

OPINION

by

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According to Order № P-33-3695 of July 10, 2019, issued by the Plovdiv University "Paisii Hilendarski" Rector I am appointed as an external member of the scientific jury in the competition for the academic position "Associate Professor" in scientific specialty "International Law and International Relations", announced by the Plovdiv University "Paisii Hilendarski" in the State Gazette, issue 31, April 12, 2019.

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", arranged alphabetically as follows:

- 1. Gergana Kostadinova Gozanska, PhD.** with a habilitation thesis on "Bulgaria and the jurisprudence of the Permanent Court of International Justice and the International Court of Justice" Plovdiv, University Publishing House "Paisii Hilendarski", 2019, 197 pages. At the moment she holds the academic position of "Chief Assistant" in International Law and International Relations at the Faculty of Law of the Plovdiv University "Paisii Hilendarski".

2. **Stoyan Pantaleev Memtsov, PhD.** with a habilitation thesis on the topic: "Armed Humanitarian Intervention" Plovdiv, Macros Publishing House, 2019, 236 pages.

I. Summarized data on the scientific production and activity of the applicants

Gergana Kostadinova Gozanska is a member of the academic staff of the Law Faculty of the Paisii Hilendarski University of Plovdiv since March 2014 after winning an assistant competition. In November 2014, Gergana Gozanska acquired a doctorate degree in International Law and International Relations with a successfully defended dissertation on the topic: "International Legal Status of the Child, Specific Problems Related to the Legal Status of the Child" at Department of International Law and International Relations at the Faculty of Law and History of SWU "Neofit Rilski" - Blagoevgrad. Since November 2016, Dr. Gozanska holds the academic position of "Chief Assistant Professor" in International Law and International Relations at the Law Faculty of the Paisii Hilendarski University of Law.

Dr. Gozanska holds seminars and lectures on compulsory subjects in International Public Law and Family and Inheritance Law on the protection of the rights of the child, as well as lectures on the elective course on Intellectual Property Law.

Chief Assistant Prof. Gergana Gozanska, PhD. fulfills all legal requirements for participation in the competitive procedure, namely: she has held the academic position of "Chief Assistant Prof." for more than two years (Art. 24, Para. 1, Item 2, item "a" Law on the development of the academic staff in the Republic of Bulgaria) and meet the minimum national requirements in accordance with the provision of Art. 2b, para. 2 and 3 of the Law on the Development of Academic Staff in the Republic of Bulgaria. She submitted within the established deadline a complete set of documents for participation in the competition in accordance with the requirements of the Law on the Development of the

Academic Staff in the Republic of Bulgaria, the Rules for its implementation and the Rules for the development of the academic staff of the Plovdiv University Paisii Hilendarski.

The candidate also participates in the competition - Stoyan Pantaleev Memtsov, PhD. Dr. Stoyan Pantaleev Memtsov graduated in Law from the Paisii Hilendarski University of Plovdiv. From 2013 to the present he is a lawyer in the Plovdiv Bar Association, and from 2016 to 2018 he is an assistant at the Faculty of Law of the University of Plovdiv, Department of International and Comparative Law. Stoyan Memtsov obtained the scientific and educational degree "Doctor" in the professional field 3.6. Law, scientific specialty "International Law and International Relations" with the topic of the dissertation "Current issues of the international legal status of Kosovo". The candidate has carried out research and teaching activities in the disciplines of Private International Law and International Contract Law.

In connection with the satisfaction of the minimum national requirements under art. 2b, para. 2 and 3 of Law on the Development of the Academic Staff in the Republic of Bulgaria and Art. 1a, para. 1 of Rules for implementation of the law on the Development of the Academic Staff in the Republic of Bulgaria, Dr. Stoyan Memtsov meets the minimum requirements for indicators set out in the Annex to Art. 1a, para. 1 of Rules for implementation of the law on the Development of the Academic Staff in the Republic of Bulgaria for the field of higher education 3. "Social, economic and legal sciences", professional field 3.6. "Law." He submitted within the established deadline a full set of documents for participation in the competition in accordance with the requirements of the Law on the Development of Academic Staff in the Republic of Bulgaria, the Regulations for its implementation and the Regulations for the development of the academic staff of Paisii Hilendarski University.

II. Evaluation of the scientific and practical results and contributions of the theses submitted for participation in the competition.

To participate in the competition, the applicant- Gergana Gozanska, PhD. submits a printed monograph on the topic: "Bulgaria and the Jurisprudence of the Permanent Court of International Justice and the International Court of Justice". The monograph is 197 pages long and was published by the University Publishing House of Paisii Hilendarski University of Plovdiv in 2019.

