

OPINION

by

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On the dissertation for PhD degree, submitted by Lyubomir Petrov Stoyanov

By Order No. RD-38-63/31.01.2024 the Rector of St. Kliment Ohridski" has appointed a scientific jury to examine and pronounce on the dissertation submitted by Lyubomir Petrov Stoyanov for the acquisition of educational and scientific degree of „Doctor” of Social, Economic and Legal Sciences, 3.6. Law. The appointed jury is composed of: internal members - Prof. Dr. Yanaki Stoilov and Prof. Dr. Daniel Valchev; external members - Prof. Dr. Dimitar Radev, Prof. Dr. Silvi Chernev and Assoc. Prof. Dr. Denitsa Topchiyska.

In my capacity as a member of the Scientific Jury, I submit this opinion. The opinion contains the following main parts:

1. General remarks about the dissertation and the dissertator.
2. Research findings and contributions.
3. Evaluation of the submitted publications and the abstract.
4. Notes, questions and recommendations.
5. Conclusion.

1. General remarks about the dissertation and the dissertator.

1.1. Lyubomir Petrov Stoyanov is enrolled as a regular PhD student at the Faculty of Law of Sofia University "St. Kliment Ohridski", Department of "Theory and History of the State and Law" on 01.11.2016, and I am appointed as his scientific supervisor. During the preparation of the dissertation, the dissertant actively engaged in teaching activities, and practically throughout the period (and up to the present) conducted seminar classes within the course on General Theory of Law.

The submitted dissertation is 254 pages long. It consists of an introduction, three chapters and a conclusion. A list of literature used and cited is also presented.

1.2. The topic of the dissertation is "Specificities of the Procedural Law". As it is known, the pair of *substantive law* / *procedural law* is widely used in Bulgarian legal language without having been the subject of in-depth research. At the level of branch legal sciences there have been certain attempts to distinguish procedural law from substantive law, but none of them goes further than to reiterate the two specificities of procedural law outlined by Zhivko Stalev - (a) legal procedure can be presented from a certain point of view as a dynamic factual composition; (b) procedural legal norms always lead to the emergence of public legal relations.

The not very orderly development of the Bulgarian legal system in the last decades adds another argument to the claim of the importance of the topic. The objective complication of social processes and techniques of legal regulation, combined with the lowering of standards for legislative activity, have led to an increase in the number of provisions outside procedural laws that establish procedural norms. Thus, the distinction between procedural law and substantive law ceases to be merely a theoretical problem related to notions of the structure of the legal order and becomes an actual issue with concrete practical dimensions.

1.3. The extensive list of literature used and cited, as well as the references and citations contained in the dissertation show a thorough knowledge of the relevant scientific literature.

2. Research findings and contributions.

2.1. The dissertation is methodologically sound. The author declares in advance the starting positions of the research, clearly formulates his theses and carefully builds lines of

argument. He adopts *legal positivism* as the main methodological framework of the dissertation - both in its entirety and in the translation of *Kelsen's views on general and individual norms*, respectively *primary and secondary legal rules in Hart*. The colleague Stoyanov then consistently outlines the general scientific meta-framework he has adopted (*Hawking/Mlodinow's model-dependent realism*), incorporates *Venelin Ganey's* theory through the use of the notion of *the legal phenomenon*, and refers to the little-known *Protasov* and his otherwise well-structured thesis that *procedural law does not exhaust legal procedures*.

As a result of a careful thought process, the dissertation consistently reaches several important conclusions. He starts from the assumption that *procedural norms are secondary, public norms with a law-implementing nature*, which in turn means that secondary norms of change (under Hart) prescribing procedures for private law volitional acts are not procedural norms. Henceforth (drawing on Protasov's theory), he arrives at the broader, generic concept for all norms that reveal a certain procedural nature, defining it as a *legal norm that belongs to a system of norms, the hypotheses of which contain juridical facts, that in their unity, build up a procedural group of juridical facts*.

