

OPINION

by Prof. Dr. Gergana Marinova

member of the scientific jury for the defense of a dissertation for the acquisition of the educational and scientific degree "doctor" in the PhD programme "Criminal procedural law", professional field 3.6. Law,

regarding the dissertation thesis "Video recordings as evidence in the criminal proceedings" of Gergana Ivanova Ivanova - PhD student in the Department of Criminal Law at the Sofia University "St. Kliment Ohridski", Faculty of Law.

I was appointed as a member of the scientific jury by order RD-38-587/14.10.2022 of the Rector of Sofia University "St. Kliment Ohridski". At the first meeting of the jury, it was decided to present an opinion on Gergana Ivanova's dissertation thesis "Video recordings as evidence in criminal proceedings".

Gergana Ivanova graduated from the Sofia University "St. Kliment Ohridski", Faculty of Law, in 2018. She began her professional career as a legal associate in a law firm, then worked as a junior legal consultant and legal consultant, and currently – as an attorney-at-law at the Sofia Bar Association. She speaks English proficiently, and also German - at a good level. In 2018 she was enrolled as an external PhD student in the Department of Criminal Law at the Sofia University "St. Kliment Ohridski", Faculty of Law.

As can be seen from the documents presented, Gergana Ivanova meets the minimum national requirements – she submitted a dissertation and 4 publications on the subject matter of the dissertation thesis (study and 3 articles, one of which - in print). Sofia University "St. Kliment Ohridski"'s plagiarism prevention

system did not find any plagiarism. There were no reports of plagiarism outgoing from the scientific jury.

Gergana Ivanova's monographic study consists of 290 pages and includes an introduction, three chapters with separate sections and subsections, a conclusion and a bibliography that lists 16 textbooks, 34 scientific publications in Bulgarian and 20 in foreign languages. The bibliography also lists the case law used in the dissertation.

The Abstract correctly reflects the structure and content of the dissertation thesis.

In the introduction of the dissertation, the significance of the topic and the tasks of the research are outlined, some important terminological clarifications are also made.

In this opinion, I also want to pay special attention to the choice of the topic and its relevance. The topic is in the area of evidentiary law, which in my opinion is the most difficult part of criminal procedural law. Addressing issues related to the nature of proof, the nature of evidence and its types, and its collection and evaluation, is a challenge even for established scholars. This is probably why less is written about these issues, and even less often are there essays in which new ideas and concepts are discussed. Therefore, the choice of topic deserves admiration and speaks of true scientific courage on the part of the dissertant. Moreover, the chosen topic is not simply from the field of evidentiary law, but is dedicated to a new and truly relevant question - that of the nature and admissibility of video recordings in the process of proof, the correct and thorough development of which requires not only legal, but also technical knowledge. In this sense, the choice of topic itself and its development in a monographic volume have a contributing importance. In the first chapter, the historical development of the legal regulation of video recordings in the Bulgarian criminal proceedings is traced and a brief comparative legal study is made. I would very much like that, along with German, Romanian, Serbian and Russian legislation, this comparative

study also covered other countries - classical representatives of the continental European and Anglo-Saxon legal families. Due to the development of technology, electronic evidence is invariably entering all legal systems and to a large extent presents them with the same problems. They impose changes in legislation and judicial practice, and provoke scientific thought. In Europe and the USA, numerous scientific publications have already been published discussing their nature, their differences compared to classical evidence, the peculiarities of their collection, etc. I believe that they would be interesting and useful for the dissertation research itself, and for the Bulgarian criminal procedure science in general. I would suggest to the PhD student to do such a study in the future, especially since it would not seriously hinder her considering that much of the foreign legislation and scientific publications are available on the Internet, incl. and on platforms with free access, considering dissertant's excellent command of the English language. Of course, it is needless to note that foreign theory and practice should not be perceived uncritically, and as regards criminal process of proof in particular, account should be taken of the distinction between evidence and evidentiary sources of proof adopted in our legal system and unknown in most countries.

