

## NEW BULGARIAN UNIVERSITY

### PEER REVIEW

of Ass. Prof. Ralitsa Svetlozarova Kostadinova, New Bulgarian University, professional orientation:

3.6 Law (Criminal Law)

on the thesis paper of **Lidiya Lachezarova Peneva-Stoilova**, a PhD student on independent study in the doctoral programme in “Criminal Law” of New Bulgarian University, on the topic “**Crimes Against Marriage And Family**”

undergoing a procedure for awarding of a doctoral degree

in field of study: 3. Social, economic and legal studies, professional orientation: **3.6.** “Law, specialty: “Criminal Law“

By virtue of Order No. 3-PK- 279 of 11.07.2023 issued by the Rector of New Bulgarian University, I have been appointed as an internal member of the scientific jury for the defence of the thesis paper of Lidiya Lachezarova Peneva-Stoilova. The doctoral student is on independent study under the doctoral programme in “Criminal Law” of New Bulgarian University. She enrolled during the autumn semester of academic year 2017/2018 and her appointed doctoral supervisor is Prof. Rumen Vladimirov, PhD. The doctoral student was discharged with the right to defence in 2019. During the first session of the scientific jury, I was appointed as a peer reviewer.

#### **1. Significance of the problem studied from a scientific and scientifically applied perspective.**

The thesis paper analyses protection of marriage and family under criminal law in Bulgaria. This is provided for in Section I of Chapter IV of the Criminal Code, Articles 176-186. The significance of the topic is based on the lack of a contemporary comprehensive study on the topic about crimes against marriage and family. The case law accumulated also necessitates a contemporary overview and analysis to outline the theoretical difficulties and problems related to the enforcement of law.

When defining the relevance of the thesis paper, it needs to be noted that it contains an in-depth analysis of criminal law with respect to the new types of crime under Chapter IV, Section I of the Criminal Code, namely: convincing a parent to abandon their child or give consent for the child’s adoption, as well as convincing an under-age person to give consent for adoption (Article 182a, paragraph 1 and 2 of the Criminal Code); illegal agency related to the adoption of a child (Art. 182a,

paragraph 3 of the Criminal Code) and; consent given by a mother to sell her child in Bulgaria or abroad (Art. 182b of the Criminal Code) and others.

Last but not least, the significance of the thesis paper is further determined by the detailed analysis of surrogacy and its link to criminal law. The study of the specifics of this public problem has allowed the doctoral student to properly note the aspects related to criminal law. This, on the other hand, gives rise to a justified confidence in the formulation and argumentation her own thesis.

## **2. Precise formulation of the objectives and tasks of the thesis paper.**

The objectives of the thesis paper have been clearly formulated. They can be summarised as follows: studying the regulatory framework, case law and opinions in the field of criminal law on the matters related to crimes against marriage and family. The objectives also include an overview of the trends in the legislation of other countries and development of proposals for improvement of protection of marriage and family under criminal law.

Appropriate tasks have been selected for achieving these objectives: to study publications; to make a historical retrospective analysis of the legal framework; to analyse the characteristics of the offences against marriage and family; to study and comment on the theoretical sources, as well as contemporary case law; to perform a comparative legal analysis of the legal framework with respect to the same crimes in the legislation of other countries.

## **3. Evidence that the thesis paper has been written independently**

The text of the thesis paper and the analysis of the other research publications of the doctoral student show her capability to write her own scientific research studies. This is evident both from the overall style of the texts and the interdisciplinary approach used, particularly the references to biological sciences, which are specific and detailed.

## **4. Level of knowledge of the problem status and correspondence of the references used.**

The thesis paper demonstrates that the author has excellent knowledge of the relevant references, regulatory framework and case law in the field of criminal law. Mrs. Peneva-Stoilova is familiar both with contemporary authors and authors from past historical periods. This allows her to make an in-depth analysis of crimes against marriage and family through a historical legal overview both of the regulatory framework and of the publications related to them.

