

## **Review**

**by**

**Prof. Yanaki Boyanov Stoilov, PhD**

**Sofia University "St. Kl. Ohridski University, Faculty of Law**

**On the dissertation for PhD degree, field of higher education 3. "Social, Economic and Legal Sciences", professional field 3.6. "Law", doctoral program "Theory of State and Law. Political and Legal Doctrines (General Theory of Law)" at Sofia University "St. Kl. Ohridski" Faculty of Law,**

**Prepared by Lyubomir Petrov Stoyanov**

**Title: "Specificities of the Procedural Law"**

**Scientific supervisor: Prof. Daniel Vassilev Valchev, PhD**

**Reason for submitting the review:** participation in a scientific jury as an internal member, appointed by Order No. RD 38-63/31.01.2024 of the Rector of the Sofia University.

### **PhD student and PhD student details:**

Lyubomir Petrov Stoyanov was born on 21.05.1988.

He graduated in law from the University of National and World Economy in 2014. He holds a legal capacity.

He was a Junior Expert at the Ministry of Labour and Social Policy in 2016.

He worked as a visiting assistant professor at the Academy of the Ministry of Interior from 2015 to 2018 and at the Faculty of Law of Sofia University "St. Kliment Ohridski", from 2021.

Since 2017 he has been a lawyer at the Pernik Bar Association.

He uses English and Russian.

L. Stoyanov is a full-time PhD student at the Department of Theory and History of State and Law of the Sofia University "St. Kliment Ohridski", from 1.11.2016 to 1.11.2020 with the extension period.

He was dismissed from the PhD program with the right to defend.

The candidate meets the minimum required scientific metrics that are a prerequisite for admission to the dissertation public defence.

### **General presentation and evaluation of the thesis and abstract:**

The dissertation has a classical structure - it includes an introduction, three chapters and a conclusion, in a total volume together with the bibliography of about 250 pages.

Chapter One is procedural law as an object of study of the General Theory of Law. Chapter Two examines procedural law in the system of juridical procedures. Chapter Three examines the specificities of the procedural phenomenon.

The topic of the dissertation is both fundamental and contemporary. It is to the author's credit that he attempts to bring it to a paradigmatic general theoretical level. He notes that the basis of the distinction between substantive and procedural law is their specific functions. It makes a good impression that a working hypothesis is first put forward, which is tested, developed and refined in the course of the research.

The author pays special attention to the approach used to research the topic. The juridical method is the leading one. It is supplemented and concretized with the model-dependent realism of St. Hawking and L. Mlodinov, with the views of V. Ganey's views on the legal phenomenon, as well as those of H. Kelsen's views on general and individual legal norms, H. Hart on primary and secondary norms, V. Protasov on the relation between procedure and process, and J. Stalev on proceedings as a dynamic factual composition.

According to L. Stoyanov, procedural norms are secondary public law norms with a law-implementing character. The concept of procedural norm is specified as a norm of public law, with law-implementing character, that regulates specific types of legal procedures. Thus, procedural law is located in the broader field of legal procedures to which it refers. The division of law into substantive and procedural is not without remainder, i.e. there are norms

of a procedural nature that are neither procedural nor substantive (e.g. those conferring private authority).

The PhD student has developed and applied schemes that help to grasp the theoretical reasoning. He successfully combines theorizing with extensive analysis of court decisions. These decisions have been used in two directions - to illustrate theoretical conclusions on the one hand, and to evaluate controversial case law from the point of view of the proposed theoretical concept on the other.

Another positive feature of the dissertation is the detailed tracking and comparison of the views of the main authors on the topic. L. Stoyanov manages to select and combine elements from the views of different authors to reach his own conclusions. The presented dissertation is a proof of his ability to conduct independent and thorough research in the field of general theory of law.

The presentation is coherent and the conclusions logically consistent. The writing style does not further complicate the abstract level at which the issues are addressed. The examples given contribute to a better appreciation of the generalizations made.

The dissertation is the result of a long and independent work. References to other authors are correct and thorough.

The conclusion summarizes the main results of the study and well summarizes its findings.

The abstract accurately reflects the structure and content of the dissertation.

