

## **REVIEW**

**of a doctoral dissertation**

**for obtaining the educational and scientific degree**

**"DOCTOR"**

**Field of higher education: 3. Social, Economic, and Legal Sciences,**

**Professional direction 3.3 Political Science (Comparative Politics)**

**Doctoral Program Political Science (Comparative Politics)**

**Author of the dissertation:**

**Bianka Borislavova Bogoevska**

**doctoral student at the Department of Political Science**

**in the Faculty of Philosophy at Sofia University "St. Kliment Ohridski"**

**Topic of the dissertation:**

**"Judicial and Parliamentary Accountability of the Executive Authority in Counteracting  
Terrorism in Bulgaria, Great Britain, and Germany in the Period 2009-2020"**

**Academic supervisor: Assoc. Prof. Daniel Smilov**

**Reviewer: Prof. Martin Belov**

I have been appointed as a member of the academic jury by the Rector's Order of Sofia University No. RD-38-111 dated February 21, 2024, for awarding the educational and scientific degree "Doctor" in the professional field 3.3 Political Science (Comparative Politics). After getting acquainted with the dissertation and other documents attached to the application, I have reached the following conclusions:

### **BRIEF BIOGRAPHICAL INFORMATION ABOUT THE DOCTORAL CANDIDATE**

Doctoral candidate Bianka Bogoevska is a regular doctoral student in the field of Comparative Politics at Sofia University "St. Kliment Ohridski". According to the attached autobiography, she has interests in the field of international security, human rights, and communication analysis. Ms. Bogoevska holds a bachelor's degree in Political Science from Sofia University "St. Kliment Ohridski" and a master's degree in "Law and Politics of International Security" from the Free University of Amsterdam. As part of her bachelor's program, she studied international relations for one semester under the Erasmus+ program at the University of Warsaw. The master's thesis of the doctoral candidate is dedicated to the narratives related to the establishment and development of accountability mechanisms of Europol. Bianka Bogoevska works as a senior media analyst and is a co-founder of Amnesty International Bulgaria.

## **INFORMATION ABOUT THE DOCTORAL PROGRAM**

Bianka Borislavova Bogoevska was enrolled as a regular doctoral student with the Rector's Order of Sofia University "St. Kliment Ohridski" for enrollment in a doctoral program No. RD 20-353/05.02.2020. The doctoral student was expelled with the right to defend her dissertation on January 31, 2022. The academic supervisor of Ms. Bogoevska is Assoc. Prof. Daniel Smilov.

Bianka Bogoevska has two publications on the topic (one of which is forthcoming). These are the articles:

Bogoevska, B. (2023). The Place of Human Rights and the Rule of Law in the Media Coverage of Terrorism: A Comparison between Bulgaria and Germany (2009-2020). In: Angelova, V. and Popova, S. (eds.), *Medialog* (pp. 122-148).

Bogoevska, B. (2024). Dynamics in the Normative Regulation of Judicial Control over the Preventive Anti-Terrorist Powers of the Government in Bulgaria (2009-2020). In: *Postglobalism: Crisis and Future*. - To be published by Southwest University "Neofit Rilski", certification attached on page 2.

She also has an additional publication, namely the article:

Bogoevska, B. (2022). Communication Approaches of Government Leaders in Bulgaria and Germany Regarding the Coronavirus Pandemic: A Comparative Discursive Analysis (March 2020 - July 2021). In: Manov, B. et al. (eds.), *Collection of doctoral developments presented at the Doctoral School and 5th Doctoral Scientific Session of the Faculty of Philosophy at Southwest University "Neofit Rilski"* (pp. 299-318).

## **GENERAL CHARACTERISTICS OF THE DISSERTATION**

The dissertation is on the topic "Judicial and Parliamentary Accountability of the Executive Authority in Counteracting Terrorism in Bulgaria, Great Britain, and Germany in the Period 2009-2020." It consists of 220 pages (66,387 words). The development includes a title page, table of contents, bibliography, and substantive text. In the substantive part of the dissertation, there are an introduction and four chapters (including a conclusion), with the chapters further divided into separate structural parts. The work contains 345 footnotes. The list of used literature includes sources in English and Bulgarian, both primary and secondary sources. Articles in the media, as well as numerous legislative acts and judicial decisions, have also been reviewed and cited.

