# REVIEW

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appointed by Order of the Director of the Institute for the State and Law at the Bulgarian Academy of Sciences as an external member of the academic jury for the defense of a dissertation for the award of the scientific degree “Doctor of Sciences” with candidate **Gergana Marinova Marinova**, professional field “Law” (3.6), academic specialty “Criminal Procedure Law”.

Gergana Marinova graduated in Law from Sofia University Faculty of Law in 1999. She began her academic career in 2000 as a research fellow at the Institute for the State and the Law (ISL) at the Bulgarian Academy of Sciences, where she obtained her PhD in 2005, was appointed associate professor in 2010, and became a professor in 2018. Between 2008 and 2017, she also held administrative positions at ISL, including Scientific Secretary and Deputy Director. Since 2001, she has also been a lecturer at the Academy of the Ministry of Interior, where she has progressed through all academic positions from Assistant to Professor. She has completed several specializations abroad and has participated in European scientific projects.

The dissertation entitled **“The Principle of Inner Conviction in Bulgarian Criminal Procedure”** comprises 213 pages, including an introduction, four chapters, a conclusion, and a bibliography. It contains 154 footnotes and references numerous sources in Bulgarian and other languages.

The work predominantly uses normative, comparative-legal, and historical-legal approaches. The legislation and legal practices of the USA, UK, Italy, Germany, and France are skillfully analyzed. The author suggests incorporating elements from these systems into future amendments to the Bulgarian Criminal Procedure Code (CPC). The jurisprudence of the Supreme Court of Cassation (SCC) is also comprehensively examined.

This is the first monographic study in Bulgarian legal literature dedicated to the principle of inner conviction—despite it being a fundamental concept in criminal procedure, underlying various models of the criminal process: inquisitorial,

investigative, adversarial, and mixed systems – it has not been thoroughly analyzed so far. The principle directly impacts criminal evidence evaluation, which is acknowledged as the most essential component of criminal procedure. Without thorough evidence assessment, judicial errors are inevitable. The dissertation is timely and significant because it sheds light on vital aspects of evidence assessment, namely admissibility, credibility, and sufficiency. A novel approach is taken: instead of the traditional objective/subjective analysis, the principle is viewed as a method of evaluating evidence and in light of different standards of proof.

The focus is on which aspects of evidence evaluation are determined by inner (free) conviction and which by legal norms. This perspective introduces new knowledge in terms of evaluating admissibility, credibility, and sufficiency of evidence. Although the concept of "standard of proof" is not defined in Bulgarian law, the dissertation identifies relevant legal hypotheses defining various standards of proof despite the different terminology used.

The articulation of inner conviction in judicial reasoning is analyzed in a broader context. The author emphasizes not only how reasons are formulated under different standards but also their importance to the justice system and public trust.
Though appearing theoretical at first glance, the topic has profound practical implications. The principle of inner conviction applies throughout criminal proceedings and across all procedural authorities. Its correct understanding and application ensure reliable evidence assessment and achievement of justice. The work also offers generalizations and conclusions that serve as practical recommendations for legal practitioners, especially in formulating judicial reasoning. Furthermore, the dissertation makes **legislative contributions**, with arguments for proposed amendments to the CPC—some at a conceptual level, others with concrete legal drafting.

The **key contributions** can be summarized as follows:

Historical analysis of the principle's evolution, not as a dry account, but with depth and critique. It traces how trial by combat and formal evidence systems gave way to free evaluation and how the principle was adopted in Europe, Russia, and post-Liberation Bulgaria.

For the first time, Article 14 of the Bulgarian Criminal Procedure Code (CPC) is analyzed from a new perspective. Traditionally, it has been understood as governing decision-making based on inner conviction, rather than the evaluation of

evidence. The dissertation argues that Article 14 CPC does not merely expand the scope of inner conviction but actually substitutes it with decision-making. Based on this interpretation, a legislative proposal (de lege ferenda) is made to rename Article 14 to “Free Evaluation of Evidence” and to repeal its first paragraph.