It should be emphasized that Chief Assis. Prof. Gergana Gozanska, PhD, has dedicated her research to a very poorly developed international legal problem in Bulgarian doctrine, which arose as a result of the work of the Permanent Court of International Justice as well as in the jurisprudence of the International Court of Justice as the main judicial body of the United Nations. The author's undisputed contributions are the systematization and comparative analysis of various court cases, the judgments rendered by them and the advisory opinions given by the international court jurisdictions concerning Bulgaria. In this way, the gap in the legal theory existing so far is filled, and the presented work can be used successfully in the educational process in the study of Public International Law in the institutions of higher education in Bulgaria.

Of particular interest in the monographic work is the deliberative Advisory Opinion of the Permanent Court of International Justice on the Greek-Bulgarian "communities", which discusses a substantial issue, such as the liquidation of the ownership of churches, monasteries, schools, etc. located on the territory of both countries. The author has analyzed accurately as Bulgarian and Greek position on the implementation of the Convention for the Voluntary Exchange of Population between Greece and Bulgaria (1919). The Advisory Opinion delivered is of utmost importance both for the consolidation of Bulgaria's position through its participation in the advisory proceedings before the Permanent Court of International Justice and for the improvement of the international legal framework. Proof of this is the principle of the primacy of international law over

domestic law, which is transformed into the contractual provision of Art. 27 of the Vienna Convention on the Law of Treaties of 1969. Next, the advisory opinion gives the first definition of a minority in international law, which underlies Art. 27 of the International Covenant on Civil and Political Rights of 1966.

An important moment in it is the legal analysis of the relations between Bulgaria and Greece in an extremely dynamic period. The author's conclusion that the court makes a clear distinction between judicial and advisory functions is supported by the argument that the court adheres only to issues raised by the Council of the League of Nations in connection with the Mollov-Kafandaris agreement, but not by previous acts. between Bulgaria and Greece.

The only judgement of the Permanent Court of International Justice with regard to Bulgaria is in the case of the Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria) from 1939. This decision is the first subject of study in the Bulgarian legal literature. It contains the circumstances of the dispute, Bulgaria's preliminary objections and the court's reasons. His analysis leads to a conclusion related to the determination of the court's jurisdiction in the presence of several sources. The decision is of particular importance as it states that in the case of several sources of competence, the PCIJ considers each of them separately and consistently. This ruling is important for the judiciary, as it is also accepted in the case law of the International Court of Justice.

The case law of the International Court of Justice includes the Advisory Opinions on the Interpretation of the Peace Treaties with Bulgaria, Hungary and Romania (1950) and the Aerial Incident Case of 27 July 1955 - (Israel v. Bulgaria), (United States v. Bulgaria), (Great Britain and Northern Ireland v. Bulgaria).

The Advisory Opinions (1950) include a review of the provisions of the Paris Peace Treaty (1947) and answers to questions put by the UN General Assembly. The analysis made out the reasons which led to this request, as well as the arguments of the parties and the reasons of the court. The contributing aspects

of the opinion delivered on the case-law of the International Court of Justice are clearly and concretely stated. Such are the UN General Assembly Resolutions addressing human rights issues, as well as introducing changes to the texts of existing arbitration agreements. The analysis of the Israel v. Bulgaria case and the Orders of the case United States v. Bulgaria and the United Kingdom and Northern Ireland v. Bulgaria presents a detailed set of facts and circumstances regarding the aerial incident of 27 July 1955. The Judgment under consideration is the only one issued by the International Court of Justice regarding to Bulgaria, including an analysis of Israel's application and memorandum and the preliminary objections presented by Bulgaria. The Judgment of the case Israel v. Bulgaria is the only one by the International Court of Justice regarding to Bulgaria, including an analysis of Israel's application and memorandum and of Bulgaria's preliminary objections. In a consistent and logical way, the answer to the question is given: Is the Declaration of Bulgaria recognizing the compulsory jurisdiction of the Permanent Court of International Justice of 1921 applicable in the present case? The main motives of the court in answering this question are clearly stated. It accepts that the text of Art. 36, item 5 of the Statute of the International Court of Justice is applicable only to the States Parties to the San Francisco Conference, and that the Bulgarian Declaration of 1921 has ceased to have effect with the closure of the Permanent Court of International Justice. The documents presented in the United States v. Bulgaria case, the United Kingdom v. Northern Ireland v. Bulgaria case, and the court Orders thereof, complement the case law of the International Court of Justice.

It should be noted that the monograph provided also contains an analysis of the individual opinions attached to the judgment in the case of the Electric Company of Sofia and Bulgaria and the judgment in the case of the Aerial Incident of 27 July 1955 (Israel v. Bulgaria). They provide a different viewpoint on a number of issues related to the jurisdiction of the Permanent Court of International Justice, respectively of the International Court of Justice. The monographic study

could be successfully used in the preparation and implementation of the protection of Bulgaria's interests before international jurisdictions.

