**OPINION**

**by Assoc. Prof. Dr. Ivaylo Asenov Tsankov**

**appointed by Order No. RD-09-32/02.04.2025**
**of the Director of the Institute for the State and the Law**
**at the Bulgarian Academy of Sciences**
**as a member of the academic jury for the public defense of a dissertation**
**for the awarding of the scientific degree "Doctor of Sciences"**
in the field of higher education: **3. Social, Economic, and Legal Sciences**,
professional field: **3.6. Law,**
scientific specialty: "**Criminal Procedure Law**"

**Author of the dissertation:**
**Prof. Dr. Gergana Marinova Marinova**

**Title of the dissertation:**
**"THE PRINCIPLE OF INTIMATE CONVICTION**
**IN THE BULGARIAN CRIMINAL PROCEDURE"**

By Order No. RD-09-32/02.04.2025 of the Director of the Institute for the State and the Law at the Bulgarian Academy of Sciences, I was appointed as a member of the academic jury. At the first meeting of the jury, I was assigned to prepare an opinion on the dissertation. After reviewing the dissertation, the abstract, the candidate's publications, and the other documents submitted in the procedure, I have reached the following conclusions:

**1. Information about the candidate prof. Gergana Marinova and the procedure**

Gergana Marinova Marinova graduated in Law from the Faculty of Law at Sofia University "St. Kliment Ohridski" in 1999. In 2005, she obtained the educational and scientific degree "Doctor." Since September 2000, she has been a research fellow (third degree) at the Institute for the State and the Law (ISL) at BAS and has successively held all academic positions, including Senior Research Fellow II degree/Associate Professor (since 2010) and Professor (since 2018). She has taught Criminal Procedure at the Academy of the Ministry of Interior since 2001, advancing through all academic ranks from Assistant Professor to Professor. She has specialized and conducted research in Italy (University of Florence), Germany (Max Planck Institute), the USA (Northwestern University, Chicago), and the UK (Institute of Advanced Legal Studies, University of London). She has also participated in many European research projects from 2009 to the present.

Prof. Marinova participates in this procedure with the dissertation titled "The Principle of Intimate Conviction in Bulgarian Criminal Procedure", which neither repeats the topic nor any part of her previous dissertation on "Pre-trial Detention as a Coercive Measure", for which she obtained her PhD. Therefore, ***the requirements of Art. 12, para. 5 of the Law on the Development of the Academic Staff in the Republic of Bulgaria (LDASRB) are met.*** The current dissertation was reviewed and positively evaluated at an extended meeting of the Criminal Law Department at the ISL on March 19, 2025, and was subsequently recommended for public defense.

The documents submitted confirm that ***Prof. Gergana Marinova fully meets the national minimum requirements for acquiring the scientific degree "Doctor of Sciences".***

## 2. General Characteristics of the Dissertation

Prof. Marinova's dissertation is ***213 pages*** long, contains ***154 footnotes***, and follows a classical academic structure: ***title page, table of contents, introduction, four chapters, conclusion, and bibliography***. Each chapter is organized into numbered sections. The bibliography lists ***63 sources***—49 in Bulgarian and 14 in English.

The relevance, scientific, and practical importance of the dissertation derive from its topic. The principle of inner conviction is a fundamental principle in criminal procedure, permeating the entire criminal process. It significantly shapes procedural norms, defines the method for evaluating evidence, and is used by all procedural authorities in every criminal case. Moreover, it often serves as a key argument in interpreting criminal procedure provisions. Despite its importance, the principle has only been discussed in brief segments of monographs, some articles, and textbooks—lacking any comprehensive monographic study. At the same time, its legal regulation is problematic, leading to divergent interpretations in both doctrine and practice. Some interpretations clash with the principle of legality—a cornerstone of the rule of law—while others conflate inner conviction with the principle of judicial independence in criminal procedure. Therefore, the in-depth, multifaceted, and detailed analysis carried out by Prof. Marinova **enables her to make significant theoretical generalizations and original contributions to the science of criminal procedural, as well as to propose reasoned and practical solutions to substantial scientific and applied problems.**

In the **Introduction**, the need for a monographic study of the principle is justified, along with an explanation of the structure of the work.

