

REVIEW

by Prof. Gabriela Belova-Ganeva, DSc., lecturer at the Department of International Law and International Relations at the South-West University "Neofit Rilski" external member of the scientific jury, determined by the Order Z-RK-220/19.06.2026 of the Rector of the New Bulgarian University, under the procedure for the defense of a dissertation on the topic: "The Protection of the Fundamental Rights of LGBTI People in the Constitutional Framework of Bulgaria" for the acquisition of the scientific and educational degree "doctor" in the doctoral program "Constitutional Law", professional field 3.6. Law
author of the dissertation: **Philip Robert Samuilov**
Scientific supervisor: Assoc. Prof. Dr. Deyana Marcheva

I. Data regarding the procedure and the candidate

In the course of the procedure for obtaining the scientific and educational degree of "doctor", Philip Robert Samuilov has submitted for review a dissertation on the topic: "The Protection of the Fundamental Rights of LGBTI People in the Constitutional Framework of Bulgaria". As a full-time doctoral student, he was enrolled in the Department of Law of the New Bulgarian University by order No. Z-RK-27/07.11.2023 of the Rector of the NBU, and Assoc. Prof. Dr. Deyana Marcheva has been appointed as his scientific supervisor. The dissertation work is intended for public defense before a scientific jury in accordance with order No. Z-RK-220/19.06.2026 of the Rector of the New Bulgarian University.

Within the statutory period, as a member of the scientific jury, I was provided with all necessary documents and materials for the defense procedure in accordance with the requirements of the Law on the Defense of Academic Research, the Law on the Defense of Academic Research, the Regulation on the Development of the Academic Staff of the National University of Bulgaria and other applicable regulatory acts.

On the formal side, New Bulgarian University has an accredited doctoral program in Constitutional Law. In accordance with the university's procedural rules, an internal defense was held before the council of the Law Department, after which the doctoral student was directed to a public defense.

The candidate Filip Robert Samuilov has fulfilled the minimum national requirements for acquiring the scientific and educational degree "doctor", by presenting a dissertation work in accordance with the requirements of Article 27 of the PPZRASRB, including a declaration of originality. He has also fulfilled the scientometric criteria under group of indicators D, presenting three articles and one study, published in non-refereed journals with scientific review or in edited collective volumes, as a result of which he achieves 50 points (with a minimum requirement of 30 points).

In 2022, Filip Samuilov obtained a Master's degree in Law from the New Bulgarian University. Since 2025, he has also obtained a Master's degree in Human Rights and the Rule of Law - a degree acquired within the framework of a master's program at the University of Miskolc,

Hungary. From 2023 to 2024, he worked as a legal expert within the LGBTI human rights organization "Action".

II. General characteristics and structure of the dissertation work

The dissertation is on the topic of "The Protection of the Fundamental Rights of LGBTI People in the Constitutional Framework of Bulgaria". The total volume of the work is 292 pages. The structure of the dissertation includes an introduction, three parts, a conclusion, a bibliography and a list of cited case law. Each of the three parts is internally structured into two subtopics (chapters), which also have an additional internal division with the corresponding emphases of the work.

In accordance with accepted academic standards, the doctoral student formulates in the introduction the research problem, goals, objectives and methodology of the study.

The first part, "Theoretical and Historical Framework", is divided into two chapters, which respectively analyze, first, the terminology and theoretical framework, and second, trace the historical and legal evolution of the status of LGBTI people in Bulgaria from the creation of the modern Bulgarian state to the adoption of the 1991 Constitution.

The second part "Comparative legal and supranational analysis" covers two subtopics, separated into chapters three and four. The comparative constitutional study is systematized at two levels. First, in chapter three, a horizontal analysis of models of legal regulation is made with emphasis on the following issues - models of registered partnerships and marriage equality in Germany, France, Spain, the evolution in legal recognition of gender (from medicalization to self-determination), the specifics in the countries of Central and Eastern Europe, the protection of intersex people. Second, the typology of constitutional approaches of 'frozen law' and 'living constitution' respectively is presented, and the doctrine of static law, the doctrine of evolutionary interpretation, and the comparative synthesis within the framework of supranational judicial dialogue are clarified and evaluated sequentially. The fourth chapter is devoted to a vertical analysis, within which the standards of supranational law are deduced, including the law of the Council of Europe and the law of the European Union with selected highlights from the case law of the European Court of Human Rights and the Court of Justice of the European Union.