Following the research on “International Jurisdiction” by Prof. Alexander Dragiev, the monograph presented is a successful continuation of the topic of the settlement of disputes between states. It focuses in particular on the judicial settlement of disputes to which Bulgaria is a party, both within the framework of the League of Nations and the United Nations.

The candidate Dr. Stoyan Memtsov submitted a habilitation thesis, which is 326 pages long. The monograph is a study of armed humanitarian intervention and its place in contemporary positive international law. The first part provides an overview of the international legal regime of the use of force before and after the adoption of the UN Charter, incl. *ius ad bellum* to the adoption of the UN Charter, from the doctrine of just war to the end of the First World War and attempts to regulate *ius ad bellum* in the period between the two world wars, the ban on the use of force and the right to individual or collective self-defense era of the UN.

The second part examines the question of the existence of a positive right to armed humanitarian intervention, trying to find it in the UN Charter or in international custom. A definition of the *ius cogens* norm has been made and the ban on the use of the *ius cogens* norm has been considered. The review of armed humanitarian intervention in positive international law as a norm of international custom has not been spared, considering the various cases: Bangladesh (1971), Cambodia (1978-1979), Uganda (1978-1979), Central African Empire (1979), Iraqi Kurdistan (1991), Liberia and Sierra Leone (1989-1999), Kosovo (1999), and post-Kosovo armed humanitarian intervention. The main conclusion of the study is that armed humanitarian intervention is not in line with international law *de lege lata*.

As a result of the research on the submitted work for evaluation, a general conclusion was made that the armed humanitarian intervention can hardly be

reconciled with the modern international public law. It can be accepted with a high degree of certainty that the latter does not accept the existence of a positive norm according to which one or more states have a legitimate right, in accordance with the UN Charter, to use force against another state in order to prevent serious human rights violations. Thus, modern positive international law continues to accept as excluding the illegality of the use of force between states only the cases provided for in the UN Charter. The current state of positive law was taken into account, on the basis of which it was concluded that armed humanitarian intervention, even if in specific cases is morally justified and necessary, if it is undertaken without permission from the UN Security Council, will not be in compliance with public international law.

Along with the habilitation thesis, Dr. Memtsov presented 11 scientific articles in which various aspects of the use of force under international law were considered. Another monograph was submitted to the procedure - "Kosovo: the problem of international legal status", which is a published book based on a defended dissertation for the award of the ONS "Doctor".

The monograph "Armed Humanitarian Intervention: International Legal Aspects" is one of the scientific works on this issue in Bulgarian doctrine. The fact that for the period 2017-2019 the candidate has published 2 monographs / published book based on a defense dissertation for ONS "Doctor" / and 11 articles is an indicator of the presence of creative activity. The presented habilitation work is divided into an introduction, two parts with two chapters, a conclusion and a bibliography, which includes a total of 51 titles in Cyrillic and 72 titles in Latin, including 70 in English and 2 in French.

III. Evaluation of the scientific and scientific and applied results obtained

The results of Gergana Gozanska's research have been achieved. The main goal of the work has been fulfilled. In this sense, it can be maintained that the

candidate has achieved significant scientific and scientific-applied results. Many scientific methods have been used in synthesis, respecting the principle of scientific pluralism and academic freedom.

Without claiming to be exhaustive, the main and most significant scientific and applied results and contributions from work can be summarized as follows:

The advisory opinion on the Greek-Bulgarian "municipalities" is for the interpretation of the Convention on Voluntary Exchange of Population of 1919. It regulates the right to eviction of citizens of both countries and their property rights, as well as those of churches, monasteries, schools and others. united under the term "municipalities". The advisory opinion is dated July 31, 1930 and is the first in relation to Bulgaria. It deserves attention as it addresses issues of liquidation of real estate belonging to these municipalities. In this regard, the provisions of the Convention on Voluntary Exchange of Population governing the property rights of both emigrants and municipalities are analyzed. Attention is focused on the opinions of the Bulgarian and Greek governments, as well as on the answers of the PCIJ on the questions posed to it. They are: what is meant by "municipality" and the closure of a municipality and under what conditions this is done, as well as what are the obligations of the Joint Commission in the absence of entitled to whom to transfer the value of liquidated real estate. The main task is to make a comparison between the opinion of the Bulgarian and Greek governments, noting the common and different between them, as well as which of these two opinions is accepted by the court. The other task is to point out the importance of this advisory opinion in the jurisprudence of the ICCPR, as well as in the case law of the International Court of Justice.