**Chapter One** aims to clarify the essence of the principle. It begins logically with an exploration of its historical origin, tracing its emergence during the French Revolution as an alternative to the dominant system of formal (legal) evidence. The adoption of the new method in continental Europe and Post-Liberation Bulgaria is examined. A critical analysis is conducted of the 1974 Criminal Procedure Code (repealed), noting changes in both name and substance of the principle. Section 3 provides a detailed analysis of the core characteristics of evidence evaluation. The chapter concludes with the argument that the principle represents only a method of evaluating evidence, not a standard of proof. In the last section 4 it is argued that the principle applies to all procedural authorities, not just the court. It is also emphasized that mandatory instructions given by one procedural authority to another must not interfere with free (inner) evidence evaluation.

In **Chapter Two**, the author distinguishes three types of evidence evaluation: **admissibility**, **credibility**, and **sufficiency**. Each is explored in a separate section. Admissibility is emphasized due to inconsistencies and gaps in regulation, which lead to practical problems. The two aspects of admissibility—**relevance** (for evidence) and **legality** (for both evidence and means of proof)—are clearly differentiated. Legality is identified as a legal, not subjective, assessment. An original classification of legal grounds for excluding evidence is presented, organized by the values protected by each legal rule. All grounds are thoroughly analyzed, on this basis rational proposals are made for amending problematic provisions of the CPC (to be pointed out in detail in the following section of this Opinion). The **evaluation of credibility** refers to both the evidence and means of proof and falls fully within the realm of inner conviction. The evaluation of credibility is dominated by logical reasoning with potential personal (conscious or subconscious) influences. The **evaluation of sufficiency** relates to the body of

evidence. Inner conviction is broadly applied, except in specific cases where legal limitations apply (e.g. restricted probative value). Each of these exceptions is examined and justified as legitimate and proportional in a democratic criminal procedure.

**Chapter Three** clarifies the concept of the "standard of proof," which is commonly used internationally but lacks a precise definition in Bulgarian law and doctrine. The dissertation lays a solid foundation for achieving scholarly consensus. It analyzes various statutory thresholds for confidence required by decision-making authorities in exercising their powers, arguing that these constitute de facto standards of proof. The lack of terminological clarity leads to inconsistencies and contradictions in legislation. The chapter demonstrates the objective necessity of having varying standards to ensure both fairness and efficiency in criminal proceedings.

**Chapter Four** examines how inner conviction is reflected in the **reasoning of judicial acts**—including judgments and appellate/cassation decisions. A critical analysis of cassation case law reveals how the Court of cassation use Articles 13 and 14 CPC to effectively introduce **new cassation grounds**—namely, lack of evidence and discrepancy between the established facts and the supporting evidence—although these are not explicitly provided for. The chapter outlines the dual importance of judicial reasoning: for the parties and for public trust. It also analyzes reasoning as a legal text and provides clear recommendations for writing judgments that are concise, clear, and persuasive.

The **Conclusion** summarizes the main theses, findings, and proposals of the dissertation in a structured and coherent manner.

**3. Assessment of the scientific and applied contributions of the dissertation**

The general characteristics outlined above already highlight numerous original contributions in each chapter of the dissertation. However, I find it necessary to explicitly emphasize several additional contributions made by Prof. Marinova that are especially important for the development of criminal procedure theory, legislation, and legal practice. I would preface this by noting that the conventional length of an Opinion in a procedure such as this does not allow for an exhaustive listing.

Special attention deserves to be paid to the adopted research approach, which is characterized by two main features that are particularly significant due to the nature of the principle of inner conviction:

First, the focus is shifted **from conviction** (as a mental state or subjective certainty that determines one's actions) **to the evaluation of evidence** (as a cognitive process governed by logical laws and thus subject to verification; process essential but not sufficient for forming conviction). The decades-old view of this principle as a unity of objective and subjective aspects has led to overextending the "subjective side" into all interpretations and decisions of the procedural authorities. Prof. Marinova's approach rightly re-centers the principle as solely a method for evaluating evidence. In this vein, her proposal to amend Article 14 of the CPC is both reasonable and timely. On the other hand, the scientific approach adopted makes it easy to explain the different standards of proof. The so-called "subjective side" of inner conviction (i.e., firm, unwavering confidence and a willingness to act on it) was difficult to reconcile with the lower standards of proof - which not only objectively exist in the CCP, but even prevail (apply to most decisions of the procedural authorities).