A highly valuable comparative analysis has been conducted between Article 14, paragraph 1 of the Bulgarian Criminal Procedure Code (CPC), which governs the principle of inner conviction, and Article 10, which formulates the principle of judicial independence. Based on this comparison, the conclusion is drawn that "decision-making based on inner conviction," as stated in the title of Article 14 CPC, essentially means independent decision-making. In this sense, the fundamental thesis is justified that Article 14, paragraph 1 CPC, although formulated differently and using different expressions, essentially repeats the already established principle of judicial independence found in Article 10 CPC. Bulgarian legal scholars are cited who explain the principle of independence through the principle of internal conviction, yet still continue to treat them as two separate principles. For the first time in Bulgarian legal literature, the dissertation substantiates the view that the principle of inner conviction has two meanings—one broad, synonymous with judicial independence, expressed in Article 14, paragraph 1 CPC, and one narrow, essential meaning related to the evaluation of evidentiary materials, found in Article 14, paragraph 2 CPC.

It is critically examined the established definition of "inner conviction" in Bulgarian legal literature, which traditionally considers it as certainty that excludes any doubt about the correctness or incorrectness of a given position, accompanied by a readiness to act accordingly. The dissertation challenges this understanding by citing various provisions of the Bulgarian Criminal Procedure Code (CPC), demonstrating that inner conviction does not always equate to absolute certainty.
Based on this reasoning, the study argues that the conventional approach, which focuses on conviction as certainty, is fundamentally inadequate for fully explaining the principle of evaluating evidentiary materials based on free conviction. Instead, a deeper analysis of the essential characteristics of this evaluation is proposed, summarizing key aspects such as: the subject, purpose, and participants in the evaluation process; the principle that the evidentiary assessment by one procedural authority is not binding on another; the absence of explicit legal rules governing this evaluation; the idea that internal conviction is reflected in the reasoning behind judicial acts and is subject to review by higher instances. This argumentation offers

a refined and more comprehensive interpretation of inner (free) conviction, emphasizing its significance in evidentiary evaluation rather than solely equating it with judicial certainty.

After clarifying the subjects of the principle, an answer is provided to the question of whether the exercise of leadership, supervisory, or control powers restricts it. The analysis of contradictory case law is of significant practical value, along with the resolution of the issue whether the prosecutor's instructions for conducting investigative actions or establishing certain facts constitute instructions on the application of the law or not and thus are permissible or impermissible in the process of judicial review of the prosecutor's ruling on terminating pre-trial proceedings.

In the second chapter of the work, a different scientific approach and context are adopted in analyzing the stages of the process of proving facts in criminal proceedings. A successful attempt is made to demonstrate that criminal procedural science should consider these stages in a narrower sense, focusing on the evaluation of evidence. The practical activity of gathering evidentiary materials, i.e., applying investigative methods of gathering evidence, belongs primarily to the domain of forensic science.

The analysis of relevance and legality assessments as parts of the admissibility evaluation of evidence should be regarded as new knowledge. In this context, the legislation and practice of the USA, Ireland, and the ECtHR have been examined in order to summarize the rules for excluding unlawfully obtained evidence. On this basis, a conceptual framework for the Bulgarian regulation on the inadmissibility of evidence has been developed. In the proposed scheme, the inadmissibility of evidence is primarily presented as a guarantee of the reliability of knowledge. A fundamental rule is outlined: relevant facts should be excluded from the process only when it is initially clear that they are not reliable or if there is such serious doubt about their reliability that admitting them would be meaningless. Secondly, the exclusion of evidence is considered a guarantee for the protection of fundamental rights. Three proposals *de lege ferenda* are evaluated as significant contributions: 1) The idea that the subsequent approval of the protocol of an investigative act by a duty judge is unnecessary and meaningless is convincingly defended; on this basis it is proposed that the relevant provision should be repealed, as it does not contribute to the protection of citizens' rights. Real protection lies in the exclusion of evidence, which should occur at the stage of trial on the merits. 2) Although indirectly, the

legislator is addressed with the question of whether the CPC correctly outlines the hypotheses for preliminary and subsequent judicial control in terms of protecting citizens' rights. A proposal is made to unify judicial control over the three investigative methods (inspection, including of a person, search including of a person, and seizure). 3) Convincing arguments are also provided for introducing judicial control specifically for the inspection of a dwelling, similarly to the current judicial control over home searches.

