

REVIEW

From Prof. Dr. Diana Kovatcheva,

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Designated as member of the scientific jury by ordinance of the President of the Plovdiv University "Paisii Hilendarski" P33-3695 in a competition for the academic position "Associated professor" in professional field 3.6. Law (International Law and International relations), promulgated in State Gazette No 31 from 12th of April 2019

DISTINGUISHED MEMBERS OF THE SCIENTIFIC JURY,

With a decision of 29.11.2021, taken on the basis of the Decision of the Supreme Administrative Court № 11149 of 04.11.2021 under Adm. № 6080/2021, the Admissibility Commission at the University of Plovdiv "Paisii Hilendarski" admitted two candidates with submitted habilitation theses to participate in the competition for the academic position of "Associate Professor" in the scientific specialty "International Law and International Relations".

I hereby present to your kind attention my review on the habilitation work of Chief assistant Dr. Gergana Kostadinova Gozanska: "Bulgaria and the Jurisprudence of the Permanent Court for International Justice and of the International Court of the UN" and for the habilitation work of Dr. Stoyan Pantaleev Memtsov on the topic "Armed Humanitarian Intervention: international legal aspects".

In the review, the candidates are arranged alphabetically.

I. GENERAL OBSERVATIONS ON THE COMPETITION PROCEDURE

Two candidates have deposited their applications for the competition for the academic position "Associated professor" in professional field 3.6. Law (International Law and International relations), announced by the Plovdiv University "Paisii Hilendarski"

promulgated in State Gazette No 31 from 12th of April 2019: Dr. Gergana Kostadinova Gozanska and Dr. Stoyan Pantaleev Memtzov. Both candidates are found eligible by the Commission.

II. GENERAL OBSERVATION ON THE APPLICATION DOCUMENTS

The set of application documents submitted by both candidates for participation in the competition are in line with the Rule of Procedure for the development of the academic staff of the Plovdiv University and contains the following documents:

III. REFERENCE FOR THE BIOGRAPHY OF THE CANDIDATE

1. Dr. Gozanska was born on the 21st of December 1972 in Plovdiv, Bulgaria. She has graduated the Southwest University of Blagoevgrad "Neofit Rilski" in 1998 and has acquired an educational and scientific degree "Doctor" in International Law and International Relations in 2014 in the same university. The topic of her Ph.D. thesis is "International and Legal Status of the Child. Specific Issues Related to the Legal Status of the Child".

Since May 2008 Dr. Gozanska is an honorable professor in international public law in the Plovdiv University and holds the position of an "Assistant" in the Law Faculty.

In November 2016 she takes the position of "Chief assistant" in the Law Faculty of the Plovdiv University.

Dr. Gozanska conducts seminars and lectures on the compulsory subjects "International Public Law" and "Family and Heritage Law" on the protection of children's rights, as well as lectures on the elective subject "Intellectual Property Law".

Dr. Gozanska's scientific interests are backed by serious scientific publications.

The CV of Dr. Gozanska indicates her participation in scientific projects as well as her active involvement in preparation of scientific seminars and conferences. The CV provides information about persistent scientific work and interests in the field of the international public law. The scientific interest of Dr. Gozanska is backed up by serious scientific research and relevant publications.

2. The candidate Dr. Stoyan Pantaleev Memtsov was born on August 30, 1985 in the city of Plovdiv.

He graduated in law from the "Paisii Hilendarski" University of Plovdiv in 2016 and holds a PhD in International Law and International Relations with a dissertation entitled "Current Issues of the International Legal Status of Kosovo".

In the period from 2016 to 2018, Dr. Memtsov is an assistant professor at the Faculty of Law, University of Plovdiv, Department of International and Comparative Law. Since 2013 he has been a lawyer at the Plovdiv Bar Association.

The candidate has carried out research and teaching activities in the disciplines of Private International Law and International Contract Law, and his scientific publications testify to his scientific interest in these fields.

IV. SCIENTIFIC PUBLICATIONS OF THE CANDIDATE

Dr. Gozanska is author of ten scientific publications published in reputable Bulgarian scientific reviews and corpuses. These articles are presented as publications for the procedure.