The third part of the dissertation focuses on the constitutional and legal regime and practice in the Republic of Bulgaria. Chapter five provides a structured analysis of the Bulgarian constitutional and legal framework, within which the main constitutional principles are outlined – primacy of international law (Art. 5, para. 4 of the Constitutional Law), dignity of the person (Preamble and Art. 4, para. 2 of the Constitutional Law), equality and prohibition of discrimination (Art. 6 of the Constitutional Law), the right to privacy and human dignity (Art. 32 of the Constitutional Law). Chapter six is devoted to selected aspects of Bulgarian legislation relevant to the protection of the fundamental rights of LGBTI people, with the author delineating the normative progress in some of them, for example, the inclusion of the protective characteristic "sexual orientation" in the Protection against Discrimination Act, which is missing in Art. 6 of the CRB, and the normative regress in others, for example, the amendments and supplements to the Preschool and School Education Act of 2024, known as the ban on LGBTI

propaganda in schools. The study in this part deepens the issue by outlining deficiencies in the practice of the Commission for Protection against Discrimination and the courts and at the same time highlighting the author's position. The sixth chapter of the dissertation offers a detailed casuistic analysis of the national judicial activity. The starting point of this analysis is the practice of the Constitutional Court with the well-known decisions on the unconstitutionality of the Istanbul Convention (Decision No. 13/2018 under case number 3/2018) and on the determination of gender as biological (Decision No. 15 of 2021 under case number 6/2021). On this basis, according to the author, a practice is developing in the Supreme Court of Cassation and Supreme Administrative Court, based on formalism and biological determinism, and the doctoral student seeks to substantiate his thesis that with this national judicial practice the Constitution is transformed from an instrument for the protection of rights into a means of social exclusion.

The conclusion of the dissertation summarizes the conclusions of the multi-layered analysis, which encompasses theoretical deconstruction, historical retrospection, comparative law comparison and casuistic review, with which the doctoral student confirms his initial scientific hypothesis about the existence of a deep and structural 'constitutional paradox' in the protection of the fundamental rights of LGBTI people in Bulgaria. According to him, this is not a simple legal-technical inconsistency, but a sharp incompatibility between the principles formally proclaimed in the Constitution and the factual state of 'normative silence' and marginalization of LGBTI people in our country.

The scientific apparatus is impressive and includes 621 footnotes, the largest share being occupied by scientific literature with approximately 350–400 citations, followed by case law – 120–140 references. Normative sources and various official reports with statistics make up about 50–60 footnotes.

The bibliography has also been conscientiously drawn from a total of 384 sources, of which 75 are in Bulgarian, 295 in English, and 11 in German.

I believe that the abstract faithfully reflects the structure and content of the dissertation.

III. Relevance and significance of the researched problem

The topic of protecting the fundamental rights of LGBTI people within the constitutional framework of Bulgaria is particularly relevant in the context of the growing tension between the jurisprudence of the Bulgarian Constitutional Court, the Supreme Court of Cassation and the Supreme Administrative Court, on the one hand, and the supranational courts – the European Court of Human Rights and the Court of Justice of the European Union, on the other. The tension is most visible in cases of discrimination against LGBTI people related to the rights of same-sex couples and trans people in Bulgaria, with a trend emerging in which the ECHR and the CJEU affirm an expansive interpretation of the protection of the right to private and family life and protection from discrimination, while national institutions take a more conservative position, developing the doctrine of "traditional values" and national constitutional identity.

The dissertation focuses on this current and significant issue of the fundamental rights of LGBTI people in the constitutional framework of Bulgaria, which has not been the subject of a comprehensive scientific study in Bulgarian legal literature to date. The candidate has referred in his work to the few existing individual articles and collective monographs in Bulgarian on

individual aspects of the topic, bringing it to a completely new field through the prism of the integrative approach to the protection of fundamental rights in the Bulgarian constitutional and legal framework.

IV. Research goals, objectives and methodology

The main goal of the dissertation is to conduct a comprehensive and critical legal analysis of the normative deficits and doctrinal gaps in the constitutional protection of the fundamental rights of LGBTI people in the Republic of Bulgaria. The study aims not only at a descriptive review of the current law, but also at clarifying the deep theoretical and historical premises that determine some legal gaps. The ultimate goal is the formulation of scientifically based proposals for overcoming legal uncertainty and for effectively guaranteeing the principle of equality.

In pursuit of the set goal, the study follows a logical sequence, starting with the clarification of the conceptual and conceptual apparatus through an attempt to integrate deconstruction and ‘queer’ theory into constitutional and legal analysis. Methodologically, the work is based on the idea that the Constitution and the legal system should be analyzed not as autonomous, but in their social and power context, which allows for the disclosure of existing mechanisms of normative exclusion of LGBTI people. The main methods include legal-historical analysis, a comparative law method with a two-dimensional structure (vertical and horizontal), as well as a casuistic method through a detailed analysis of judicial practice. The critical approach further strengthens the author’s position. As an advantage of the dissertation work, it can be noted that the study additionally applies an intersectional approach to analyze the interactions between the various forms of legal and social exclusion.

The research draws on a wide range of primary legal sources, international instruments and case law. The style of the presentation is descriptive and analytical, strictly following ethical standards and clearly reflecting the research position. Overall, the dissertation overcomes institutional formalism and offers a complete theoretical and legal model for understanding and reforming the constitutional status of LGBTI people in Bulgaria.

