

OPINION

by Assoc. Prof. Dr. Radoslava Yankulova,

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Member of the Scientific Jury

on a dissertation submitted for the award of the educational and scientific degree
„Doctor“

in Scientific Field: 3. Social, Economic and Legal Sciences,

Professional Field: 3.6. Law,

Doctoral Programme: Constitutional Law

Author: Filip Robert Samuilov,

doctoral candidate at the Law Department of New Bulgarian University,

Dissertation topic: „Protection of the Fundamental Rights of LGBTI People Within the
Constitutional Framework of Bulgaria“

Academic supervisor: Assoc. Prof. Dr. Deyana Marcheva

Dear Members of the Scientific Jury,

By Order No. №3-PK-220 of 19.06.2026 of the Rector of New Bulgarian University, I was appointed as a member of the Scientific Jury and, within the prescribed time limit, I hereby submit for your consideration the present opinion on the dissertation.

I. General description of the submitted dissertation

The dissertation has a total volume of 292 pages structured into an introduction, three parts, six chapters, and a conclusion. The bibliographic apparatus encompasses a total of 384 sources, predominantly in English (295), supplemented by literature in Bulgarian (75), German (11), and other languages. The minimum national requirements under Art. 2b of the Act on the Development of the Academic Staff in the Republic of Bulgaria for the field of higher education: 3. Social, Economic and Legal Sciences; professional field: 3.6. Law, has been complied with.

The abstract adequately reflects the content of the dissertation, and its contributions are correctly presented therein.

The author's language is legally precise, clear, and logically consistent, which facilitates the reception of the work by a broad readership.

The relevance and dissertation-worthiness of the topic are beyond dispute as the topic has been insufficiently explored in contemporary Bulgarian constitutional law scholarship. For this reason, the author sets out to fill an existing gap in legal research. This pioneering study is situated within a context that fully underpins its social and legal significance, and which is linked to the need to align national legislation and its implementation with the country's international obligations regarding the full realisation of the rights of LGBTI people. The central theme that runs through every structurally distinct section of the thesis is the identified dissonance between universally guaranteed values such as equality and the inviolability of human dignity, and their reflection in reality. This dissonance leads to the legal 'invisibility' of LGBTI people and strips constitutional principles of their concrete substance. The author's analysis does not merely identify these negative phenomena, but also examines their origins and sets out a direction for their potential resolution.

The methodology of the study is not confined to a classical normative analysis of the positive legal framework using conventional methods of interpretation – historical, comparative and linguistic – but also incorporates sociological approaches, which is inevitable given the subject matter of the thesis and only serves to enrich it. A further accomplishment of the author is the analytical presentation of the extensive case law of national and supranational constitutional courts.

The characteristics of the work can be outlined as follows:

In terms of structure, Part One of the thesis, entitled 'Theoretical and Historical Framework', consists of two chapters, each of which is further subdivided. In Chapter One, the author successfully establishes a conceptual framework upon which to base the subsequent legal-dogmatic analysis. The starting point in this section of the exposition is a deconstructive reading of the legal language employed by the legislator. The methodological approach employed herein facilitates the delineation of the contours of the 'deeply influential hierarchies' which are implicitly embedded in the positive legal order. These hierarchies subsequently find expression in the process of law enforcement, thereby creating a favourable regulatory environment for the social exclusion of LGBTIQ+ people. In this section of the discussion, the author identifies several levels of hierarchisation. Among these is the legal definition of marriage enshrined at constitutional level, which is argued to function as a 'powerful preformative act'. This reinforces the understanding of the heterosexual union as the only legitimate form and leads to the marginalisation of 'alternative family models into the sphere of legal absence and invisibility'. The author contends that the subsequent layer of hierarchisation is predicated on the foundational principles of the legal system, namely the concept of the legal subject, situated between the 'universal' and the 'specific'. It is indicated that the conceptualisation of the abstract 'universal' subject frequently obscures the unarticulated norm of the heterosexual, cisgender citizen. The author's position is that this level of hierarchisation results in the reformulation of the legitimate human rights demands of LGBTIQ+ people from a question of universal equality into a question of the granting of a 'specific privilege'. A significant contribution of this section of the thesis is the organic intersection established between deconstruction and queer theory, which lays the conceptual and theoretical foundations for the subsequent historical and legal-dogmatic analysis.

