includes a large volume of bibliography.

The subject of the analysis, specified by the PhD student in the preamble, is essential to such an extent that it fully justifies the dissertational purpose of

the thesis. The limitations imposed by the PhD student in the preamble are complied with in the subsequent chapters.

The thesis structure is a simple one, but it provides a clear opportunity for an overall and comprehensive examination of its subject.

In its essence, this structure is a "classical" one and it normally begins with a historical review that clarifies the legal nature of the termination of criminal proceedings in the first instance court session. The first chapter traces the grounds for the termination of criminal proceedings as per the Criminal Procedure Act until the present day. Before publishing the thesis, it would be a good idea to supplement this chapter with certain conclusions from the historical analysis, e.g. has the development of the instrument improved the system or not; has any of the previous forms of termination revealed signs that could be appropriately restored; or is the applicable system better than all previous ones. The analysis itself is a correct one but it allows the reader to give a legal assessment of the examined instrument's historical development, and this should be done by the author.

The second chapter explores the legal nature of criminal proceedings' termination. The PhD student has made a proper approach in focusing on the termination instrument by comparing it to other similar instruments. Thus, in the course of comparison, she has managed to clarify the legal nature of criminal proceedings' termination.

Quite naturally, the next chapter is devoted to two problems - the grounds and order for termination of criminal proceedings.

The grounds have been thoroughly and comprehensively examined. Not only has PhD student Valkova listed the grounds and subjected them to a critical analysis, but she has also formulated several of her own proposals of both legislative and practical nature. I'll take the liberty to point out some of

these proposals. For example, she has convincingly supported the idea of: inadmissible blanketness in the judicial act for criminal proceedings' termination due to death /page 56/; not considering any substantive issues in the event of the case being closed due to amnesty /page 62/; continuing the hearing of a civil case in the event of termination due to statute of limitations, death and amnesty /page 64/.

This is valid for the conclusion on the court practice's inconsistency with the EU legislation related to persons who have fallen into a state other than sanity /page 78/ and also to the fact that the *ne bis in idem* rule should apply to the prosecutor's decree by which the opening of pre-trial proceedings is rejected /page 98/. The sixth section in this chapter is very analytical /page 104 et seq./, especially the arguments for the need of a legislative amendment enabling the court to suspend criminal proceedings /page 126/. On page 130, the PhD student has reached a conclusion that needs to be supported – the difficult distinguishing between practically identical compositions of crimes and administrative violations. She cannot be criticized for not including in the thesis a proposal for the introduction of a justified criterion for such a distinction. The magnitude of this task exceeds the ambitions of any thesis, although the mere raising of this issue should be respected.

Appropriate *de lege ferenda* suggestions are made on page 141 in terms of Art 289, para 2 and Art 305, para 5 of the Criminal Procedure Code.

The topic of terminating criminal proceedings where their transfer to another country has been allowed is not sufficiently discussed. Elsewhere in the thesis, colleague Valkova has demonstrated excellent knowledge in the field of international legal aid, and the thesis itself would have benefited if this section had been enriched with more analysis. The aforesaid does not mean

that no major issues have been explored in this section – this is not a critical note but only a recommendation.

On page 146, the PhD student has persuasively defended the understanding that "the *de lege ferenda* proposal made in the doctrine, i.e. that this differentiated procedure /dismissal of the case by settlement/ shall not be treated as a reason for the termination of criminal proceedings, for in its essence it is actually a procedure for the resolution, and not for the dismissal of the case".

Well defended is the conclusion made on page 160, which says that "in view of procedural economy, Art 289, para 3 of the Criminal Procedure Code should be *de lege ferenda* supplemented by the provision of a power that shall enable the court, when terminating the criminal proceedings, to rule also on the legal expenses".

Chapter Three is dedicated to the order in which criminal proceedings shall be terminated and the respective supervision exercised over this termination.

