

**TO THE SCIENTIFIC JURY
FOR DEFENCE OF A DISSERTATION
FOR ACQUIRING A SCIENTIFIC DEGREE OF
'DOCTOR OF SCIENCE'
PROFESSIONAL FIELD 3.6 LAW,
HIGHER EDUCATION DOMAIN
3. SOCIAL, ECONOMIC AND LEGAL SCIENCES,
APPOINTED BY ORDER OF THE RECTOR OF
NEW BULGARIAN UNIVERSITY No. 3-PK-17 of 05.10.2022**

REVIEW

by **Prof. Dr. Krasimira Sredkova Ivanova**

Sofia University 'St. Kliment Ohridski'

Scientific domain 3. 'Social, Economic and Legal Sciences'

Professional field '3.6. Law'. Specialty 'Labour Law and Social Security'

Re: **Dissertation**

of Assoc.Prof. Dr. Ivaylo Ivanov Staykov

on the topic '**Unpaid Leave under Art. 160, Para. 1 of the Labour Code**'

for acquiring the scientific degree of 'Doctor of Science' -- Scientific domain 3. 'Social,

Economic and Legal Sciences'. Professional field '3.6. Law'

Specialty 'Labour Law and Social Security'

Dear members of the scientific jury,

I was appointed as a reviewer by a decision of the scientific jury set up by Order No. 3-PK-17 of 05.10.2022 of the Rector of New Bulgarian University (NBU) under the procedure for awarding the degree of 'Doctor of Science' to Assoc.Prof. Dr. Ivaylo Staykov for the monograph 'Unpaid Leave under Art. 160, Para. 1 of the Labour Code'. In the course of performance of my duties, I got acquainted with the dissertation and its executive summary, as well as with the author's professional biography, which I have directly witnessed.

I. PROFESSIONAL CHARACTERISTICS OF THE CANDIDATE.

1. Ivaylo Staykov graduated from the Law Faculty of Sofia University 'St. Kliment Ohridski' in 1994. In 2003 he acquired the educational degree of 'Master in Finance' after completing his studies at

the University of Veliko Tarnovo ‘St.St. Cyril and Methodius’. He was awarded the degree of Doctor of Laws (LL.D.) in 2006.

The professional realization of Ivaylo Staykov is rich and diverse. It is dominated by his academic activity. From 2002 until 2011 he worked consecutively as an assistant professor, senior assistant professor and chief assistant professor in labor law and social security at NBU. Since November 2011 he has been an associate professor in the same specialty at the same university. He was elected a part-time assistant professor at the University of National and World Economy.

At the same time, Ivaylo Staykov has gained extensive practical experience as a legal adviser at ‘Business Week’ Financial House, attorney-at-law, liquidator of Sofia Ins AD insurance company, consultant to various institutions and organizations.

2. The research activity of Ivaylo Staykov is extremely rich. It is presented in over 200 scientific and practical publications, including two monographs, dozens of studies and articles. His teaching aids deserve special attention: Bibliography of Bulgarian Literature on Labour Law. Part One; Bibliography of Bulgarian Literature on Labour Law. Part Two; Bibliography of Bulgarian Literature on Social Security Law and Social Assistance; Bibliography of Literature on International and Comparative Labour and Social Security Law and the European Union Social Law; Bibliography of Bulgarian Literature on Labour Law Aspects of Civil Service, all those being published in 2022. They result from colossal work and have inestimable practical significance. In my opinion, if compared to the monograph presented in this procedure, they form no lesser grounds for his being awarded the scientific degree of ‘Doctor of Science’.

91 of Ivaylo Staykov’s scientific publications have been cited repeatedly by 65 authors.

All the facts about the teaching, research and practical and applied activities of Ivaylo Staykov define him as a profound and multifaceted lawyer. They justify his well-established top place in labour and social security law in our country.

II. DISSERTATION.

A. General characteristics.

1. As for this procedure, Assoc.Prof. Ivaylo Staykov participates with a monographic work on the topic ‘Unpaid Leave under Art. 160, Para. 1 of the Labour Code’. And here arises an important procedural issue from which substantive consequences may result. I have put forward this question at the preliminary discussion in the NBU on admission to defence. As far as the topic ‘Unpaid Leave under Art. 160, Para. 1 of the Labour Code’ is concerned, Ivaylo Staykov is the author of a book of 306 pages published by ‘Avangard Prima’ publishing house in Sofia in 2016. It is on the same topic within the

framework of this procedure of NBU, Master's Degree Faculty, 2022 Law Programme, that he has published a dissertation manuscript of 366 pages in PDF format. What should be evaluated – the book published in 2016 or the dissertation manuscript published in 2022? Essentially, there are no major differences in the content, but the manuscript contains some analyses that are not present in the book. These analyses concern issues of legal regulation that arose after the book was published. The author points out a number of citations to the book, which is true, but the said citations do not refer to the dissertation. Therefore, they cannot be taken into account in the defence. The two works raise other questions as well.