Following an examination of the transformative mechanisms, the discussion in Chapter One logically flows into a conceptual clarification of the acronym 'LGBTI'.

While acknowledging its mobilising power, the author also highlights its shortcomings, linked to the use of this acronym as a collective term to denote a group of individuals who are heterogeneous in terms of their legal claims. In his view, this state of affairs has the practical effect of reducing demands for legal recognition of gender to scenarios governed by family law. This, in turn, creates conditions that allow for a denial of justice. In order to provide a counterpoint to this identified shortcoming, the author introduces the four dimensions of the internationally established SOGIESC analytical framework – sexual orientation, gender identity, gender expression and sex characteristics – analysing each of them separately and drawing attention to the interpretative potential of the Yogyakarta Principles.

Chapter Two, entitled 'The Historical-Legal Genesis of the Status of LGBTI People in Bulgaria', traces the development of the legal and historical framework relating to the subject of the study. The scope of this retrospective analysis encompasses the legislative framework that emerged in the post-liberation era, the criminal repression under the totalitarian state, and the adoption of the current Constitution of 1991. A significant contribution of this section of the study is that it facilitates comprehension of the author's thesis regarding 'contemporary normative silence and the construction of the heterosexual model as the sole legally relevant one' by situating it within the historical genesis and evolution of the phenomena observed.

The second part of the thesis contains a comparative legal analysis conducted both horizontally and vertically. In the course of the horizontal comparative review, the author highlights a trend whereby the constitutional courts of the majority of the countries covered are resorting to interpretative techniques that enable the adoption of new perspectives on the content of individual constitutional provisions, influenced by developments in legal thought and by the evolving perception of the legal status of LGBTI people. The vertical analysis incorporates a selection of rulings from the European Court of Human Rights and the Court of Justice of the European Union that are deemed to be of fundamental importance to the subject under study. The broad casuistic foundation upon which this part of the thesis is based enables the author to draw the well-founded conclusion that 'the level of protection is not historically predetermined, but is the result of a conscious sovereign choice—whether the national legal order will embrace judicial dialogue and European integration, or limit itself to judicial resistance and institutional isolation'.

The primary argument of the third part of the dissertation, entitled 'Constitutional Legal Regime and Practice in the Republic of Bulgaria', presents a thesis that has been developed in a coherent manner. This thesis posits that the approach of originalist interpretation of the applicable legislation, which predominates in national jurisprudence, engenders inconsistencies within the domestic legal framework and gives rise to tensions in relation to values of the highest constitutional order, as well as to the country's international obligations. The author's critical stance towards this approach is in line with the trend, recognized by a number of European constitutional courts, according to which the outcome of originalist interpretation is legally relevant only insofar as it is supported by the application of other methods of interpretation recognized in legal theory, including systematic and teleological interpretation.

The absence of any research effort to trace the most recent practice of the Bulgarian Constitutional Court in which the principles of the rule of law and the respect for and protection of human rights and fundamental freedoms are explicitly highlighted as constituent elements of constitutional identity is a significant oversight. Emphasis on this aspect of jurisprudence would enhance the work by facilitating an examination

of the legal problem at hand from an alternative analytical perspective and by the development of a theoretical construct to overcome the systemic paradox in the practice of Bulgarian courts, whereas the invocation of the concept of constitutional identity results in the emptying of its essential, constitutive components of meaning.

In the concluding part of the dissertation, the main results of the research are comprehensively summarized, and corresponding de lege ferenda proposals are formulated.

II. Conclusion:

In view of the foregoing, including the identified specific contributions as well as the outlined potential for improvement, I give a positive evaluation of the dissertation “Protection of the Fundamental Rights of LGBTI People Within the Constitutional Framework of Bulgaria” The doctoral candidate has presented a serious and in-depth study. The highlighted scientific and contributory results attest to the thorough knowledge, analytical precision, and capacity for independent research demonstrated by the doctoral candidate, Filip Samuilov.

The dissertation meets the requirements of the Act on the Development of the Academic Staff and its Implementing Regulations. Therefore, I propose that the esteemed Scientific Jury award the educational and scientific degree “Doctor” to Filip Robert Samuilov, doctoral candidate at the Law Department of New Bulgarian University.

Member of the Scientific Jury:

Assoc. Prof. Dr. Radoslava Yankulova

Plovdiv, 31.08.2026