The articles are drafted in the period of five years between 2015 and 2019.

Six of these articles are dedicated to topics related to the topic of the monography and the other four refer to other contemporary issues of the international law.

All ten publications are announced by the candidate as articles presented in view of the application for the competition.

The candidate Dr. Stoyan Memtsov has submitted for evaluation for participation in the competition a total of 11 articles published in renowned scientific journals and collections. The publications are devoted to various aspects of the use of force under international law. The proposed works were presented for participation in the procedure and were created in the period 2017 - 2019.

It should be noted that all of them are related only to the topic of the presented habilitation work.

Another monograph was submitted in the procedure by Dr. Memcov - "Kosovo: the problem of international legal status", which is a published book based on a defended dissertation for the award of the ONS "Doctor".

V. *GENERAL REMARKS ON THE HABILITATION WORK*

1. Habilitation work of Dr. Gozanska.

In view of the application for the competition the candidate Dr. Gozanska has presented one monography under the title “Bulgaria and the jurisprudence of the Permanent Court for International Justice and the International Court of the UN”.

The book consists of 197 pages. It involves an introduction, four chapters, conclusion and a bibliography (16 pages). The book contains 353 footnotes.

As far as the structure is concerned it could be mentioned that the legal issues are divided in the separate chapters in a balanced way.

A reference by the author concerning the scientific contributions of the candidate is presented in the application together with the list of the publications and their copies.

The book and the articles, dedicated to the competition, indicate a permanent scientific interest and consistent efforts of Dr. Gozanska to dedicate her professional path to the field of international public law.

2. Habilitation work of Dr. Memtsov.

In connection with the participation in the procedure, a monographic work entitled "Armed Humanitarian Intervention: International Legal Aspects" was presented, in a volume of 236 pages.

The presented habilitation work includes an introduction, two parts, each with two chapters, a conclusion and a bibliography, which contains a total of 51 titles in Cyrillic and 72 titles in Latin, including 70 in English and 2 in French.

The monograph contains 166 footnotes.

Structurally, the main legal issues discussed in the monograph are balanced in the two parts of the book, but some of the chapters are smaller compared to the others (for example, the third chapter is only 20 pages).

An annotation of the works and an author's reference for the contribution of the works with which he applied, a list of the publications with which he participates in the competition, a copy of the scientific works for participation in the competition and a CV are presented.

The monograph and publications participating in the competition testify to the lasting scientific interest and scientific work of Dr. Memtsov in his chosen field.

VI. REVIEW OF THE SCIENTIFIC WORK OF THE CANDIDATE

1. General remarks on the monography

1.1 Habilitation work of Dr. Gergana Gozanska.

The monography is published by the University publisher "Paisii Hilendarski" prior to the expiry of the deadline for the application to the competition. The book is a separate monographic scientific research can be subject to scientific review.

The monography is dedicated to a contemporary legal issue which has not been subject of a complete scientific research before in the Bulgarian doctrine.

Despite of the fact that the issues related to the international justice at UN level have been in the focus of attention of Bulgarian researchers, none of their publications has made a scientific research on the relation between Bulgaria and the international courts, established by international organisations.

In the first pages of her book Dr. Gopzanska makes a review of the scientific work of Bulgarian researchers who have already published their legal works in this field. This approach indicates an in-depth approach and knowledge of the Bulgarian doctrine on behalf of Dr. Gozanska.

The up-to-date status of the book of Dr. Gozanska is due to the scientific interest of the author to analyse the jurisprudence of the PCIJ and the International Court (IC) of the UN in view of Bulgaria and to present this part of the practice of the courts in a chronological and systematised order.

In her book Dr. Gozanska is looking for answers to questions, related to the essence of the cases in which Bulgaria is involved, by researching on issues, related to the subject of these cases, to the reasons for bringing up the case, the defense on behalf of Bulgaria and the final judgements.

The big number of articles of the author, dedicated to the topic of the habilitation work, indicates that the choice of the research topic is not a random one – it can be estimated as follow up of a thorough research of all the issues related to judgments of international courts, related to Bulgaria.