I certainly agree with the conclusion made on page 161 that "upon terminating criminal proceedings, it is extremely important that the court's ruling, in particular its motives, include an examination of the case merits". The PhD student has made a very good point in concluding that this is the only way in which the presumption of innocence shall not be derogated. The same is valid for the conclusion on page 169 that "similar to Art 310, para 2 of the Criminal Procedure Code, it should be *de lege ferenda* provided for that in the event of the motives' preparation being postponed, the chairman should only announce the dispositive, signed by all members of the court panel, and the deadline until which the said motives shall be ready".

An interesting conclusion is made on page 179 – "since the first instance court does not actually conduct a judicial investigation and does not explore the issues of: has the act been committed; has it been committed in a culpable manner; has it been committed by the defendant; and what is its legal qualification, then the appellate verification of the termination ruling would be pointless. This could turn out to be a controversial conclusion, but it has been convincingly defended and speaks of a high level of professionalism in critical thinking.

The contributions resulting from the thesis can be summarized in three categories.

First of all, there could be outlined a number of benefits for the judicial practice. Indeed, the thesis is not a handbook aimed at summing up the grounds and order for criminal proceedings' termination during the court phase of the trial, but they have all been perfectly systematized, arranged and explained. The publication of the thesis would certainly be very useful to the judicial practice.

Next, the students in law faculties will read something that will introduce them, in an understandable and clear manner, to an interesting instrument of the criminal trial, without making any compromise with the scientific style.

Needless to say, the most important contributions are the proposals made by the PhD student for legislative changes. In general, I support these proposals in the way they have been summarized at the end of the thesis conclusion. Some of them were already specified by me in the analysis of the individual chapters. With no claims as to the contributions' comprehensiveness, I will point out here just two, which seem to be insignificant at first glance, but whose absence in the Criminal Procedure Code was a surprise to me, too – the need of appointing a lawyer when a person suffering from a prolonged mind

disorder has interests that are in conflict with the interests of his/her guardian /Art 101 of the Criminal Procedure Code/, and the need of including in Art 343a, para 2 of the Criminal Procedure Code the possibility of closing the case if so requested by the damaged legal entity.

I have no particular critical remarks on the thesis drafted by my colleague Valkova. The nature of the ones mentioned in the exposé shall not impact my good assessment of her work. I still recommend, and consider it imperative, that before being published, the thesis should once again be examined in order for certain existing disproportions in the volume of individual sections to be avoided. In some places they are inevitable and are predetermined by the different practical significance of the individual instruments, but in other places they can be corrected.

Sometimes the thesis may create the impression of being overly descriptive. Actually, this impression, in my opinion, would not be right, for descriptions in such papers are inevitable. Yet, the ones contained in the thesis of colleague Valkova are not self-serving and have not been made with the purpose of inflating the volume of the thesis, but to set up a basis for the reaching of proper conclusions.

By and large, the conclusions made are presented convincingly and show an excellent knowledge of both the court practice and the EU legislation. I would like to emphasize once again on the added value of the conclusions stated in the thesis, which result from the PhD student's professional capacity as an active magistrate. The thesis has been written with a profound knowledge of the topic, combined with a proven ability for scientific analysis.

In the end, I can summarize that colleague Valkova's thesis reviewed by me is useful for both the judicial practice and the legislation.

The thesis titled “Termination of Criminal Proceedings in a Court Session” contains theoretical summaries and solutions to major scientific and practical problems that correspond to the modern achievements of the criminal procedural theory and represent a significant and original scientific contribution. The thesis meets all the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria and its implementation regulations. The thesis proves that PhD student Valkova has deep theoretical knowledge and professional skills in the area of criminal procedural law, along with qualities and abilities for independent scientific researches. In consideration of the aforesaid, I am confident to give my positive appraisal of the so presented thesis and propose that the honorable scientific jury awards the scientific degree "Doctor of Law" to Debora Valkova-Terzieva.

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