

Academy of National and Information Security

OPINION

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Field of Higher Education: 9. “Security and Defense”
Professional Field: 9.1. “National Security”

of the dissertation work of

TSVETANA VALENTINOVA BURZINSKA

**„ THE FUNCTIONS OF THE PROSECUTOR'S OFFICE WITH REGARD TO
THE NATIONAL SECURITY OF THE REPUBLIC OF BULGARIA“**

presented for the acquisition of the educational and scientific degree “Doctor”
in the field of higher education: 9. “Security and Defense”,
professional direction: 9.1. “National Security”,
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1. Relevance and significance of the scientific problem being developed

Regarding the dissertation submitted for consideration by the author Tsvetana Burzinska, I can say that I am not aware of any similar scientific studies examining the Prosecutor's Office of the Republic of Bulgaria as a body of the judiciary in its role of institutional commitment to the national security management system. The institutional necessity of the Prosecutor's Office's presence in decision-making affecting the stability, protection and sustainability of the state, including when discussing policies for prevention and response to security threats, is clearly emphasized.

The dissertation emphasizes that legal security – the core of internal security – is guaranteed by the functions that the prosecutor's office performs in criminal proceedings and beyond in protecting public order and the rights of citizens. The prosecutor's office influences the observance of the rule of law not only by implementing the criminal policy of the state, but also by supervising the security services, by participating in the fight against terrorism and by measures against money laundering. These functions, described in detail in the dissertation, are directly related to national security, because they prevent social, economic and institutional crises.

The role of the prosecution service also stands out in the protection of the financial interests of the EU, as the dissertation pays particular attention to the criminal structures - fraud, embezzlement, corruption crimes, money laundering and crimes committed by organized criminal groups throughout the EU, with special attention being paid to crimes with a "special subject" - funds from EU funds, the improper management and spending of which undermines economic stability, social security and public trust. The dissertation shows that the protection of the EU budget has a direct impact on national security, and the prosecution service has a central role in its protection.

2. Evaluation of the scientific results and contributions of the dissertation work

The contributions of the doctoral student can be presented in the following groups:

Theoretical contributions:

1. A complex theoretically and practically substantiated thesis has been formed on the role of the prosecutor's office in protecting national security, including by clarifying the model of interaction between the Prosecutor's Office of the Republic of Bulgaria and the European Prosecutor's Office.

2. A discriminatory analysis has been made of the special subject "funds from funds belonging to the EU or provided by the EU to the Bulgarian state" contained in the Criminal Code of the Republic of Bulgaria and it has been concluded that the issue of clarifying the ownership of the property, the subject of the criminal encroachment, is factual and should be clarified in each specific case.

3. The criminal law structures related to crimes against the financial interests of the EU are theoretically clarified and practical guidelines for their investigation are given, including through examples from case law.

4. The importance of legal certainty in the context of national security is substantiated, concluding that in times of severe crises, dangers and challenges, the state relies to a large extent on legal certainty as part of the overall system for protecting national security.

Proposals for legislative amendments, additions or creation of new norms - "de lege ferenda", with a view to improving the current law (de lege lata):

1. Addition of Article 206a (new) of the Criminal Code, the purpose of which is to protect the embezzlement of European funds when committed by a person who does not have an official capacity with respect to the funds – the subject of the crime, in which he commits embezzlement under Art. 206 of the Criminal Code, and not official embezzlement under Art. 202, para. 2, item 3 in conjunction with Art. 201 of the Criminal Code. This person may also have an official capacity, but if there is no functional connection between this capacity and the work assigned to him for the protection and management of foreign property in the structure of the relevant legal entity (state enterprise, cooperative, public organization, other legal entity or sole proprietorship), which is also the owner of this property, he cannot be held liable for official embezzlement.