This review concerns the manuscript presented as a dissertation. That is the basis on which I submit arguments for my opinion.

2. The dissertation presented for acquiring the scientific degree of 'Doctor of Science' contains **theoretical generalizations and solutions to important issues of scientific and applied nature that fully correspond to modern achievements and represent a significant and original contribution to labour law science**. Therefore, on the basis of Art. 12, para. 4 of the Law on Academic Staff Development in the Republic of Bulgaria (LASDRB) it can be successfully defended.

3. The manuscript of the dissertation consists of 366 pages, divided into: Introduction, 5 chapters with a total of 24 paragraphs, Conclusion and List of literature used. Although the structure is somewhat fragmented (which will be discussed below), it reflects the author's theses correctly and convincingly, in most cases.

The executive summary is presented correctly, albeit in the style of the author, i.e. quite verbose.

The author has examined a large amount of legal literature -- 237 titles. Unfortunately, the literature is Bulgarian and Russian only. Without any prejudice or political considerations, on the contrary – with great respect for the scientific labour law research of Russian colleagues – I find this is insufficient and even superfluous at some places. There is no information whatsoever about foreign European (non-Russian) legislation and scientific research, though unpaid leave is provided for not only in Bulgarian and Russian legislation. Moreover, the work is not defined as a comparative law one dealing with Bulgarian and Russian legislation.

However, it must be underlined that the literature used is not solely an illustration of opinions; where **scientific criticism** is present (including criticism of my theses), it is correct and justified.

4. The author's critical approach to the current Bulgarian legislation is praiseworthy. He not only demonstrates knowledge of this legislation, but convincingly reveals its shortcomings. It would be good for law-making bodies to reflect on the critical remarks made.

5. The dissertation presents very well (though, in a systematically inappropriate manner, in my opinion) the **judicial practice** (Chapter Four). The author approaches it critically and makes suggestions for its improvement.

6. **The language** of the dissertation is precise, accurate, accessible, though verbose, which is typical of Assoc.Prof. Ivaylo Staykov. It shows his mastery of the matter and gives a skilful and legally precise presentation.

B. Scientific novelty of the work.

1. The dissertation is an original scientific theoretical achievement of scientific and applied importance within the meaning of Art. 12, para. 4 of the LASDRB. It contains **theoretical generalizations and solutions to issues of scientific and applied nature that correspond to modern achievements and represent a significant and original contribution to science**. The author critically analyzes the legal framework, draws scientific conclusions, makes proposals for the correct application of law and its improvement. The work is original both in general and in its parts.

2. Along with the general contributory importance of the work, there are **separate particularly original contributions** that deserve attention, such as:

a. the analysis of the transformation of unpaid leave under Art. 160, para. 1 LC from a legal possibility into a subjective right of the employee, when its use is authorized by the employer (Chapter Two, § 6);

b. the consideration of this type of leave in various situations of length of employment (Chapter Two, § 7, items 5.1 and 5.2);

c. the reflexive consequences in the exercise of the right to unpaid leave under Art. 160, para. 1 LC (Chapter Two, § 9);

d. the hypothesis of unpaid leave as a subjective right of the employee (Chapter Two, § 12). Here, however, I find unnecessary comparisons with the unpaid leave the grounds of which are quite different from those of the leave under consideration, e.g. leave related to religious holidays of religious denominations other than Eastern Orthodox, etc.;

e. the analysis of the judicial practice under Art. 160, para. 2 LC (Chapter Four). Here, however, I do not find that the appropriate place of this analysis from a systematic point of view is in an independent final chapter of the work. In this way, it cannot successfully fulfil its purpose of supporting the author's theses and analysing those views of the courts which he does not share, etc. In my opinion, the place of judicial practice is in the theoretical analysis of the particular problems that the author explores;

f. the proposals for improvement of the legislation made in separate places in the exposition and synthetically summarized in the Conclusion.

3. In analyzing the legal framework and presenting his theses, the author shows thorough **knowledge of legal science** – both labour law science and science in general. He presents convincingly (albeit in some cases quite verbosely) his conclusions, submitting convincing arguments for these conclusions.

C. Critical remarks.

1. The work of Assoc.Prof. Ivaylo Staykov ‘Unpaid Leave under Art. 160, Para. 1 of the Labour Code’ also has some **problems**, the elimination of which in a possible next edition would further increase its value. Some of them are of a general nature and I have repeatedly drawn the author’s attention thereto, while others are specific to the work under discussion.

What is typical of the research of Assoc.Prof. Ivaylo Staykov, including the work under discussion, is:

a. *too many citations* (e.g., p. 6, note 1; p. 30, note 32; p. 94, note 132; p. 96, note 136; p. 204, note 268). Somewhere they take more than one page. This not only increases the volume of the exposition, but also disallows the reader from orienting himself/herself and eventually find what is more substantial in the writings of the cited authors on the issue under research;

b. unnecessary overloading of the volume of the exposition with references to and citations of authors with their *academic titles and scientific degrees*. Copyright belongs to the individual regardless of his/her academic status.

