R E V I E W

of prof. Irena Tzoneva Ilieva

member of the scientific Jury according to the OrderNr. P33-3695/10.07.2019 of prof. Rumen Mladenov for appointment of scientific jury throw a post open for competition for the academic vacancy "associated professor" of International public law and International relations in the domain of higher education 3. Social, economic and law sciences, professional direction 3.6. Law

Candidate Gergana Kostadinova Gozanska

I . Short CV

Senior assistant Gergana Gozanska PhD was born in 1972 in Plovdiv. She graduated in law from the South-West University "Neofit Rilski" in 1998. From December 2003 to November 2007 she is PhD student at the Chair of International Law and International Relations at the SWU "Neofit Rilski" Blagoevgrad.

In 2014 she defended successfully her PhD thesis "International law status of the child. Specific problems related to the legal status of the child" and received the degree PhD on International law and International relations.

From July 2005 to November 2005 is paralegal at the Department for children and families in Napels, state Florida, USA.

She served as legal advisor in "Eurocom Plovdiv"LdC (2001 – 2007), in "Evrovom Bulgaria" (2007 – 2008), in "International Fair Plovdiv"AC (2009 – 2014).

Since May 2008 till March 2014 was part-time lecturer on International public law at the Law faculty of the Plovdiv University "P. Hilendarski". Since March 2014 is assistant, since November 2016 – senior assistant on International public law at the same faculty. As professor she hold exercises on International public law, take part on the lectures on International public law, EU law, Family and Heritage law, Law of intellectual property.

She possesses diplomas (TOEFL Certificate) for English and certificate for stenography.

She participates actively in the scientific life of the Law faculty: in conferences and projects (she is participant and member of the preparatory committees of 6 research projects), in editorial boards, as well in scientific events outside of the Plovdiv university. In 2016 she took part in the Summer school „Comparative Legal Studies: Enforcement of Justice", organized by the University of North Bohemia, Law faculty, Pilzen, the Czech republic.

She is arbitrator at the Court of arbitrage of the Business Association Plovdiv, member of the United Nations Association in Bulgaria and of the Bulgarian association of comparative law.

She is author of numerous articles and one monography.

II. General description of the materials submitted

The research interests of G. Gozanska PhD are in the matter of International public law, especially its procedural part and the EU law.

In the competition for the academic vacancy for "associated professor" on International law and International relations, promulgated in State Gazette nr. 31 of 12 April 2019 dr. G. Gozanska has submitted one monography and 10 articles.

The materials submitted does not repeat the PhD thesis.

The candidate in the competition for "associate professor" fulfills the national minimum requirements according to the Law for the Development of the academic staff in the R of Bulgaria (ZRASRB) (Art. 2b) and the Regulations for its implementation (Art. 1a, Para. 1). According to indicators from Group A there are 50 points, indicators from group B - 100 points, indicators from group D - 100 points, indicators from group D - 50 points, total - 300 points.

The monograph "Bulgaria and the case-law of the Permanent Court of International Justice and the International Court of Justice", University Edition of the Plovdiv University 'P. Hilendarski", Plovdiv, 2019, ISBN 978-619-202-457-4 contains 197 pages, including the bibliography. The book is dedicated to the not researched in the contemporary international law doctrine case-law concerning Bulgaria of the Permanent Court of International Justice and the International Court of Justice. The choice of the matter researched represents a contribution to the Bulgarian specialized literature, because the exhaustively/comprehensively analyzed cases and advisory opinions were not subject of attention in the Bulgarian international law literature. The book is structured in introduction, four chapters, conclusion and list of the literature used.

In the introduction (8 p.) the author grounds the significance/importance and actuality of the matter choose, the lack of publications on the case-law concerning Bulgaria, the existing specialized literature, the objectives, research methods, as well the main content of the chapters. It is surprising (may be explicable by political reasons during certain historical periods) the lack of comprehensible and in deep research of the case-law of both courts concerning Bulgaria. The monograph is the first systematic and in deep research of this jurisprudence at a whole – advisory opinions and decisions of the two courts concerning Bulgaria. It goes further, presenting the use and the citation of this jurisprudence in other cases before the courts, which is a first attempt in the international law and international relations literature.