In analyzing the inadmissibility of evidence in order some professional and personal relationships to be protected, two proposals to supplement the CPC are substantiated. The first one is Art. 121 of the CPC to be amended by introducing a ban on questioning as a witness the translator who interpreted for an attorney and his/her client – civil party or private prosecutor at the proceedings. The second proposes, following the model of the Religious Denominations Act, a ban on questioning clergy as witnesses regarding circumstances disclosed during confession.

In exploring the exclusion of evidence gathered beyond the established time limits for conducting the investigation, relevant statistical data are cited and analyzed. Based on this, additional and substantial arguments support the existing thesis in legal literature that Art. 234, para. 7 of the CPC should be revised, as its current wording is internally contradictory.

A novelty in Bulgarian legal literature is the special analysis of the so-called "mandatory admissibility" scenarios. Regarding the mandatory questioning of the sole eyewitness under Art. 244, para. 1, item 3 of the CPC, a critical analysis is made, and a new version of the text is proposed: *"if the sole eyewitness cannot be questioned, including via delegation, videoconference or teleconference, and their testimony is of exceptional importance to uncovering the truth."*

When evaluating the credibility of evidence, special emphasis is placed on the role of intuition in that evaluation. Different and even entirely opposing views are found in the literature. For the first time, it is asserted that evidence evaluation is a logical activity influenced to some extent by subjective factors, including intuition. This influence is more significant in the pre-trial phase compared to the trial phase.

Another novel contribution is the analysis of the sufficiency assessment of evidence. Until now, such an analysis and in such a context has not been made in Bulgarian legal literature. It is rightly accepted that the sufficiency assessment is not governed by legal rules and is made based on free conviction. The procedural

authority evaluates whether sufficient evidence exists to convince it, to the required standard of proof, that the alleged circumstance actually occurred. From a practical standpoint, the study of the legal hypothesis limiting the free conviction-based assessment of sufficiency is valuable. A general conclusion is drawn that this limitation is proportional to the legitimate aim pursued, as it ensures the credibility of evidence and protects the accused's fundamental rights.

In Chapter Three, new knowledge is presented, as for the first time in Bulgarian legal literature, the free conviction-based evaluation of evidence is studied in the context of different standards of proof—a concept that is not legally defined and has not been subject to scholarly study. Therefore, the comparative legal analysis of the practices and legislation of England and the USA—countries with long-standing experience in applying various standards of proof in practical procedural activities—is well justified.

It is convincingly illustrated that the CPC regulates different standards of proof, though it uses other terms and legal formulations such as "sufficient data," "sufficient evidence," "reasonable assumption," etc. It is proposed that the theoretical concept of "standard of proof" be derived from the broader concept of "burden of proof," similar to English and American law. In discussing the highest standard of proof, a comparison is made between Art. 246, para. 1 and Art. 219, para. 1 of the CPC to explore the relationship between the terms "sufficient evidence" and "necessary evidence." Through skilled interpretation, it is concluded that when submitting the indictment to the court, the prosecutor is bind by the highest standard of proof. Another significant conclusion for both doctrine and practice is that the lower standards /below "beyond any doubt"/ require a probabilistic conclusion, to varying degrees, about the relevant factual circumstances.

At the end of this chapter, a reasoned answer is given to the question of why different standards of proof exist—due to the value of the protected interest (the rights of the accused) and the practical impossibility of making all procedural decisions based on full (beyond any doubt) proof of facts. Finally, valuable recommendations, albeit only at a conceptual level, are addressed to the legislator: the law should establish and name the different standards, rather than giving different meanings to the same terms; the law should also specify the hierarchy of these standards.