An important part of the study is the subordination of the concept of *legal phenomenon* (after V. Ganey) to the already formulated view of public law and legal procedures. In Chapter III the dissertant reflects on the *procedural legal phenomenon* and its (again according to V. Ganey) *five components* - juridical fact, legal consequence, legal norm, legal entity and the object of the right.

2.2. Against the backdrop of the logic sketched in the statement, we should highlight several important results of the research, some of which represent independent scientific achievements.

An important part of the dissertation, which can also be defined as a contributory point, is the thesis (and the corresponding detailed argumentation) that the *theoretical-interpretive framework of the legal phenomenon can logically include the notion of an individual legal norm* (according to Kelsen). Another important part of the dissertation, which could also be judged as contributory, is the argumentation of the *distinction between a generic concept for all norms that reveal a certain procedural nature and a procedural norm* and the construction of a *classification of legal procedures* based on the author's understanding of the forms of realization of law. As the

third significant and original part of the study we should point out the clarification of the notion of *procedural legal phenomenon* and the specificities of its *five components* (already mentioned juridical fact, legal consequence, legal norm, legal entity and the object of the right), each of which shows a number of specificities.

3. Evaluation of the submitted publications and the abstract.

3.1. The dissertant has submitted five publications and an abstract in the framework of this procedure. All publications submitted are related to the topic of the PhD thesis. They are as follows:

- Report „*The Sanction as an Element of the Legal Phenomenon of Prof. Venelin Ganev*”, Collection of the reports of scholarly readings: “Sanctions in the Law”, Sofia, 2019, University Press „St. Kliment Ohridski“, p.164-176;
- Summary of speech „*The importance of procedural law for the mechanism of legal regulation in modern legal systems*“, placed in Korotkova's Scientific Message „Quo Vadis, Justitia? Development of legal systems from the perspective of law faculties“, Journal “State and Law”, 2019, № 9, p. 166;
- Report „*Procedural Law and Juridical Procedure*”, Collection of the reports of scholarly readings: „Law and Borders“, Sofia, 2018, University Press „St. Kliment Ohridski“, p.128-136;
- Report „*A Distinction Between the Procedural and Substantive Law by Analyzing Their Purpose in the Process of Legal Regulation*”, Collection of the reports of a scientific conference „Current Problems of Legal Regulation of Business ”, Sofia, 2019, Publishing Complex – UNWE, p.321-331;
- Report „*The Procedural Norms in the Context of the Classification of Norms of Primary and Secondary*”, Collection of the reports of scholarly readings: “Legal Norms and Legal Principles”, Sofia, 2017, University Press „St. Kliment Ohridski“, p.521-532.

3.2. The presented *abstract* fully and objectively reflects the main theses of the dissertation and their corresponding lines of argument.

4. Notes, questions and recommendations.

The thesis presented raises a number of issues and comments and recommendations can be made to it (as to any other text). Insofar as, as the supervisor of my colleague Stoyanov, I have had the opportunity to comment on them with him in the course of the work, and given that none of them are of a nature to affect the overall assessment of the thesis, I do not find it justifiable to dwell on them in this opinion.

5. Conclusion.

In conclusion, I would like to express my understanding that the dissertation of my colleague Lyubomir Petrov Stoyanov on the topic "Specificities of the Procedural Law" constitutes an *original scientific contribution* and meets all the requirements of the Academic Staff Development Act in the Republic of Bulgaria (ASDARB), the Regulations for the Implementation of the ASDARB and other relevant acts.

The dissertation shows that the dissertant possesses in-depth theoretical knowledge and the relevant skills to independently develop scientific topics, therefore I confidently give my *positive assessment of* the research presented in the dissertation and propose the scientific jury to award the degree of Doctor *of* Social, Economic and Legal Sciences, 3.6. Law

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Sofia

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Prof. Dr. Daniel Valchev