This scientific choice is result from the entire scientific work of the candidate and is marked by the modern character of the researched topic.

When drafting her monography Dr. Gozanska has made serious efforts to gather and present a big amount of scientific information, to contribute to its analysis and to present it through the angle of the jurisprudence of the PCIJ and the IC of the UN.

It is quite obvious that Dr. Gozanska is well aware of her research field and the researched topics. The detailed bibliographic reference of works in Bulgarian and English language proves the deep research work Dr. Gozanska has made in the course of her work.

1.2 Habilitation work of Dr. Stoyan Memtsov

The work was published by Macros editor before the deadline for participation in the competition and is a separate monographic study, so it is suitable for review.

The monograph is dedicated to the scientific study of armed humanitarian intervention and its place in contemporary positive international law. At the very beginning of the monograph, Dr. Memtsov reviews the scientific works of Bulgarian scientists who have published their research in this field, which shows a thorough scientific approach and knowledge of Bulgarian doctrine.

In his work, Dr. Memtsov raises issues related to the use of force in international law, before and after the adoption of the UN Charter, as well as on armed humanitarian intervention (as a norm of *jus cogens*, as a positive law and as a customary law).

In creating the monograph, Dr. Memtsov researched and presented a large amount of scientific information, and was able to present it in the specific context of specific cases of

armed humanitarian intervention between 1971 and 1991 (and after Kosovo).). This analysis shows the author's deep interest in his chosen scientific field and is a contribution to the habilitation work.

It should be noted that this candidate as well shows knowledge of the subject and freedom in presenting scientific information.

2. Analytical review of the contents of the habilitation work of the candidate

2.1. Habilitation work of Dr. Gozanska

The contents of the monography are structured in four chapters. The first two chapters are dedicated to the jurisprudence of the PCIJ and the other two chapters refer to the practice of the IC of the UN.

All four chapters are united by the common topic about the review of cases of the two international courts in which Bulgaria is involved as a party.

In Chapter One of the monography the author focuses her attention on the consultative opinions of the PCIJ referring to Bulgaria. The beginning of the Chapter is dedicated to a review of the relations between Bulgaria and the League of Nations in the period of its existence (1920-1946 г.).

Two incidents are mentioned - the Turlinski incident which leads to the signing of a Protocol for patronship of the minority in Greece and Bulgaria and the Petrichki incident, related to the shooting on the Bulgarian-Greek boundary.

The review of the situation is used by the author as a basis for the presentation of the two consultative opinions referring to Bulgaria.

The first consultative opinion about the Greek-Bulgarian “municipalities” is from the 31st of July 1930 and is related to the interpretation of the Convention for voluntary exchange of population from 1919. The Convention refers to the eviction, the movable and the removable property of the persons and the municipalities. The author analyses the Convention in question from the point of view of her application and underlines the legal arguments for its negative influence on the Bulgarian population, living on the Greek territory.

In order to make this conclusion Dr. Gozanska is basing her arguments on the

scientific researches of Bulgarian authors and the opinion of the PCIJ. The author pays attention to the reasons for the disputes between Bulgaria and Greece in the course of the application of the Convention. She also follows the process of approaching the PCIJ, including the issues under review, the statements of the Bulgarian and Greeks side as well as the answers of the international court.

The author underlines the importance of the consultative opinion for the practice of the PCIJ and the international law.

In this part of the First Chapter scientific contributions could be identified.

The first one is related to the statement that the Consultative opinion from the 31st of July 1930 referring to the Greek-Bulgarian Municipalities is the first one that formulates the principle about the primacy of the international law over the internal (national) law. This principle is later regulated by article 27 from the Vienna Convention on the Law of the Treaties from 1969.

In the second place, the author points out that in the context of the interpretation of the term “municipality” the PCIJ formulates for the first time a definition of the term “minority”. According to Dr. Gozanska the contemporary legal definition of “minority” which is regulated by art 27 from the ICPCR, is based on it.