The final chapter of the dissertation is dedicated to the articulation of inner conviction in the reasoning of judicial decisions. Some parts of this discussion

contain conclusions and generalizations that can be regarded as practical recommendations for drafting judgments at the first, appellate, and cassation levels. For example, the conclusion that if the appellate court fully accepts the factual circumstances as established by the first instance and finds that they are sufficiently well presented in the judgment's reasoning, it need not repeat them in its own decision. However, this does not apply to the evaluation of evidence. Such evaluation must necessarily be present in the appellate decision, regardless of whether a judicial inquiry was held. The arguments provided convincingly support this view. Of practical importance is the proposal for a broad interpretation of Art. 339, para. 2 of the CPC, suggesting that the court must explain not only why it rejects the parties' arguments, but also why it accepts them, as the court must always present persuasive reasons supporting its decision.

Notable contributions are also found in the analysis of the reasoning in cassation decisions. A detailed critical analysis is made of the Supreme Court of Cassation's (SCC) practice in cases where, upon appeal for significant procedural violations, it also checks for violations of Art. 13 CPC (establishing the principle of material truth) and Art. 14 CPC (establishing principle of inner conviction). Consequently, the SCC either rules without grounds or considers that Articles 13 and 14 of the CPC regulate principles that are also procedural rights. Thus, an important general conclusion is drawn that the SCC effectively expands cassation grounds, practically adding two more—unfoundedness of the judicial act and incompleteness of the evidence. However, formulating cassation grounds is a matter of legislative policy. Therefore, a specific recommendation is made to the legislative body—if new cassation grounds are needed, the CPC should be supplemented. If this is not advisable and the SCC is to remain a court of legal issues (review), then the CPC should be amended similarly to the Italian model, where the court only verifies the logical path followed by the lower court, based solely on the reasoning in the challenged judgment.

For the first time in Bulgarian legal literature, such a deep and detailed analysis of the significance of judicial reasoning is made. The usefulness of this study lies in the fact that the analysis is based on the relevant ECtHR case law. The importance of the reasoning for the defendant, the other parties, the higher court, and society is emphasized. Summarized criteria for evaluating the reasoning as comprehensible and persuasive are also of practical value for the courts.

Some of the theses, opinions, conclusions, and generalizations presented in this work are not entirely indisputable and will spark future discussions. But this, in itself, is valuable, as it will contribute to the development of Bulgarian law and practice. However, most of the doctoral candidate's theses are difficult to rebut, as they are skillfully and expertly substantiated with solid scientific arguments.

***In conclusion***, this dissertation can be characterized as a scientific work that does not repeat or summarize existing knowledge but contains new knowledge of importance to science, practice, and legislation. In this sense, it meets all the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria (LDASRB) and its implementation regulations. The dissertation convincingly demonstrates that the doctoral candidate possesses the necessary qualities for conducting scientific research on fundamental issues of criminal procedure and skillfully and professionally applies established research methods.

***I propose*** that this work be published, as it will enrich Bulgarian legal literature and support practical work and future legislative initiatives.

The ***abstract*** correctly reflects both the content and structure of the reviewed work. It clearly outlines the research methods used, as well as the object, aim, and tasks of the study. The contributions are accurately presented.

There are six ***publications*** related to the dissertation, which meets the requirements for admission to public defense.

Based on the submitted documentation, it is evident that the minimum national requirements for scientometric indicators under Art. 2b, paras. 2 and 3 of LDASRB and its implementation regulations for awarding scientific degree “Doctor of Sciences” have been met.

Based on the above is the

**Final conclusion** – I give a **positive evaluation** of the dissertation titled *“The Principle of Inner Conviction in the Bulgarian Criminal Procedure”* and propose that the esteemed academic jury award the scientific degree “Doctor of Sciences” to **Gergana Marinova Marinova**, in the professional field “Law” (3.6), in the scientific specialty “Criminal Procedural Law.”

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(Margarita Chinova)