## **CONTRIBUTIONS AND WEAKNESSES OF THE DISSERTATION**

The dissertation is dedicated to the projections of a fundamentally important topic in constitutional law and political science. This is the issue of the accountability of the executive authority. It is central to parliamentary systems as a whole and to the three constitutional systems on which the doctoral candidate has focused her research – Bulgaria, Great Britain, and Germany. The issue of government accountability and its responsiveness as part of it has been thoroughly and deeply studied both in global and Bulgarian constitutional theory. It has also been addressed in political philosophy, political science, and political theory. From the dissertation, it is evident that the doctoral candidate is familiar mainly with the literature related to non-legal studies.

The dissertation examines the topic not from a general theoretical perspective in political science or constitutional law but from the perspective of sectoral policy and a specific theoretical discourse. It deals with the projections of government accountability in the specific area of counter-terrorism and related policies. In this sense, the development has cognitive potential and could provoke interesting sectoral discussions. This is due both to the significance of counter-terrorism policies and to the genuinely interesting problem of how these policies reflect on the inter-institutional relations of "government-parliament" and "government-judiciary".

The author places at the center of her study what she defines as the "almost axiomatic understanding" that "counter-terrorism measures in recent years have led to a disproportionate expansion and decreased accountability of the executive authority." The central thesis of the dissertation is that "a global crisis like that of 2015 does not reduce, but even partially strengthens the accountability and accountability of the executive authority in the three states." Bogoevska argues that "the crisis of 2015 paradoxically does not lead to further deterioration in this regard, but to partial progress within the broader regression that has developed since 2001." She believes that this is due to "the multitude of criticisms (e.g., from the European Parliament regarding extrajudicial (probably the author means illegal – my note M.B.) detentions on the territory of European states, as well as the governments' own desire to be more effective and the increased perception of parliaments and courts not as obstacles, but as allies in a common fight against terrorism."

In the context of visible trends towards deparliamentarization, agencification, and judicial management in recent years, this counterintuitive thesis of the doctoral candidate is interesting and draws attention to the intellectual provocation it carries. The thesis is supported by specific data, from which it appears that, especially in the field of terrorism prevention, there is no strengthening of the executive authority, but rather the executive branch is "tamed" and its potential abuses are controlled through mechanisms of parliamentary accountability and judicial responsibility (partly incorrectly defined by the author as "accountability").

Although the reading of the dissertation did not convince me of this thesis, it cannot be denied the significant empirical material provided by the doctoral candidate, as well as its interesting interpretations. Therefore, I would give priority to the efforts of the doctoral candidate, rather than to my understanding, as science is often an intellectual dialogue that does not necessarily (and in a postmodern situation even impossibly) end in unanimity.

In other words, I believe that a study dedicated to analyzing the specifics of inter-institutional relations leading to government accountability in the field of counter-terrorism is useful and new for the Bulgarian scientific discourse. The dissertation systematizes information and data and offers theses that have the potential to provoke debate on this important and interesting topic with theoretical and practical significance.

According to the author's explicit intention, the dissertation is based on two theoretical discourses. Bogoevska defines them as the theory of "the initial perception of accountability as a basic pillar of the rule of law" and the theory of the so-called militant democracy. The second term is not undisputed as a translation into Bulgarian and is not exhausted only by the theories of the three authors mentioned in the dissertation, but is rather widely accepted, for example, in German constitutional theory mainly in the form of "democracy prepared for resistance" (streitbare Demokratie, wehrhafte Demokratie).

Bogoevska defines the object and methodology of the study in a logical manner that is fundamentally capable of leading to important and scientifically grounded conclusions. She declares the study to be based on a mixed comparative analysis of three countries – Bulgaria, Great Britain, and Germany. The author states her intention for the dissertation to offer "a combined normative analysis of changes in legislation, quantitative research on the application of preventive anti-terrorism measures (those outside criminal law), illustration of judicial practice through selected cases on appeals, as well as quantitative and to a lesser extent qualitative analysis of parliamentary questions raised. The choice of the three countries is based simultaneously on their similarities and differences."

The originally laid out object of analysis is sequentially and logically conducted. The conclusions correspond to the scientific problem posed and the stated scientific methodology.