#### **Scientific apparatus used:**

The author has used a considerable amount of scientific apparatus. It includes over a hundred titles - monographs and articles from journals and collections. About two-thirds of the titles are in Cyrillic and the rest in English. It is noteworthy that the references are accompanied by an in-depth analysis of the views presented and an indication of the points of agreement and difference between the individual authors.

A dissertation on a legal topic usually contains references and commentary on court decisions. To some of them L. Stoyanov has expressed a critical attitude, justified by the theoretical views he advocates and argues.

### **Publications:**

The author has submitted 11 publications and separately has indicated 4 participations in scientific conferences. Most of the publications are on the dissertation topic:

- „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;
- „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;
- „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;
- „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.

### **Scientific and applied contributions:**

The dissertation contains scientific and applied contributions. They are concerning:

- The relationship between primary and secondary norms as system to metasystem; primary and secondary norms are located on the plane of influence on *Sein – Sollen* respectively;
- The definition of the procedural rule as a secondary public law rule of a procedural nature;
- The classification of juridical procedures is made on the basis of the forms of realization of law. Thus, juridical procedures are distinguished - three direct (obedience, execution and use) and two indirect - creation of legal norms as a result of state-government activity (law-making in a broad sense) and creation of legal norms outside state-government activity.

- In turn, the legal process includes the proceedings for the issuance of general legal rules (law-making in the narrow sense) and those for the issuance of individual legal rules (law-implementation in the narrow sense). The latter are the result of law-applying and non-law-applying proceedings, which in turn are divided into judicial and non-judicial;
- Procedural law as a system of the available law-implementing procedures.

### **Critical comments and recommendations:**

The remarks and recommendations refer mainly to the need to subject even one's own methodology to critical scrutiny when studying the social phenomena to which law, and especially its normative specificity, refers. I mean that the juridical method is absolutely necessary for research from the position of law, but it is not sufficient for law to fulfil its social purpose. The higher lawyers stand in the judiciary and in other jurisdictions, the more they have to keep in mind the complex operation of legal standards, including procedural rules, and their application to regulated relations. I believe the same requirement applies to legal researchers.

The approach used achieves a kind of, let's call it, "inversion" of the concepts - their passing into one another, as is the case, for example, with the conditionality of the distinction between law-making and law-implementation in most cases. Thus, a dialectic of concepts is achieved, in which, however, some of the concepts absorb others and thus to some extent lose their own meaning.

The study is strictly limited to the topic and does not attempt to characterize procedural law in parallel with substantive law. However, since procedural and substantive law are one of the main pairs of categories for subdividing law, there should be at least one feature by which they are distinguished and compared. In my view, the criterion for belonging to the substantive or procedural sphere is not whether or not the relations have an existence outside the legal form, as many authors believe (in modern societies, both relations usually have one), but that procedural relations have no content other than that given to them by the law. This reflects the division of the spheres of *Sein* and *Sollen*.

The application of the recursive method allows in to the features of the procedural norm those of the procedural law phenomenon to be reflected, but according to systems

theory it should be assumed that procedural law has features that are not reducible to those of individual procedural norms.

With a view to future publications, punctuation should be refined by using commas exactly where necessary.

The author, including through the acts of private and public law examined, has covered a significant part of the legal matter from the position of the set task, but without taking into account the constitutional procedures and procedural actions in constitutional law.

I recommend that in future work on the subject, special attention be paid to the admissibility and merits phases of court proceedings, because in both, and especially in the former, the procedural aspects of judicial activity are clearly evident. In this way, both the theoretical results and the applied usefulness of the research can be increased.

#### **Conclusion:**

The dissertation contains scientific and applied results that meet the requirements of the Academic Staff Development Act in the Republic of Bulgaria and the Regulations for its implementation. The doctoral candidate possesses in-depth theoretical knowledge in the field of general theory of law and shows qualities and skills for independent scientific research.

**On the basis of the analysis of the dissertation work and the scientific results achieved by the author, I give a positive evaluation of the conducted research and propose to the scientific jury Lyubomir Petrov Stoyanov to receive the educational and scientific degree "Doctor" in the field of higher education 3. "Social, economic and legal sciences", in the professional field 3.6. "Law", in the doctoral program Theory of State and Law. Political and Legal Doctrines (General Theory of Law) Sofia University "St. Kl. Ohridski".**

05.03.2024

Reviewer:

Prof.Dr. Y. Stoilov