

PEER REVIEW

on the thesis paper entitled “**Crimes Against Marriage And Family**” for obtaining a doctoral degree in field of study 3. Social, economic and legal studies; professional orientation: 3.6. Law; specialty: Criminal Law

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of Prof. Lazar Gruev, PhD - Faculty of Law of Sofia University “St. Kliment Ohridski”

I do not know the doctoral student in person; I only know her from her publications and the documentation submitted for this procedure.

I am not aware of any violations of the procedure preceding the public defence, which was completed by virtue of an order of the Rector of NBU of 11 July 2023 for determination of the composition of the scientific jury and for scheduling the public defence.

The abstract presented meets the requirements, it has been duly drafted in accordance with the established practices.

A total of four publications relevant to the topic have been presented, which have been consecutively published during the period 2017 – 2020 – two of them published in the Legal Magazine of NBU, one in the year-book of the Department of Law of NBU and one in Norma magazine. These publications discuss matters related to the scope of study and are a proof for methodological

and continuous work on the topic during the period of the PhD studies. Participation of the doctoral student in various scientific forums have also been presented.

Lidiya Peneva is a Bachelor in Biology of Sofia University “St. Kl. Ohridski” and a Master in Law of NBU, where she graduated in 2016. She is fluent in German, English and Latin language.

She has worked as a legal adviser, assistant notary public and currently works as a legal secretary in Pernik Regional Court. She has participated in a series of scientific and training forums and has obtained the relevant certificates, which is described in detail in the curriculum vitae submitted. This leaves an impression that she is a goal-oriented, inquisitive and active young person who does not waste her time but shows motivation for self-improvement.

The thesis paper “*Crimes Against Marriage And Family*” that has been written and presented is dedicated to a classical topic in the field of criminal law, which, however, despite certain isolated papers, seems to be slightly neglected by researchers, especially over the past few years (e.g. the papers of K. Lyutov and T. Hinova were written in 1983 and 1995, respectively). These isolated works, which, by the way, have been thoroughly studied and properly cited by the author, concern some specific, or, so to say, private matters – e.g. the matter about the obligation and the respective failure to pay alimony or the matter about surrogacy, which makes Lidiya Peneva’s complex study even more relevant and timely. I believe this is how we should view the thesis paper presented – as a comprehensive, complex study that summarises the main points in the matters discussed and offers amendments based on the need to improve the effectiveness of the legislation and I would like to highlight that this is one of the main significant contributions of the paper. Based on the need, as is the case with each serious work in the field of criminal law, the author has also thoroughly and conscientiously studied and analysed certain fundamental works

in the field directly and positively governing the relevant public relationships, that is, family law, which is in itself a proof of the in-depth and methodologically proper approach utilised in the discussed thesis paper. Therefore, the complexity of the study should be considered as twofold – the comprehensive review of the offences under the Criminal Code on the one hand (internal) and the link to the regulatory framework of family law (external) on the other.

The paper has a classic structure. The total volume of about 276 pages is divided into an introduction, three chapters, a conclusion and list of references that includes works in Bulgarian, English and German language, as well as case law.

The body of the work is well-balanced, with logical consequence and, at the same time informative (e.g. the parts about comparative law), while being deeply analytical. The significance of the problem studied from a scientific point of view is demonstrated in the proper overview and analysis of a sufficiently representative number of works studied and discussed that are dedicated to this matter and explicitly mentioned in the paper, which allows an in-depth overall analysis of the matter. In terms of applied science, this is demonstrated by the conclusions and proposals *de lege ferenda* made, which are a good foundation for improvement in the enforcement of law based on the realised need to combine experience with the new outlook in the interpretation of certain characteristics of the offences under the different crimes. This is also supported by the fact that the author has clearly formulated the objective and tasks of the study, apparently well-contemplated by her, from the very beginning of the paper and has methodologically pursued the overall development of the body of the text in, let me reiterate, a good logical sequence – a historical overview (chapter one) as the basis, foundation of the relevant provisions and a demonstration of continuity; an actual in-depth analysis of the provisions of the legislation currently in force (chapter two) and comparative legal analysis used

both as a scale, as a criterion for comparison and, at the same time, as a model based on which conclusions about the status and eventual improvement of the effective provisions in Bulgaria can be drawn (chapter three). I would also like to highlight here the author's achievement in selecting methods and a methodology for the study that correspond to the objective and tasks of the thesis paper, which makes it a complete work with its own form, which is also a contribution that needs to be noted.

The specific contribution aspects are primarily demonstrated in chapter two, which is normal based on the structure of the work. Here, the author makes a detailed, systematically coherent and detailed analysis of the offences of crimes against marriage and family under the Criminal Code by respecting the generally applied model in such studies – object and objective perspective and subject and subjective perspective of the different crimes. I was pleasantly impressed by the adopted approach which takes into account and combines the analysis with the achievements and opinions shared in the literature and, at the same time, the conclusions reached by the court in the application of the different offences. This makes the body of the paper not only theoretically sound, but also practically oriented and useful.