The strengths of the dissertation work are related to the analysis of the specific political field under analysis, namely the fight against terrorism. A review of the literature has been conducted, and trends in the development of the problem have been identified. The dissertation builds on the theses of classical authors in the field of the rule of law. The theses of leading researchers are presented correctly. Unfortunately, Bulgarian literature in the field of the rule of law and the supremacy of law is not exhaustively represented, and some significant legal studies have been missed.

The methodological choice made is logical both in terms of the problem posed and the placement of the dissertation work in the field of humanitarian knowledge. The choice of the three states is not indisputable but possible.

Legislation related to counter-terrorism measures has been presented and analyzed. However, the analysis of legislation has not been conducted with a view to isolated problems, phenomena, or social or legal institutions, but rather as acts taken one by one and examined in and of themselves. From this analysis, it is not clear enough what its connection is to the problem posed, namely the accountability of the executive branch and the government in the fight against terrorism.

In my opinion, one of the important contributions of the dissertation work is the examination of refusals to grant international protection and forcibly returned persons under coercive administrative measures (DAB). The author offers an interesting analysis of the presented data. The conclusions are interesting and original.

Another contribution to the study is the analysis of data on the application of SRAs (Special Restriction Areas), as well as reports from DANS (State Agency for National Security) related to data on DAB and individuals included in the database of unwanted foreigners for the country. The analysis of the updating of the list of individuals, legal entities, groups, and organizations subject to measures under the Law on Measures against Financing Terrorism is also interesting.

The study of judicial control over measures in Bulgaria also has a contributory character. Although it is not clear why the author calls it "practical," the study is based on a series of landmark cases. The author's contribution lies both in the gathered information and in its analysis.

The analysis of the practice of the National Assembly regarding parliamentary control, dedicated to issues of counter-terrorism (p. 88 ff.), is also contributory. The author's discussions regarding the low number of questions posed, as well as the assessment made of the Bulgarian case according to the criteria of the rule of law, are valuable. The conclusion made on p. 98, that "the increased terrorist threat in Bulgaria since 2015 leads to the strengthening of the rule of law in the field of counter-terrorism by all standards – justifying administrative acts, limiting the discretion of the executive branch, and equally applying the laws," is interesting.

The study of the British and German cases also holds significant informative value. The analysis offered by the author is interesting and contributes to both the comparative and contextual analysis of the problem. Unfortunately, the author adopts a rather descriptive approach to presenting individual laws. This approach is preferred over the problematic, phenomenological, or institutional analysis—a weakness that was also noted above in this review regarding the study of the Bulgarian case. In my opinion, this approach contributes to the informative but diminishes the analytical value of the dissertation.

In the study of the UK and Germany, as well as in the analysis of Bulgarian practice, the contributions are related to empirical research. They concern not so much the legal analysis, which is accompanying and sometimes problematic, as the tracing of empirical trends and regularities. In fact, this constitutes the main contribution of the dissertation.

Critical remarks can also be directed towards this dissertation. They can be delineated in three main directions—structural problems, conceptual and terminological shortcomings, and substantive issues. Drawing conclusions based on assessments of journals, albeit prestigious

ones, can be considered problematic. It is not a correct scientific approach to draw conclusions about the degree of development of democracy from publications, e.g., in *The Economist* (p. 5).

The structure of the development has some shortcomings from my point of view. For me, it would be more useful if it were organized around problems rather than around the description of individual constitutional and political systems. The section "Comparison" (p. 182 ff.) is incompletely titled and is "hanging" structurally. The separation of a structural part dedicated to a "review of the literature," again grouped by countries rather than by problems, also does not contribute to the analytical power and persuasiveness of the development.

The substantive weaknesses are evident in several areas. The thesis that "not every major crisis in the security field leads to a crisis in the rule of law; on the contrary, the crisis can be a catalyst for the sustainability and flexibility of democracy" is debatable and unproven. From the study, it is not clear how exactly parliamentary power and status have strengthened in recent years (p. 6).

A central issue in the dissertation is the "judicial and parliamentary accountability of the executive branch regarding their measures - authorities and actual steps - in their fight against terrorism." This is a conceptual problem, not just a matter of terminology. The responsibility of the government and the executive branch is political and does not simply boil down to accountability. Ministers and the prime minister bear judicial responsibility, not the executive branch.