The problems associated with crimes against marriage and family have been discussed in an analytical and detailed manner. The doctoral student demonstrates that she is comfortable with the legal terminology and the work is easy to read.

The thesis paper also clarifies in detail the scope of application of crimes against marriage and family. Where necessary, the drawbacks of the provisions about the offences are mentioned and proposals for their improvement are suggested. There are also proposals for decriminalisation. Regarding the study of the matters related to decriminalisation, the author properly clarifies the essence of the concepts used in legal instruments other than the Criminal Code which the blanket dispositions of offences refer to.

#### **5. Proper citation of a representative number of authors.**

The dissertation student has conscientiously researched the academic literature, monographs and periodicals related to the topic of the thesis paper. The authors' opinions have been properly cited and any scientific discussion, where present, has been justified.

#### **6. Presence of a well-grounded and elaborated theoretical model of the study.**

The doctoral student is familiar with the theory in the field of criminal law and has used this prism for making a successful attempt to develop a theoretical model for protection of marriage and family in Bulgaria under criminal law. The thesis paper contains sufficient theoretical generalisations, conclusions and ideas, which make both scientific and practical contributions that enrich the theory of criminal law in the field of crimes against marriage and family.

#### **7. Correspondence of the research methodology and methods selected with the objective and tasks of the thesis paper.**

Multiple research methods and scientific instruments have been used, which allow the author to outline new theoretical conclusions and proposals for changes in legislation. The historical, comparative, logical and linguistic interpretation methods used have helped for the achievement of the defined objective and tasks. The thesis paper takes the challenges of the 21st century into account, particularly the problems associated with surrogacy. This part of the paper is particularly important for the theory and practice.

## **8. Presence of own contribution in the collection and analysis of empirical data.**

Considering that the main empirical data used for studies in the field of criminal law are drawn from criminal case law, the doctoral student has demonstrated independence in searching, analysing and commenting on the court rulings.

I agree with the contributions mentioned by the author in her abstract. The most important ones are as follows:

- ✓ The thesis paper is the first comprehensive and thorough study of crimes against marriage and family in Bulgaria, which corresponds to the changes in both criminal and general law during the 21st century.
- ✓ The detailed analysis of the objective and subjective characteristics of the new types of crimes under Art. 182b and Art. 182a, para. 3 of the Criminal Code also constitutes a contribution.
- ✓ The author has skilfully used a variety of methods in the research study. The most important ones are the historical legal analysis and the comparative legal analysis on the discussed topic.
- ✓ I believe the detailed study of contemporary legislation outside the Criminal Code, which includes the blanket dispositions, also constitutes a contribution. It allows a precise analysis of the offences under criminal law.
- ✓ The specific proposals for improving and updating criminal law also constitute contributions. An example for this is the clearly formulated proposal to replace the term plural marriage under Art. 179 of the Criminal Code with the adequate term bigamia; to expand the scope of the persons bearing criminal liability under Art. 182b, para. 1 by also including the child's father, together with their mother, etc.

In my opinion, the doctoral student has outlined the aspects of the contributions of the thesis paper independently.

The abstract presented presents the thesis paper in a precise and accurate manner.

## **Influence of the thesis paper on the external environment.**

As seen from the documentation provided for the defence procedure, the doctoral student has made four publications on the topic discussed in the thesis paper. They are published in publications of New Bulgarian University (Legal magazine of NBU and year-book of the Department of Law) and in

Norma magazine. All three publications are written in the National Reference List of the National Centre for Information and Documentation.