V. Main contributions and results

The dissertation makes a significant scientific and theoretical contribution by integrating an original methodology that combines deconstruction and a critical approach to human rights, moving beyond traditional legal positivism. This framework allows for the disclosure of hidden mechanisms for normative exclusion of vulnerable groups and outlines a new conceptual paradigm in the Bulgarian constitutional and legal doctrine, consistent with current European standards and a clear distinction between key categories such as sex, gender and sexual orientation. In addition, the author carries out the first comprehensive study in national legal science of the status of LGBTI people in Bulgaria, which substantiates the influence of the totalitarian legacy on contemporary restrictive practice.

In addition, the dissertation conducts an in-depth comparative legal analysis, systematizing the existing models of legal regulation of the rights of LGBTI people in Western and Eastern Europe. The work develops a two-dimensional analysis – vertical and horizontal – of national and supranational human rights standards, demonstrating the significant dogmatic discrepancies and emphasizing the legal obligation of national courts to apply the primacy of

supranational standards for the protection of fundamental rights. Through a detailed casuistic analysis of case law, the phenomenon of judicial formalism and structural homophobia, which leads to the restriction of the rights of LGBTI people and to the abdication of the judiciary, is revealed.

The scientific and applied contribution of the study consists in the systematization of the main normative deficits and the formulation of a comprehensive package of specific proposals *de lege ferenda*. Legislative changes are also proposed to expand protection against hate crimes by including ‘gender identity’ and ‘sexual characteristics’ in the Criminal Code, as well as the removal of discriminatory provisions in educational legislation in order to ensure compliance with European human rights standards and freedom of expression.

V. Evaluation of other publications of the doctoral student

Filip Samuilov has presented in his abstract 3 scientific articles and 1 study, published in peer-reviewed publications, all related to the topic of the dissertation, as follows:

1. Domestic violence in same-sex couples. – In: The reform of protection from domestic violence. Collection of reports from a scientific conference. S.: Bulgarian Academy of Sciences. Institute of State and Law, 2024, pp. 231–245;
2. Legal and historical review of LGBTIQ+ rights in the 19th and 20th centuries on the territory of today's Republic of Bulgaria. – In: Yearbook of the Department of Law of the New Bulgarian University 2023. S.: Publishing House of the New Bulgarian University, 2024, pp. 176–195;
3. Discrimination based on sexual orientation and gender identity in Bulgaria. – In: Protection from discrimination in Bulgaria, in Europe and the world. Collection of reports from an international scientific conference, April 19-20, 2024, NBU. Series Forum “Legal Studies”, vol. 3. S.: Publishing House of the New Bulgarian University, 2025, pp. 440–453;
4. From a legal vacuum to self-determination: A comparative analysis of legal gender change in Bulgaria and Germany. – accepted for publication in: Yearbook of the Department of Law of the New Bulgarian University 2024. With: Publishing House of the New Bulgarian University.

These publications clearly demonstrate the author's enduring and consistent commitment to the researched issues, covering various aspects of the legal protection of LGBTI people. The topics include important and often neglected issues such as domestic violence in same-sex couples, the historical development of rights, discrimination and legal mechanisms for gender recognition, which reflects the depth and multifaceted approach of the author's scientific interests. These publications contribute significantly to the enrichment of the national legal doctrine with up-to-date and complex legal analyses.

VI. Notes and recommendations

My critical remarks are primarily related to the excessive volume, as in my humble opinion, part of the presentation is burdened and characterized by unnecessary verbosity, which leads in

places to some repetitions, especially with regard to the theoretical and terminological analysis. This disproportion in the content and the elimination of some repetitions can be avoided if the author carries out some revision of the dissertation. I do not entirely share the argumentation related to the works of Giorgio Agamben—one of the most prominent contemporary philosophers, whose scholarly interests have gradually shifted from jurisprudence to the fields of political philosophy and biopolitics. Indeed, his research project *Homo Sacer* is ranked among the fundamental works of contemporary political philosophy due to its reconstruction of the intellectual and political history of the concept of 'life' and the inherent threats posed to it by the phenomenon of political sovereignty. His critics, however, point out that *homo sacer* was a marginal, specific, and limited legal anomaly that Agamben takes out of context and inflates to a universal model, thereby erasing key institutional, economic, and social differences between distinct states and historical eras

However, I believe that these, not exhaustively stated, critical remarks do not belittle my high assessment of the work of my colleague Filip Samuilov and are completely excusable for a young author.

VII. Conclusion

The dissertation work of my colleague Filip Samuilov contains summaries of a serious scientific problem, such as the protection of the fundamental rights of LGBTI people in the constitutional framework of Bulgaria and represents an original contribution to science. It meets all the requirements of the Law on the Development of the Academic Staff in the Republic of Bulgaria (LAADRB), the Regulations for the Implementation of the LAADRB and the Regulations for the Development of the Academic Staff of the NBU. The presented work shows that the doctoral student demonstrates qualities for independent scientific research. Given the above, I give my positive assessment of the presented dissertation work and propose to the members of the esteemed scientific jury to vote for the award of the educational and scientific degree "Doctor" to the candidate **Philip Robert Samuilov**.

08/24/2026

Prof. G. Belova, DSc.