Furthermore, from a holistic reading of the dissertation, it appears that the author primarily connects government accountability with the rule of law. At the same time, an established understanding in contemporary constitutionalism is that responsibility (and what the author calls accountability (probably a Bulgarian translation of accountability)) are rather elements of democracy and the democratic state, although they also have a reflection in the principle of the rule of law (referred to by the author as "rule of law"). The dissertation lacks sufficient analysis of the connection between the issue under consideration and democracy and the democratic state, placing excessive emphasis on the relationship of the topic to the rule of law. This creates substantive and conceptual asymmetry, which is unjustified.

The main terminological and conceptual problems of the dissertation are as follows. The author introduces concepts that are controversial and not explained, such as "militarization of democracy" or "militant democracy." It is not clear why the author uses an English term like "judicial review" when there is an established Bulgarian term "съдебен контрол." Similarly problematic from a legal perspective is the term "съдебен мониторинг" (correct term is "съдебен контрол") and "парламентарен мониторинг" (correct term is "парламентарен контрол"). On p. 85 of the dissertation, there is mention of "законово постановените форми на парламентарен надзор в България" which is incorrect because there are constitutionally (not legislatively) established (not prescribed) forms of parliamentary control (not oversight). "Лостове за парламентарен контрол" also do not exist as a legal term. In fact, the author

examines legislatively established instruments for informing parliament on counter-terrorism issues, without linking them to the corresponding constitutionally established forms of parliamentary control. Hence, it is not clear whether the author understands the connection between parliamentary control according to the 1991 Constitution and its legislative development.

There is also a serious mixing of central concepts with established meanings, such as responsibility, responsiveness, accountability, etc. These concepts have an established meaning in constitutionalism and constitutional law and are sometimes incorrectly used in the present dissertation from a constitutional law perspective. I could argue in favor of the doctoral candidate that Ms. Bogoevska is trying to use them in a specific political science conceptual system that does not necessarily coincide with constitutionalism.

It should also be noted that internal ministries are not authorities, as stated in the dissertation. They cannot be "authorized representatives of the executive branch." It is impermissible from a constitutional and administrative law perspective to consider a "subordinate ministry to take into account both the institutions headed by the ministers themselves and the agencies attached to them, whose functions are in the field of security - police departments (including border control) and migration services." Such a composite veto actor may eventually be argued and justified from a political science perspective, but such a clarification has not been made (presumably it is assumed to be implied).

It should be emphasized that judicial responsibility is neither control, nor oversight, nor monitoring, as claimed by Ms. Bogoevska: "normatively regulated judicial accountability (also referred to as 'control,' 'oversight,' 'monitoring')." It is also incorrect to speak of "parliamentary oversight" when referring to parliamentary control as an established concept in parliamentary and constitutional law.

I am obliged to note these significant weaknesses in the conceptual and terminological apparatus used. These are problematic issues from a legal, respectively constitutional law perspective. However, it is possible to maintain the thesis of a certain autonomy of the political science conceptual system from the constitutional legal one, which is why in my capacity as a constitutionalist, not a political scientist, I will allow myself not to consider the mentioned problems as decisive.

Finally, it should be noted that the statement on p. 183, that "the types of measures are largely incomparable between the three countries" raises some concerns. The conclusion at the end of the dissertation about the incomparability of the measures under study raises doubts about the overall choice of the research topic. Nevertheless, I am inclined to give the doctoral candidate the benefit of the doubt, assuming that this is a statement imprecision or generalization of a particular conclusion, which, if true, should not raise concerns regarding the overall concept of the research.

## **Conclusion**

In conclusion, I believe that the dissertation presented by the doctoral candidate contains scientific and scientifically applicable results that represent a contribution to Bulgarian science. I consider that the dissertation demonstrates that the candidate possesses theoretical knowledge in the respective field and abilities for independent scientific research, as defined in Article 6, Paragraph 3 of the Law on the Development of the Academic Staff of the Republic of Bulgaria (LDSASRB) and Article 27 of the Regulation on the Implementation of LDSASRB. Therefore, based on the positive assessment made in this review, I recommend to the Academic Jury to award the educational and scientific degree of "Doctor" to Bianka Borislavova Bogoevska in the professional field 3.3 Political Sciences (Political Science) in higher education.

City: Sofia

April 30, 2024

Reviewer:

Prof. Dr. Martin Belov