*Peneva-Stoilova, L. Surrogacy – a challenge for the legislation of the Republic of Bulgaria. Legal magazine of NBU, 2020, XVI. No. 3, pp. 31-47. ISSN (Online): 1314-5797.* This article is dedicated to the so-called surrogacy (carrying maternity) and the legal approaches to it. The author's analysis is not self-contained, but serves as a basis for studying the questions in the field of criminal law. Its focus is the scientific discussion in relation to Art. 182a, Art.182b and Art. 159a, para. 3 of the Criminal Code and an opinion mentioned in literature about the criminalisation of surrogacy. The doctoral student was nominated for "Human of the Year" by the Bulgarian Helsinki Committee in 2022 because of this article. This fact was not mentioned in the documentation submitted for the defence. I am aware of it in my capacity as an editor-in-chief of the magazine that published the article about this nomination and I believe this needs to be noted as an indisputable fact about the assets of the doctoral student.

*Peneva-Stoilova, L. Crimes against marriage and family before the Criminal Code of 1968. Legal journal of NBU XV.1-3, 2019, page 44-59. ISSN (Online): 1314-5797.* This is another publication I have direct impression of at the time of its publishing. It makes a historical legal analysis of protection of marriage under criminal law before the adoption of the currently effective Criminal Code. The provisions of the effective legislation from the period of the Liberation until 1968 concerning the legal protection of marital and family relationships have been analysed.

*Peneva, Lidiya. Current Problems in Bulgarian Criminal Law during the past period of 2017-2018. In: Yearbook of the Department of Law of NBU for 2018, Sofia, 2019, pp. 392 – 415. ISSN 1314-8087.* The second half of the article that is related to the topic of the thesis paper is entitled: "2. Certain new aspects in the criminal failure to fulfil the parental duty to provide alimony." It contains a detailed analysis of the provisions about the crime through the prism of the increased complexity of criminal activity. The specifics of non-payment of alimony as a continued and/or continuing crime have been discussed as a controversy. The overview of the relevant case law is particularly useful.

*Peneva, Lidiya. The provisions about crimes against marriage and family according to the contents of Strafgesetzbuch – the Criminal Code of Germany. "Norma", 2017, issue No. 9, p. 58. ISSN 1314-5126.* The first article of the doctoral student is in the field of comparative law. It analyses Chapter

XII of the German Criminal Code, which contains the provisions about crimes against civil status, marriage and family. The types of crimes and their specifics have been outlined, which serves as a starting point for comparison with the Bulgarian legislation.

The doctoral student has participated in the *Third Annual Conference for Doctoral Students of New Bulgarian University, organised by the doctoral school of NBU*, which took place on 9 – 11 February 2018 in “Bachinovo” Centre, city of Blagoevgrad. At the conference, she presented a research paper on the following topic: “Crimes against marriage and family according to the Bulgarian legislation. The necessary changes de lege ferenda”. Her second participation was in 2019 in the Summer School for Doctoral Students at Centre for Doctoral Students “St. Kliment Ohridski” in the period 24 – 27 June 2019 and an auditioning student.

Both Mrs. Peneva’s research publications and her participation in scientific forums demonstrate that the results from her research activity in the field discussed by the thesis paper have been widely and strongly publicised during the period 2017-2020.

**Personality traits of the author (if the reviewer knows the author).**

Mrs. Lidiya Peneva-Stoilova was my student in the Master’s degree programme in “Law” in New Bulgarian University. She is a very responsible and ambitious young person. Her in-depth knowledge in the field of criminal law and her engagement with significant public community affairs are a guarantee for her future success.

**Opinions, recommendations and remarks.**

I recommend the publication of the thesis paper. In my opinion, the proposals for changes in legislation need to be edited and formulated in specific technical legal texts for amendments and supplements to the Criminal Code.

**Conclusion**

Based on the foregoing, I believe the presented thesis paper entitled “Crimes Against Marriage and Crime” written by Lidiya Lachezarova Peneva-Stoilova meets all requirements of the Academic Staff Development in the Republic of Bulgaria Act, its Implementing Regulations and the Regulation on NBU’s Academic Staff Development.

Therefore, I give my firm **favourable opinion and strongly recommend to the scientific jury to take the decision to award a doctoral degree in law (Criminal Law) to Lidiya Lachezarova Peneva-Stoilova.**

Date: 7.09.2023

Signature: .....