

**TO
THE SCIENTIFIC JURY APPROVED BY
ORDER OF THE RECTOR OF SOFIA
UNIVERSITY "ST. KLIMENT OHRIDSKI"
FOR THE DEFENSE OF THE
HABILITATION WORK OF MIROSLAVA
MANOLOVA**

OPINION

By Prof. D.Sc. Boris Vladimirov Velchev, Sofia University "St. Kliment Ohridski", Faculty of Law, Department of Criminal Law, on the habilitation work of Chief Assistant Professor Dr. Miroslava Manolova, Sofia University "St. Kliment Ohridski" on the topic “Why do we punish? The theoretical and normative model of the purposes of punishment in Bulgarian criminal law” for the academic position "Associate Professor" in the professional field 3.6. Law (Criminal Law)

Miroslava Borisova Manolova was born on August 12, 1973 in Plovdiv. She graduated from the Faculty of Law at Sofia University "St. Kl. Ohridski" in 1995. From June 1997 to February 2000 she was an investigator in the Sofia Investigation Service. In March 2000 she began her teaching career as a full-time assistant professor in Criminal Law at the Department of Criminal Law of the Faculty of Law, Sofia University “St. Kl. Ohridski”. In 2004 she was appointed a senior assistant professor in Criminal Law, and in 2009 - chief assistant professor at the same faculty. In 2014 she defended her doctoral dissertation on "Drug offences".

From 2005 to August 2006 she worked as a chief jurisconsult at the Ministry of Culture. Since September 2006 she has been a legal adviser in the Legislative Advisors Department of the National Assembly.

Dr. Manolova is an established lecturer who enjoys the respect of her students and colleagues from the department. She is an author of numerous publications. In addition to her monographic work, she also participated in the competition with six articles in collections of papers, published by Sofia University Press. All articles are related to the topic of habilitation work and are devoted to the issues of punishment.

The title “Why do we punish?” suggests the author's unusual approach to the topic of punishment. Although somewhat unusual for an academic essay, it does not sound pretentious in this case. In fact, this is a question that is answered in the paper.

The structure of the work is simplified and includes three chapters.

The first one examines the basic theories of the purposes of punishment. The author has chosen to concentrate on assessing the impact of relevant views on the purposes of punishment in different historical periods (in some cases in the first half of the 20th century, elsewhere in the second half) and in three separate countries - Russia, USA and Germany. This choice can hardly be considered representative, but despite the somewhat vague selection criteria of both countries and periods, the content of the chapter corresponds to the title and has served as a good basis for further reflection. In fact, the structure of the first chapter is my main critical note to the work. Dr. Manolova had her reason to structure it in this way. It can be deduced from the content of this chapter. It is obvious that the reflections of the respective theories in the positive criminal law are visible especially in these countries during these specific periods. However, ambiguity as to why this particular periodization approach was chosen exists. It can be removed with an explanation at the beginning of the first chapter.

The second chapter is a natural continuation of the first one and deals with the issue of the purposes of punishment from the point of view of the positive law and the criminal law theory in our country.

I find the main contributions of the author in the third chapter, which examines some discrepancies between our theoretical and normative model of the purposes of punishment and the legislative amendments to the Criminal Code in recent years.

In general, the chosen structure of the habilitation work has allowed the author to develop her scientific theses. True, in the first two chapters there is a detailed presentation of the positions of a number of authors, but this is not an end in itself. It is necessary for the author to develop her positions at the end of the chapter, which she has done at the end of the second chapter /pages 126 et seq./. I can not fail to highlight the impressive style of the author to present foreign author's positions - not only comprehensive and analytical, but also made from a position of respect for the commented authors. Lately, such an approach seems rare to me.

The study is written in very good legal language, without undue complication. This makes the work of my colleague accessible to law students, for whom it would be especially useful, most with the conclusions in the last chapter. The distinctive, at times polemical style, betraying the emotion of the author is something that should be encouraged. The author's passion for the topic under discussion is evident, but Dr. Manolova never leaves the field of academic speech.

I fully agree what is stated in the report on the contributions. It is true that the work of Dr. Manolova is the first scientific work devoted to the study of the purposes of punishment from the specific point of view of the basic theories of punishment - utilitarian, retributive and mixed ones.

The excellent historical analysis of the stages during the formation of the modern model of the purposes of punishments in the Penal Code definitely has a contributing character.

The analysis of the purposes of the punishment not in themselves, but written through the view of established theoretical understandings, has allowed the author to make a number of contributing critical comments about the model adopted in our country.

Reflections on the recent changes in our legislation and their impact on the model of the purposes of punishment contain significant scientific contributions - mainly to the lack of coherence between government policy on the severity of punishment, reflected in amendments to the law on the one hand and the case law, on the other.

Perhaps the most significant scientific contribution of the author is in the field of analysis of penal populism. There, her reasoning is well-founded and original.

I would like to emphasize some additional significant contributions in the work of Dr. Miroslava Manolova. They are focused on her specific analysis of changes in criminal law in recent years.

Dr. Manolova has excellently selected groups of amendments to the Criminal Code over the years, through which she can convincingly illustrate her thesis about the absence of a meaningful and professionally defensible penal policy of the state in the period under consideration.

Her analysis of the effect of the increase in penalties for abductions in 2010 is undoubtedly fruitful.

The same goes for the analysis of the legislative changes for punishing drug crimes - a topic that has been professionally known to her since her doctoral dissertation.

Dr. Manolova is also extremely convincing in her criticism of the legislative proposals on the criminal justice regime for juveniles which was

submitted last year. Her analysis is very professional and can certainly serve to justify changes *de lege ferenda* in the future. The same applies to what has been written regarding the criminality of transport crimes.

Dr. Manolova's positions turn out to be in line with the case law, which really does not accept the artificially increased penalties for populist reasons and strives with its acts to oppose the existing tendencies for constant increase of the punishments. The cited criminological analyses confirm the correctness of her conclusions.

The main contribution of the author in the habilitation work, in my opinion, is at the end of the last chapter, where the features of penal populism are outlined. The idea of the need for a legislative obligation for preliminary collection and processing of criminological data before any amendment to the Penal Code is undoubtedly contributing. This also applies to the idea of a subsequent evaluation of the effectiveness of the changes made in the Penal Code, to be carried out by the Center for Parliamentary Research of the National Assembly.

In general, the question "Why do we punish?", which the author presents in the title of the habilitation thesis has received an answer. By the way, the work will only win if the author's critical remarks on the theoretical-normative model of the purposes of punishment, reflected at the end of the second chapter, are summarized in a new model.

Apart from the lack of explanation for the chosen structure of the first chapter, I have no particular critical remarks on the habilitation work. By the way, this critical remark can be easily removed if the author outlines the logic of the chosen approach in a few sentences before publishing the work. There is such a logic. It just needs to be clarified and pointed out.

The habilitation thesis fully meets the requirements of the law for holding the academic position of "associate professor" in Criminal Law. The applicant

meets the minimum national requirements under Art. 2b of Development of Academic Staff in the Republic of Bulgaria Act.

I strongly recommend to the scientific jury to make a decision to propose the appointment of Miroslava Manolova to the academic position of "Associate Professor" at the Criminal Law Department at the Faculty of Law of Sofia University.

Prof. D.Sc. Boris Velchev