Chapter two is devoted to the essence of video recordings and their distinction from similar procedural figures. Chapter three deals with their admission, collection, verification and evaluation. In the conclusion, the main points and conclusions of the dissertation research are summarized.

Already in the introduction, the dissertation clarifies, and in the second chapter she repeats, that the subject of research are those videos that were created outside the criminal proceedings, and not according to the rules and regulations of the Criminal Procedure Code (CPC). The PhD student calls them "private videos" and divides them into "accidental" - those not made under the control of a particular person, and "tendential" - made under such control.

Clarification of the nature of private video recordings takes a central place in the dissertation. In fact, already in its title, the PhD student defines her position on the matter, stating that they are evidence, and at the beginning of Chapter 2 (on p. 48) the dissertant gives definition of video recordings as evidence in criminal proceedings, which she explains and argues in the following sections . This definition is the basis of the entire work, so I will allow to pay special attention to that matter. According to Gergana Ivanova, "Private records are electronic evidence that are not prepared according to the rules and regulations of the CPC, and represent a digital charge of factual data, stored in electronic form, and representing material carriers of information from the subject of proof, on which the crime is left traces". I realize how hard it is to offer definitions, but in my opinion, the PhD student could do little more work to make the definition clearer and more understandable. The very fact that the wording consists of one sentence with many inserted parts is a prerequisite for its difficult perception. It is clear that private records are defined as electronic evidence, but from here on I am not sure if they are considered a "digital charge" or as some physical subject. In this regard, I will try to provide guidance on improving the wording: once private records are defined as evidence, the definition does not need to state that they are not prepared under the rules and regulations of the CPC - that is always the case; I do not think that the expression "digital charge of factual data" is accurate and clear; the expression "information from the subject of proof" should also be reconsidered, insofar as the subject of proof does not include information, but circumstances that are subject to establishment in accordance with the procedure and with the means of the CPC.

The definition continues as follows: "The need to convert this information into a form that can be perceived by the participants in the criminal proceedings and to include it on a magnetic or laser carrier for the purposes of the trial is done through the methods of proof provided for in the CPC. Depending on the method of inclusion of the recording, it can be considered both as material evidence

according to Art. 109 of the CPC, as well as as a carrier of "computer information data" according to Art. 163 of the CPC". And in this part, the definition raises some objections. In my opinion, the transformation of the information (as far as I understand from a digital form) into a perceptible form is not done by means of evidence (interrogation, inspection, search, seizure, etc.), but by a corresponding electronic device in the execution of a certain program. Finally, it seems particularly problematic to me that the same private video recording can be both material evidence and material source of evidence, and that its essence is determined by the way it is included in the evidentiary body. However, from the overall work and its title, I am left with the impression that the PhD student defines "private video recordings" as objects on which the crime has left traces, and therefore considers them as material (physical) evidence. Whatever the dissertant accepts, it must be consistent so that the reader is not confused.

At the same time, the dissertation work has many merits and contributions. Without pretending to be comprehensive, I would like to point out the following of them:

- the division of private videos into two subgroups - "accidental" and "trendial/tendentious”;
- the analysis of the peculiarities in the admission and verification of random and tendentious records in the criminal proceedings. I fully agree that both types of records can be used in criminal proceedings, with biased ones requiring greater care in assessing admissibility and credibility;
- the analysis of the provision of art. 32, para. 2 CRB; - distinguishing the video recordings from similar procedural figures;
- the presentation of the types of expertise that are appointed in relation to private records and the main questions that are put to the experts;
- the study of the case law of the European Court of Human Rights under Art. 6 and 8 of the European Convention on Human Rights and Fundamental Freedoms;
- the study and critical analysis of the case law of the Bulgarian courts, etc.

Based on the overall assessment of the dissertation work, I accept that it meets all the requirements of ZRASRB, PPZRASRB and the relevant regulations of Sofia University “St. Kliment Ohridski“, Faculty of Law. In this regard, I would give it a positive assessment and suggest that the scientific jury award Gergana Ivanova Ivanova the educational and scientific degree "doctor".

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