The author expresses her own opinion, she starts a dispute, justifies her view and provides good arguments, making it an opinion that may not be necessarily accepted, but nevertheless needs to be considered if the reader's opinion is different. In my opinion, this is a proof that Lidiya Peneva is an expert in this field, she has studied it in detail and freely articulates her ideas, which, on the other hand, is an indicator of the level of maturity of such a young author.

These specific contributions are primarily linked to the conclusions and proposals *de lege ferenda*. It should be noted that the proposals focus on several aspects. In some cases, it is suggested to either repeal or at least significantly amend the criminalisation – e.g. Art. 177, para. 3 – 5 (page 109); in other cases,

it is suggested to introduce more precision – e.g. Art. 179, para. 1 of the Criminal Code (page 121); while in third cases a significant supplement is suggested – e.g. the proposal to introduce an aggravated offence “*where the deed has been committed with mercenary motives*” in the case of plural marriage (page 121); or the proposals are in line with the international standards concerning domestic violence by envisaging a separate aggravated offence.

The proposals made will not be accepted by everyone. However, I believe this is not the most important thing. All these proposals are not just the result of an idea or because “things are done this way”. The proposals *de lege ferenda* are the result of the analysis of the respective offences after taking into account the existing conclusions in theory, and, which is particularly important – following an in-depth analysis of a sufficiently representative sample of the case law available and the reference points contained in these judgements, as well as, and this should be emphasised, based on the doctoral student’s personal efforts, which are the result of her complex research on the topic of crimes against marriage and family. This is what the essence and objective of a work in the field of criminal work should be about – to propose solutions for improvement and, therefore, to eventually improve the effectiveness of law enforcement based on an analysis of the historical experience, the current status of the legal framework and the models from other countries viewed as a possible example. I would like to add one more thing. Yes, it is possible that not all proposals will be accepted without reservation, however, what is important is that they are a good starting point for discussion in the circles of experts, which is the only proven way to improve legislation. Anything else would be voluntary.

It is a pity that the author, while mentioning some specifics in the legislation of other countries (chapter three), does not always discuss certain interesting examples in sufficient detail, which could probably lead to more significant conclusions and proposals. For instance, when discussing the situation in

Greece, she mentions that there legislation contains provisions of a crime that is unheard of in the legislation of other countries, including Bulgaria. This concerns the abandoning of a pregnant woman (page 195). It is a well-known fact that the Bulgarian constitution explicitly provides for protection of “*the family, maternity and children*” by the state and society. I believe this matter could be discussed in more detail by the doctoral student, irrespective of her opinion thereon, particularly the fact that there are other provisions in the Bulgarian Criminal Code, e.g. Art. 126 – “criminal abortion”, which firmly rule out a pregnant woman’s liability, including for inciting, aiding and abetting (para. 4), which is a sign of distinctive attitude that takes into account the special condition of the pregnant woman, as well as provisions for increased protection under criminal law.

And one more thing I would like to note, which is just a proposal, which the doctoral student could discuss in the future at her discretion. I realise that the matter is outside the context of this work but, at the same time, I believe this is a challenge that will inevitable come to play. Generally, albeit not precisely, this concerns the topic about the so-called same-sex marriages, a concept I myself disagree with, however, my attitude is not the matter to be discussed here. Civil partnerships between persons of the same biological sex is a widely and diversely discussed topic in society and in professional circles, moreover, it is commented with such a ferocity and bias, that it will certainly remain “on the table” and will be subject to discussions. What I would like to say and thus encourage the doctoral student is that this discussion needs more intelligent people well-versed on this topic, which is undoubtedly the case with the author of the work under discussion. So, the topic about protection of marriage and family, including protection under criminal law, has a growing potential considering the current realities and, therefore, the work can be extended at some point in the future, should the author wish so, of course.

All of the above leads to the conclusion that the thesis paper demonstrates that the candidate has the necessary theoretical knowledge in the field of criminal law and is capable of conducting and finalising research in this field independently, which, at the same time, as in the specific case, have the potential to support the practice in this field and help improve the legislation.

Therefore, based on the foregoing, I would like to draw the following **conclusion:**

The thesis paper entitled “*Crimes Against Marriage And Family*” has been written in accordance with the requirements of Academic Staff Development Act, its Implementing Regulations and the requirements of NBU and, as whole, meets the criteria for awarding a doctoral degree in the field of criminal law to its author **Lidiya Lachezarova Peneva-Stoilova**, and therefore I would like to express my favourable opinion with respect to it and assure my colleagues from the honourable scientific jury that I will vote “**for**” awarding the doctoral student with a doctoral degree in field of study: 3. Social, economic and legal studies, professional orientation: 3.6. Law, specialty: criminal law, and I hereby invite them to do the same.

17.08.2023

REVIEWER:

(Prof. Lazar Gruev, PhD)