In the framework of Chapter one the author analyses one more consultative opinion of the PCIJ. The Opinion is from the 8 of March 1932 and refers to the agreement Mollov-Kafandaris, which is of significant importance as far as the financial obligations between Greece and Bulgaria are concerned. They are related to the payment of irremovable property of Bulgarians who leave the territory of the state as well as to the property of the churches, monasteries and schools.

The reasons for bringing a case to the PCIJ, the subject of the argument, the statements of the parties and the opinion of the Court are duly analysed. The author draws the attention to the fact that the PCIJ provides and answer only to one of the two questions referred to it.

The Second Chapter of the monography is dedicated to the judgements of the PCIJ which refer to Bulgaria. Three judgments are subject to review: the Decision No. 3 from 1924, Decision No. 4 from 1925 and the Decision on the case of the Electricity Company of Sofia Bulgaria (Belgium v. Bulgaria).

The individual (dissenting) opinions to the decision *Belgium v. Bulgaria* are presented in a separate part.

The author reviews two judgments in which Bulgaria is one of the parties and describes the details of the cases. In her analysis Dr. Gozanska underlines the importance of these cases for the development of the practice of the Court. She indicates that Decision No. 4 is the first decision in the practice of the PCIJ which provides an interpretation in the sense of art. 60 from the Statute (p. 60) and Decision No. 3 is the first decision in the practice of the PCIJ based on a special agreement between the parties.

The analysis of the third case has scientific contribution due to the fact that prior to the publication of the current monography it has not been subject of a full and complete analysis. In addition it gives an answer to a question which has not been discussed in the practice of the court prior to the issue of this decision, namely: when there are several grounds for jurisdiction which one of them should be subject to review and application? The international court indicates that when there are several sources of competence each of them is reviewed separately.

Dr. Gozanska has divided in a separate part the review of the individual (dissenting) opinions of the members of the judicial panel and thus points out the existence of different statements. The analysis of these opinions gives rise to thorough review of the decision and the presentation of different viewpoints to the issue and its solving.

The author suggests an interesting comparison between the motives of the decision and the arguments, contained in the opinions, related to the application of several sources of jurisdiction. This approach is highly appreciated.

Chapter three is dedicated to the consultative opinions of the IC of the UN related to Bulgaria. The analysis begins with review of the jurisdiction of the “old and the new” court (p. 93), the issue about succession and the jurisdiction of the PCIJ and IC of the UN. The author pays attention to the similarities and the difference in their jurisdictions. Based on this review Dr. Gozanska concludes that there is succession in the jurisdiction of the two international courts as far as the judicial jurisdiction is concerned.

In Chapter three Dr. Gozanska makes of review of the consultative opinions from 1950 regarding the interpretation of the peace agreements with Bulgaria, Hungary and Rumania.

She pays attention to the text of the agreements, the subject of the argument, the questions to the court, the statements of the parties and the statement of the court.

A positive assessment should be given to the analysis of the importance of the statements and the conclusions for the practice of the International Court of the UN as well as to the consistency and the clarity of the presentation of these complicated issues.

Chapter four is dedicated to judgements and ordonnances of the IC of the UN. In this chapter the decision on the flight incident of 27th of July 1955 is subject to review. This case concerns the situation in which a civil plane of an Israeli company enters the air space of Bulgaria without permission.

The author presents the case and its development, the reasons for approaching the IC of the UN. Subject of review are also the statements and opinions on the case existing in the legal doctrine. Dr. Gozanska underlines the position of the IC of the UN that it does not have competence to decide the case.

In this chapter the author is reviewing the individual opinions of members of the judicial panel in a separate part and outlines the points in which they do not comply with the final decision of the Court.

An important contribution to the doctrine is the review of the case against Bulgaria in the context of the further practice of the IC of the UN by analyzing cases decided in the upcoming years.

In conclusion it could be said that the habilitation work of Dr. Gozanska is marked by originality and a thorough and in-depth approach of research. A deep knowledge of the Bulgarian and foreign doctrine can be seen in her work.

The monography has a clear focus and the main topic is developed in a consistent way. The issues under review, divided in the four chapters, are interconnected and presented in a comprehensive manner. The main ideas are proven and supported by both theoretical and practical examples from the jurisprudence of the international courts.