2. I have the following remarks regarding the dissertation:

a. First of all, regarding *the essence*. Some of the theses of the author are at least *controversial* and need more argumentation. For instance:

First, I cannot agree with the author’s thesis that the agreement to take the unpaid leave is a contractual modification of the employment relationship set forth in Chapter Two, § 5. The employer’s permission is a way of exercising the employee’s right, but it does not change the employment relationship from the one already created. This is only part of the content of the legal relationship.

Second, I do not agree with the thesis of the possibility of *oral permission* on the part of the employer for the use of unpaid leave, and, in Chapter Two, § 5, item 1 the arguments are insufficient. How will the permission given in such cases be proven? It is not clear what exactly the author’s thesis is as regards oral permission. In the first paragraph he does not renounce the oral form, while in the following paragraphs he submits arguments in favour of the written one.

Third, it is insufficient for me to argue that any contractually established unpaid leave is not counted as *length of employment*, as referred on p. 122 *et seq.* The argument that such a contract is not provided for in law is not sufficient. In order for it to be admissible, the law must provide for it;

The dissertation is overloaded with unnecessary analyses. For instance:

First, I do not find that the detailed analysis of §3e, para. 1 of the LC is necessary, at least because the effect of this provision was limited and expired in 2010, and, besides, it has no connection with the unpaid leave under Art. 160, para. 1 of the Labour Code, except for the unpaid nature thereof, but in the current legislation there are many other types of unpaid leave which have not been analyzed.

Second, I find that readers are too underestimated if you have to explain to them when the employer's orders are illegal (p. 203, paragraph 1), what a 'reason' (p. 211) is, and what an 'act in relation to persons' (p. 211) or 'statutory' (p. 215) means, etc.

b. I have a number of comments and recommendations on the design of work. I am raising some of these questions because a scientific work, especially a legal one presented for the highest level of evaluation must be perfect in its presentation and must set an example for young researchers.

First, *structurally*, the work is divided into too many chapters, paragraphs and points (some of them consisting of 2 or 3 pages only), which affects the concentration of the reader. There are a number of repetitions in the content; and the separation of case law into a chapter, which was already mentioned.

Second, I do not like the frequent use of terms with their synonyms in parentheses: 'agreement (contract)', 'legal (statutory)', 'legal (lawful)' and many others. What more are we told in this way? An explanation is placed in brackets, but in this case nothing is explained, just the same is expressed in the form of a synonym.

Third, regretfully, I still find *language problems*. Sentences of up to 10, 15, 17 lines (e.g. pp. 92-93, last paragraph), many problems with punctuation marks (p. 70, paragraph 2; p. 71 and many others), the articles of words (p. 74, paragraph 2; p. 75, paragraph 1; p. 81, item 1.3; p. 83, para. 1; p. 90, para. 2; p. 93) – this is inadmissible in a legal work, even solely because the only means of procedure in law is language in its written and spoken form.

It is not for belittling the work of Assoc.Prof. Ivaylo Staykov that I am raising these questions, but because such problems should not be repeated in other scientific works.

III. CONCLUSION.

On the grounds of the above characteristics of the dissertation 'Unpaid Leave under Art. 160, Para. 1 of the Labour Code', as well as on the basis of my direct personal impressions of the numerous scientific publications of Assoc.Prof. Dr. Ivaylo Staykov on the topic of the dissertation, I suggest that the Scientific Jury should establish that:

1. The *formal requirements* of the Law on Academic Staff Development in the Republic of Bulgaria (LASDRB), the Rules on LASDRB Application and the relevant regulations of the New Bulgarian University have been met.

2. The *professional development* of Ivaylo Staykov as an Assistant Professor, Senior Assistant Professor and Associate Professor has allowed him to gain experience in research, and to present this dissertation of high scientific qualities, which will be a good basis for his future academic development.

3. The *dissertation* presented is an original creative scientific achievement, and results from the author's entirely independent research. It is aimed at solving important and topical scientific and applied problems of labour law, it is prepared in accordance with the modern achievements of Bulgarian legal science and creatively develops them. The work is of a high theoretical level and contributes to solving important topical problems. The scientific achievements of the candidate are expressed in enriching the existing knowledge of labour law and creating novelties in labour law theory, and are essential for the normative practice and the application of labour law.

The achievements pointed out above and the other achievements of the candidate bring about my conviction to propose to the Scientific Jury, on the grounds of Art. 12, para. 4 LASDRB, **to confer the scientific degree of 'Doctor of Science'** on Assoc.Prof. Ivaylo Ivanov Staykov. He deserves this recognition not only for this work, but also for his overall research activity.

Sofia, 16 Dec. 2022

REVIEWER:

(Prof. Dr. Krasimira Sredkova)