Chapter 1 (38 p.) is dedicated to the advisory opinions of the Permanent Court of International Justice. The Chapter is correctly structured starting firstly with the relationships between Bulgaria and the Ligue of Nations (LG). The key events from the international law point of view in the period 10.01.1920 – 20.04.1946 are the Convention between Greece and Bulgaria Respecting Reciprocal Emigration, signed in 1919, the so called Incident of Tarlis on 24.07.1924, which leaded to the signature of the Protocol for the protection of minorities in Greece and Bulgaria on 19.09.1924 (the Protocol Kalfov – Politis), the incident in Petritch in 1925 and the Caphandaris – Molloff Agreement signed by Bulgaria and Greece on 9.12.1927.

G. Gozanska aptly incorporates in the text the presentation of the creation of the permanent Court of International Justice, than goes to the advisory opinions concerning the work

of the Mixed commission charged with the liquidation of abandoned property of the Bulgarian and Greek emigrants (exiles) (in fact the case is only for the Bulgarian exiles, because there were not Greeks according to the factual circumstances).

The Advisory Opinion on the Greco-Bulgarian "Communities" of 31 July 1930 is of special importance for the international law literature, dedicated to the international protection of minorities. It is abundantly cited in all researches on the protection of minorities, but for the first time in detail and in deep analyzed by G. Gozanska in the monograph submitted. Long since proved, especially by the Bulgarian historiography that the real goal/objective of the Convention between Greece and Bulgaria Respecting Reciprocal Emigration from 1919 is the depopulation of Bulgarian of Thrace and Greek Macedonia. I would like underline Gergana Gozanska's extremely conscientious research approach on this political problem with implications in the Bulgarian state and the inheritors/heirs of the emigrants till the end of the 90 years of the last century. Keeping strictly the legal analyzes the author presents the questions of the Mixed commission to the Permanent Court of International Justice, the statements of the Bulgarian and Greek Governments. The definition of the Court of "Communities" (p. 37, p. 39) is of extreme importance for the further development of the international law protection of minorities. The interpretation that it is a question of fact and not a legal one has an impact on the subsequent jurisprudence of the Court, as well on the elaboration of Art. 27 of the International Covenant on Civil and Political Rights (1966).

Another important author's theoretical contribution to the book is a result of the analyze of this advisory opinion: the Court adopt the primacy of international law to the domestic legislation. On this way she demonstrates and proves that still in 1930 the theory for the primacy of the international law is successfully implemented in the jurisprudence, according to the statement of the Bulgarian state.

The Advisory Opinion of March 8, 1932 on the Interpretation of Caphandaris-Molloff Agreement concerns the payments of financial engagements/obligations between the state-parties, in order to compensate/indemnify the emigrants for their properties. The complex factual and legal circumstances are presented extremely conscientious by the author. The financial impossibility to pay cash the price of the properties of the Bulgarian emigrants led to the series of international legal solutions, which damaged them. The decision to pay only 10 % of the value/price of the properties in USD, and for the rest to issue state obligations at a fixed date by the accepting country (Bulgaria for the Bulgarian migrants), the proposal of the US president Hoover for moratorium on all international debts and reparations, were used successfully by the Greece state. Greece stopped the payments and linked its with the reparations from the Bulgarian part. The Council of the League of Nations raised question for advisory opinion on whether there is a dispute between Bulgaria and Greece within the meaning of Art. 8 of the Caphandaris-Molloff Agreement and if there is what is the nature of the pecuniary obligation. The Court decides that there is not a dispute within the meaning of Art. 8 and refused to answer to the second question..