In the conclusion of the book the author summarises some of the assumptions she has made. She also pays a special attention to the personality and the work of the eminent Bulgarian

lawyers who have been in charge with the defense of Bulgaria before the international courts for the cases described in the book.

2.2 Habilitation work of Dr. Stoyan Memtsov

The content of the monograph is structured in two separate parts, each of which contains two chapters. The first part is devoted to the use of force in international law, and the second part is devoted to armed humanitarian intervention.

The main purpose of the monograph mentioned by the author in the introduction to it is to establish the extent to which armed humanitarian intervention is a norm of international law *de lege lata*, allowing an exception to the prohibition of the UN Charter on the use of force between states. The work is characterized by in-depth study of the doctrine and practice of the UN International Court of Justice, different views of leading researchers are considered. There is a connection between the individual chapters and consistency in the problems posed by the author. The author has expressed a position on issues related to current issues of the dissertation, some of which can be identified as contributing.

Self-assessment of the candidate's contributions can be supported.

First part

The first chapter of the first part of the monograph deals with *jus ad bellum* until the adoption of the UN Charter and examines the doctrine of just war and attempts to regulate *jus ad bellum* between the two world wars. This chapter is devoted to the essential elements of the international legal regulation of the use of force in relations between states, which are used as a basis for addressing the problem of armed military intervention in public international law. The exceptions to the ban provided for in the UN Charter itself are considered here, namely actions taken with the express permission of the UN Security Council on the basis of Chapter VII of the Charter and the right to individual or collective self-defense in the event of an armed attack. this institute.

The second chapter includes issues such as the prohibition of the use of force and its exceptions, the right to individual and collective self-defense, and an analysis of the provisions of the UN Charter relating to the use of force. Of interest is the distinction between cases of use of force and actions that constitute interference in the internal affairs of

the state or the development of modern technology and cyber attacks. These issues, if examined in more depth by the author, and not just marked as questions, would contribute significantly to the current nature of the monograph.

The right to individual and collective self-defense is considered, paying attention to the concept of "armed attack". The issue of the status of countries providing logistical or technical support in the context of the case law of the International Court of Justice in the Nicaragua case has been analyzed.

The value of this chapter is the numerous concrete examples in support of what has been presented, which are based on cases before the International Court of Justice.

Second part

The second part of the monograph is devoted to armed humanitarian intervention and initially presents terminological clarifications such as the right to humanitarian intervention, which is important for clarity in the following statement.

The main question that the author seeks to answer in this part of the scientific work is whether there is a norm in modern positive international law that allows armed humanitarian intervention as an exception to the prohibition of the use of force between states.

The third chapter is devoted to the prohibition of the use of force in relations between states such as *jus cogens*. The author presents in detail the modern understanding of the imperative legal norm of international law. The question is whether the prohibition of force, other than aggression, is the norm *jus cogens*.

On this issue, the author focuses on many issues of interest from the point of view of modern international law, which he rightly points out as key to the analysis of the topic of habilitation work. An in-depth study of the main aspects of the use of force has been made, the practice of the International Court of Justice, the object of scientific research, has been presented and the various theses and opinions expressed in scientific doctrine have been presented. The monograph definitely benefits from a clearly stated position on these issues of banning the use of force such as *jus cogens*, which are still the subject of controversy by modern researchers.

It is worth noting the part dedicated to the exceptions to the ban on the use of force, in which the author concludes that the ban on the use of force is not an imperative norm and cannot be circumvented by virtue of the provision of Art. 103 of the UN Charter. This conclusion can be defined as a contribution moment.

The issue of considering armed humanitarian intervention as a norm of positive international law is discussed in Chapter Four of the monograph.

The author presents in detail the various opinions in scientific doctrine, including the case law of the International Court of Justice in the Nicaragua case, which states that the armed forces cannot be justified as an approach to the protection of fundamental rights.

The author has considered armed humanitarian intervention in the context of the UN Charter, which he says strengthens the ban, not excludes it. The lack of such an exception, according to the author, can be used as an argument for amending customary international law, which would result in a new legal norm and an exception to the prohibition of use not provided for in the Statute. This statement can also be defined as a contribution to the monograph. This conclusion is developed in detail in section 4.2, where specific examples substantiating the author's thesis are considered.