Second, the approach is marked by **realism**, it is free of ideological biases. The realities of legal practice are examined as they are—without concealment or distortion for the sake of abstract ideals. This enables procedural actors to be viewed not as idealized figures but as real individuals subject to intuitive, emotional, and unconscious influences. Thus, Prof. Marinova paves the way for acknowledging such subjective factors—especially in the evaluation of credibility of evidence.

This new approach enables Prof. Marinova to present a series of well-reasoned theoretical generalizations, theses, and proposals that, as stated above, hold substantial value not only for legal science but also for legislation and practical application.

Among these, the following deserve explicit mention:

For the first time in Bulgarian legal literature, a thorough exploration of the concept of "**standard of proof**" is undertaken, a clear definition is offered and an in-depth analysis of the various standards applicable in the Bulgarian criminal process is carried out (pp. 145–151).

New and compelling arguments are added to the existing criticism of Article 234, para. 8 of the CPC (pp. 107–110). I continue to be convinced that tying evidentiary admissibility to arbitrary procedural deadlines is a form of procedural formalism, incompatible with inner conviction as a method of evaluating evidence, and potentially undermining the search for truth. The dissertation's theoretical and empirical evidence further exposes the inadequacies of this provision.

Other well-founded and, in my view, entirely appropriate ***de lege ferenda*** proposals include:

- The **repeal** of the requirement for subsequent judicial approval of urgent investigative protocols, as conceptually flawed and practically unnecessary (pp. 84–88).

- Legislative regulation requiring **prior judicial authorization for home inspections** (pp. 89–90).
- A **legal ban** on the interrogation of interpreters about confidential communications between a trustee and their client (p. 93).
- The **protection of confessional secrecy**, i.e., granting **testimonial immunity** to clergy regarding information obtained during confession (pp. 94–95).
- An amendment to **Art. 244(1), p.3 of the CPC** to eliminate unnecessary suspensions of criminal proceedings due to the impossibility of questioning the sole eyewitness (pp. 111–113).
- Addressing the **discrepancy between what the court of cassation actually does and what law prescribes to be done** i.e., the actual assessment of evidence by the cassation court without a proper legal basis for doing so (pp. 176–187).

Finally, I would like to commend the dissertation's **logical and coherent structure**, with each of the four chapters dedicated to distinct yet closely related problems. The result is a **multi-dimensional and thorough analysis** of the principle of inner conviction in Bulgarian criminal procedure. The language is both legally precise and remarkably clear and accessible. The scientific discussion is deep and convincingly argued, and disagreements with other authors are addressed respectfully and collegially. These qualities make the dissertation not only scientifically valuable but also enjoyable to read.

**4. Assessment of the scientific contributions in the candidate's other publications**

In addition to the dissertation, Prof. Marinova has submitted **10 publications**—7 articles and 3 studies. These can be grouped into three thematic clusters:

**4.1** Publications analyzing standards in supranational instruments binding for Bulgaria under Article 5(4) of the Constitution and due to EU membership. By default, the analysis also covers the case law of the ECtHR and the CJEU. This group includes:

One study: ***On Certain Issues of Bringing Charges in Bulgarian Criminal Procedure,*** **Pravna Misal, 2023, No. 2.**

Three articles:

- ***The CJEU Judgment in Case C-282/20 and the Preliminary Hearing in Bulgarian CPC, De Jure*****, 2022, No. 2, https://journals.uni-vt.bg/dejure/bul/vol13/iss2/3.**
- ***Challenges to Criminal Procedure Law in Implementing EU Directives*****, in *10 Years of Bulgaria in the EU*, NBU Publishing House, 2018, (http://ebox.nbu.bg/bgineu/).**
- ***Minimum Common Standards in the EU Regarding the Procedural Rights of Suspects and Accused*****, Sofia University Press, 2014.**

The main scholarly contributions of the publications in this group lie in the clarification of important standards of fair trial derived from ECHR and EU law, respectively from the relevant case law of the ECtHR and the CJEU. These include, for example, the guarantees under Article 6 of the ECHR, in accordance with which certain rights must be ensured from the initial moment of bringing criminal charges within the meaning of the Convention; the inadmissibility of such a legislation/practice which deprives the defendant of the right to understand the factual and/or legal basis of the charges against them due to formal procedural time limits when the indictment is vague or incomplete; the identification of difficulties and errors in the transposition of EU directives; the clarification of the requirements

under EU law to ensure oral and written translation in criminal proceedings, etc. These analyses establish the degree of compliance of the national criminal procedure regulations with the European standards. The final outcome of the research presented in the cited publications consists of specific and well-grounded *de lege ferenda* proposals aimed at overcoming the identified contradictions, ambiguities, or gaps in the national legal framework.