Results have been achieved by the scientific research of Dr. Stoyan Memtsov, too, such as the analysis of the provision of Art. 2, para. 4 of the UN Charter and the possibility of its interpretation in a way that allows armed humanitarian intervention as an exception to the prohibition of the use of force, the study of state practice in order to discover the right to armed humanitarian intervention in

international custom. The main goal of the work has been fulfilled. In this sense, it can be maintained that the candidate has reached certain scientific and scientific-applied results. I evaluate the scientific results of Dr. S. Memtsov in the field of international public law as very good. The scientific contributions, which can be derived from the presented habilitation thesis and the 11 articles presented in it in the field of international public law, lead to the enrichment of existing knowledge through the proposed novelty in the study of a number of legal issues.

The specific scientific and practical results and contributions of the candidate can be listed as follows: the presence of an author's analysis of the ban on the use of force under Art. 2, § 4 of the UN Charter, the right to individual and collective self-defense under Art. 51 of the UN Charter, a good analysis of the powers of the UN Security Council under Chapter VII (Articles 39-43) of the UN Charter, an analysis of the jus cogens norm in international law, the prohibition of the use of force as a jus cogens norm in international law, of armed humanitarian intervention as a norm of international custom. The listed contributions are also found in the articles on the topic attached to the procedure.

IV. Evaluation of the applicants' publications

The predominant part of the presented scientific publications by Dr. Gergana Gozanska is related to the topic of habilitation work. The candidate for the academic position "Associate Professor" Dr. Gergana Gozanska has applied a total of ten scientific papers, six of which are related to the issues developed in the cited monograph. Dr. Gozanska has also shown research interests in other current issues by presenting four articles thematically on both public international law and EU law.

With regard to the other candidate for the academic position of "Associate Professor", Dr. Stoyan Memtsov presented for evaluation a total of 11 articles

related to the topic of the presented work. The candidate could show scientific interests in and other current issues of public international law.

V. Critical notes, recommendations and questions

I recommend to the candidate Gergana Gozanska to continue her research work on the research subject so far.

In his further scientific activity Dr. Stoyan Memtsov could expand his publishing activity in foreign languages. Also as a critical note it can be noted that the candidate has not studied in sufficient depth the Bulgarian international legal doctrine on the subject, such as the article: *Belova, G. Preventive actions according to the International Law. Nicolae Balcescu Land Forces Academy, 16th International Conference of the KBO: Economic, Social and Administrative Approaches to the KBO, pages 486-490, 2010.*

VI. Conclusion

In conclusion of the above, after a thorough analysis and evaluation of the materials submitted in the academic procedure, I present the following opinion:

1. Both candidates in the competition meet the minimum requirements of Art. 24, para. 1 of the Law on the Development of the Academic Staff in the Republic of Bulgaria, art. 53, para. 1 of the Rules for implementation of the Law on the Development of the Academic Staff in the Republic of Bulgaria, Articles 65 and 66 of the Internal Rules of the Plovdiv University ‘‘Paisii Hilendarski’’ and item 4 of the Additional Criteria of the Faculty of Law of the University of Plovdiv for the acquisition of scientific degrees and academic positions, adopted on the basis of Art. 65, para. 3 of the Internal Rules of the Plovdiv University. To determine one of them to hold the academic position of "Associate Professor" in the field of higher education 3. "Social, economic and legal sciences", professional field 3.6. "Law", scientific specialty "International Law and

International Relations", should take into account the additional indicators for evaluation on the basis of Art. 27, para. 4 of the Law on the Development of the Academic Staff in the Republic of Bulgaria, art. 57a, para. 2 of the Rules for implementation of the Law on the Development of the Academic Staff in the Republic of Bulgaria, art. 69, para. 2 of the Internal Rules of the University, namely Chief Assistant Professor Gergana Gozanska, PhD. has a longer teaching experience, as well as participation in 4 research projects according to the attached reference to the materials.

2. Based on the above, I rank the candidates in the following order:

(1) in the first position - Chief Assistant Professor Gergana Gozanska, PhD.

(2) in the second position- Stoyan Panteleev Memtsov, PhD.

Dr. Gergana Gozanska's research contains original scientific and applied scientific contributions and shows her in-depth knowledge and abilities. The results of the research activity, the successful academic development and the professional experience of Dr. Gozanska in the scientific field of the announced competition justify my positive assessment as a member of the scientific jury. In this sense, I will vote "Yes" the election of Chief Assistant Professor Gergana Kostadinova Gozanska, PhD. for the academic position of "Associate Professor".

3. In view of the above, I propose to the scientific jury Chief Assistant Professor Gergana Kostadinova Gozanska, PhD. to vote for her candidature for the academic position of "Associate Professor" in the professional field 3.6. Law, "International Law and International Relations" at the Faculty of Law, Plovdiv University "Paisii Hilendarski".

11.02.2022
Blagoevgrad

Jury member:.....
(Assoc. Prof. Nikolay Marin, PhD.)