The conclusion that armed humanitarian intervention can be used as a mechanism to compensate for the inability of the Security Council to act in an increasing number of cases is noteworthy.

Conclusion

In the conclusion, the author summarizes some of the conclusions made and pays special attention to the principle of non-interference. Emphasis is placed on the difficulty for states to achieve a uniform practice for the emergence of new exceptions to the ban on the use of force.

3. Recommendations

3.1. Recommendations for the work of Dr. Gergana Gozanska:

As a recommendation for improving the work, I would like to point out that in the separate chapters more information can be included about the theses of the defense by the Bulgarian lawyers. Their views are presented objectively, but briefly, only as regards the meaning and direction of the defense. Providing more details about the arguments and opinions presented to international courts by some of the most prominent lawyers and scholars in Bulgaria could be of interest to contemporary colleagues practicing in the field of international law.

3.2 Recommendations for the work of Dr. Stoyan Memtsov:

The monograph is devoted to an interesting problem that occupies an increasingly important place in modern international law, in the context of the increasingly difficult difficulty of the Security Council to form a unified position and decide on intervention through armed force.

The theses are clearly expressed against the background of a comprehensive presentation of existing opinions in international doctrine. The author's conclusions about the emergence of a new rule of customary law should be supported. In the context of the forthcoming (albeit not yet) Security Council reform, the monograph deserves attention to the potential for explicit regulation of armed humanitarian intervention as a clear exception to the ban on the use of force in the UN Charter and to analyze the possibilities for reaching an agreement between the states. It is worth considering in more detail the development of the above-mentioned forms of modern armed intervention (cyberattacks and technical assistance to countries).

The above recommendations do not in any way diminish the merits of the presented monographs and it can be concluded that they have serious scientific qualities and deserve a positive assessment.

CONCLUSION

In conclusion, it can be noted that the documents and materials submitted by Dr. Gozanska and Dr. Memtsov, as well as the candidates themselves, meet from a formal point of view the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria, of the Regulations for implementation of ZRASRB and of the Regulations of PU "Paisii Hilendarski".

For this reason, other aspects of the professional background of both candidates should be noted. It should be noted that the professional experience and development of the scientific and academic career of Dr. Gozanska (part-time lecturer, assistant and chief assistant for 14 years) significantly exceeds that of Dr. Memtsov, who was an assistant for only two years (October 2016 to October 2018).

Also important is the fact that Dr. Memtsov's teaching work is more in the field of private international law, while Dr. Gozanska has worked primarily in the field of public international law, which field coincides with the scientific field in which the two applicants for the scientific position "Associate Professor" apply. Dr. Gozanska's participation in four research projects is also important.

Based on the above and the submitted documents, I accept that although both candidates have submitted valuable and in-depth research and documents that meet the regulatory requirements, in view of the additional evaluation indicators provided in Art. 27, para. 4 of ZRASRB, art. 57a, para. 2 of PPZRASRB and Art. 69, para. 2 of PRASPU, which

can be used under equal other conditions, the candidacy of Dr. Gergana Gozanska meets to a greater extent the requirements of the Law for the Development of the Academic Staff for holding the academic position of "Associate Professor".

Dr. Gozanska has presented a sufficient number of scientific papers that have been published in journals and scientific journals published by academic publishers, in addition, her scientific and teaching qualifications are undoubted.

It can be concluded that the work "Bulgaria and the jurisdiction of the Permanent Court of International Justice and the International Court of Justice" can be considered as a habilitation work and together with the professional experience of Dr. Gozanska can be a basis for academic position "Associate Professor". The monograph contains clearly expressed theoretical contributions and original author's statements, which have a strong scientific and legal value.

This conclusion gives me reason to express support for the election of Chief Assistant Professor Dr. Gergana Gozanska for holding the academic position of "Associate Professor" in the professional field 3.6. Law (International Law and International Relations).

Sofia, 17 February 2022

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Prof. Dr. Diana Kovatcheva