2. Harmonization of the criminal law protection of national co-financing – explicit inclusion in the subject of the crimes under Art. 202, para. 2, item 3 and Art. 212, para. 3 and Art. 254b of the Criminal Code of the funds from national co-financing by analogy with Art. 248a, para. 2 of the Criminal Code, since the Law on the EFSF considers the national co-financing provided for in the programs as funds from the EFSF. This would enable the protection of national funds to be achieved, equal to that provided for funds from the European funds.

3. Creation of a criminal section under a new Art. of the Criminal Code, with the object of protection being the legal award and implementation of public procurement under the Public Procurement Act, since the Bulgarian Criminal Code does not criminalize criminal behavior specifically related to the award and implementation of a public procurement or an unlawful refusal to award a public procurement, and the existing criminal codes do not cover all possible abuses in the field of public procurement, which leads to a lack of protection of EU spending in this area.

4. For the full harmonization of the national criminal legislation with Directive (EU) 2017/1371, it is proposed to provide for a section in the Criminal Code for "customs fraud", and the executive act of the crime should be distinguished from its analogous administrative violations under the customs legislation (Art. 234 of the Customs Act) by the degree of public danger. The need to adopt such a text of Art. 242b (new) is justified, which protects serious encroachments precisely against these public relations.

Proposals for institutional interaction:

1. Creation of joint analytical teams between the PDB, EP, AFCOS and the managing authorities of the operational programs in the Republic of Bulgaria for the exchange of experience and analysis of current challenges in the investigation of crimes affecting the financial interests of the EU.

2. Expansion of training programs for prosecutors, including in the field of new technologies, cryptocurrencies, financial and tax legislation, management and control of European funds from European funds and programs, as well as on the manifestations of

terrorism, given its dynamic nature and its growing importance as a threat to national and international security.

3. Creation of a mechanism /platform/ for the exchange of information between the presidents of the District Courts in the Republic of Bulgaria, competent to authorize the use of SRC, through which to avoid compromising the evidentiary value of SRC (for example, allowing the exploitation of SRC, as a result of which VDS were prepared, beyond the permitted legal deadlines), as well as as a guarantee for compliance with the rights of citizens.

The author's participation in obtaining the contributions to the dissertation work and the 4 publications in scientific journals can be highly appreciated. Obviously, as a long-time employee in a judicial body of the Republic of Bulgaria, he is provoked by the need for the development of criminal law, the procedures for interaction between the control bodies in the Republic of Bulgaria and the EU, and the training of law enforcement agencies.

3. Opinion on the presence or absence of plagiarism

No plagiarism was found in the dissertation work and in the publications related to it.

4. Critical notes and suggestions

Some recommendations can be made to the dissertation research presented in this way with a view to optimizing the work in future research in this direction:

1. To make the necessary efforts to approbate and publish the results of the study, in order to provoke a discussion on improving the organization of the interaction between the Prosecutor's Office of the Republic of Bulgaria, the EP and the law enforcement agencies of the Republic of Bulgaria.

2. To make a subsequent attempt at an in-depth analysis, which would serve to introduce a new model for the organization and management of the activity of proving the guilt of the perpetrators of crimes affecting the financial interests of the EU and of crimes committed by Bulgarian and foreign citizens on the territory of the EU, subject to the jurisdiction of Bulgarian courts.

The indicated possibilities do not belittle the merits of the dissertation work and do not affect the scientific contributions, but will contribute to their more precise disclosure.

5. Conclusion

The presented dissertation covers the regulatory requirements for acquiring the ONS “doctor”. It is the doctoral student’s own work and characterizes him as a conscientious and correct researcher.

The work is clearly the fruit of his practical experience, knowledge and ability to collect and analyze available information. This allows him to link theory with practice and propose legislative changes “de lege ferenda” and new forms of institutional interaction.

6. Evaluation of the dissertation work

Considering the theoretical statements in the scientific work, the proposed practical innovations and the proven contributions to science, law and practice, I give my positive assessment and propose to the esteemed jury to award Tsvetana Valentinova Burzinska the scientific and educational degree “Doctor” in professional field 9.1. “National Security”.

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Plovdiv

Prepared the opinion:

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