**4.2** Publications focused on differentiated criminal procedures:

- ***On Certain Issues of Abbreviated Proceedings*, *De Jure*, 2016, No. 1, pp 26-31.**
- ***The Penal Order* – In: Criminal Justice: Traditions and Perspectives, Sofia: St. Kliment Ohridski University Press, 2018, pp. 128-135.**
- ***Differentiation in Criminal Procedure – Traditions and Perspectives*. In: Criminal Legislation: Traditions and Perspectives, Sofia: St. Kliment Ohridski University Press, 2016, pp. 370-380.**

Professor Marinova is among the relatively small number of authors who clearly recognize the significant practical importance of differentiated criminal procedures – in practice, each year around 50% of criminal proceedings are conducted under one of the simplified procedures outlined in Part Five of the Criminal Procedure Code (primarily the special rules in Chapters 27, 28, and 29). Therefore, any truly in-depth and genuinely scholarly research on these topics is bound to constitute a contribution to legal theory and/or practice. More specifically, the main academic contributions in the three peer-reviewed articles consist of: the argumentation as to whether plea agreements and the abbreviated trials are compatible with the fundamental principle of material truth; analysis of previously unexplored or insufficiently clarified aspects of the preliminary hearing in the context of the abbreviated trial; a comparative legal

study of the penal order and the justification for its possible introduction into the Bulgarian Criminal Procedure Code, etc. Whenever necessary, appropriate and well-founded proposals for amendments to the Criminal Procedure Code have been made.

**4.3** Publications reflecting broad knowledge and criminal procedure interests of prof. Marinova. These include 2 studies:

- ***Exceptions to the Fundamental Principles in Criminal Procedure*, ISL Proceedings, Vol. XX, 2021, pp. 43-75.**
- ***Correction of Obvious Factual Errors in the Indictment*, ISL Proceedings, Vol. XVIII, 2019, p. 150-172.**

And one article

- ***Specifics of the Special Surveillance Means in Bulgarian Criminal Procedure*, *De Jure*, 2021, No. 2,** https://journals.uni-vt.bg/dejure/bul/vol12/iss2/12**.**

The scientific contributions in this group of publications are determined by the topics explored by Professor Marinova. These concern complex issues of criminal procedure that give rise to academic debate and lead to inconsistent judicial practice. The main scientific contributions, more specifically, are as follows: a new perspective on the foundations of criminal procedure (its fundamental principles) – a comprehensive study of the "gaps" in the foundation (i.e., the exceptions to the procedural principles) and outlining the conceptual justifications for the existence of such "gaps"; clarification of the nature of the "obvious factual errors in the indictment" introduced to the CPC in 2019 and argumentation for the need to adopt a more rational approach to rectifying such errors; systematization and clarification of the essential differences between special surveillance means and all other investigative acts (methods) provided for in the Criminal Procedure Code.

**5. Evaluation of the Dissertation Abstract**

The submitted abstract follows the traditional structure and includes four parts: I. General characteristics of the dissertation; II. Content of the dissertation; III. Publications related to the dissertation; IV. Summary of contributions.

The abstract accurately and objectively reflects both the structure and content of the dissertation, including its main theses, lines of argument, key findings, and proposals.

The listed contributions are genuine and well-presented. In my opinion, Prof. Marinova has even displayed excessive modesty in listing them.

**6. Conclusion**

Based on the above considerations, I find that the **dissertation** *"The Principle of Inner Conviction in Bulgarian Criminal Procedure"* **by Prof. Dr. Gergana Marinova Marinova contains significant theoretical generalizations and solutions to major scientific and applied problems. These align with contemporary academic standards and represent substantial and original contributions to the field. The dissertation meets all substantive legal requirements under Art. 12(4) of the Law on the Development of Academic Staff in the Republic of Bulgaria.** Therefore, and with deep inner conviction, **I propose to the esteemed academic jury to award Professor Dr. Gergana Marinova Marinova the scientific degree of "Doctor of Sciences"** in the professional field **3.6. Law** (scientific specialty **"Criminal Procedure Law"**).

**Member of the Academic Jury:**

**Assoc. Prof. Dr. Ivaylo Tsankov**