Chapter 2 (40 p.) has as subject matter the decisions of the Permanent Court of International Justice concerning Bulgaria. The first paragraph is dedicated to the Decision Nr. 3 (1924) and Decision Nr. 4 (1925), concerning dispute on paragraph 4 of the Annex to Part IV, Section IX of the Treaty of Neuilly. As the author point out the meaning of this disposition is

that the property of Bulgarian nationals on the territory of the allied states can be used for payments of compensations on claims against actions of the Bulgarian authorities after the entry of Bulgaria in the First World War on 11 October 1915. Analyzing this case, G. Gozanska makes some conclusions. This is the first case of Bulgaria before the the Permanent Court of International Justice, the first to be held by the quick procedure, the decision is a big victory for Bulgaria. On this case the Court find that the claims for compensation of physical persons are acceptable, but only for actions committed against their property and themselves. These compensations are not to pay separately and are part of the whole sum, owed by Bulgaria and fixed in the Treaty of Neuilly. In addition this case led to changes in quick procedure of the Court's Rules of procedures.

The Decision form 1925 is the first in the jurisprudence of the Court, in which an interpretation of Art 60 of the Statue is done.

In the second paragraph of this Chapter G. Gozanska presents the Decision on the Case concerning the Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria) of 1939. This case poses the important question on the jurisdiction of the Court in the case of several sources. The Court finds that "the negative result of the control/examination of the first source of competence does not dismiss the Court of the obligation to examine the other separate and independently of the first" (p. 70). The Permanent Court of International Justice finds that has jurisdiction on the ground of the declarations of Belgium and Bulgaria to recognize the mandatory jurisdiction of the Court. Finally, the case was not considered because of the beginning of the Second World War, and in 1945 Belgium withdrew the claim. This fact does not diminish its significance for the international law: the presence of several sources for jurisdiction is a proof that the parties want to open new ways for court access, thus the court must examine all of them (p. 75).

Especially valuable is the presentation of the individual opinions of judges on this case. They are of two possible categories: dissenting and separate.

The conclusions on the application of two sources of jurisdiction of this case is applicable in other case-law of the PCIJ. G. Gozanska presents two cases: the case concerning the Right of Passage over Indian Territory (Portugal v. India – Decision of 26 November 1957) and the case concerning the Certain Property (Liechtenstein v. Germany). The conclusions made by G. Gozanska on the application the reservation ratione temporis on the tree cases are very valuable. She concludes that "the question if concrete situation or fact is before or after the critical date is decided by the court case by case. For this reasoning the court use the findings in the case Belgium v. Bulgaria (p. 91).

Chapter 3 (41 p.) presents the advisory opinions of the International Court of Justice concerning Bulgaria. The first paragraph logically makes comparison between the jurisdiction of PCIJ and the ICJ. I find that in this part G. Gozanska makes serious contribution for overcome the false opinion for legal succession between the two courts. Very precisely she uses the terms "correlation" and "continuity" between the two bodies. The similarities are legally based on Art. 92 of the UN Charter and the author sees the following: the composition of the court, the sources applied, the preliminary objections especially she point out that they are more used in the case-law of ICJ – p. 99), the stages of the procedure and the institute of the individual opinion 9p. 100

– 102). The declarations for recognizing the mandatory jurisdiction of ICJ are examined in details: without reservation and with reservation. The admissible reservations *ratione materiae* and *ratione temporis* are systemized. The reservations of Bulgaria in the declaration of 1992 and 2015 are analyzed (p. 105 – 106). By the declaration of 2015 Bulgaria recognizes the competence of the International tribunal of the law of the see for cases on the interpretation and application of the UN Convention of the law of the see of 1982 and take out/remove this category of disputes from the ICJ..

G. Gozanska analyzes the continuity between the contractual and mandatory jurisdiction of PCIJ and ICJ (p. 107 – 108), pointing out that this continuity is examined for the first time concerning the declarations on the case Israel v. Bulgaria on the Aerial Incident of 27 July 1955.

After the clear differentiation of the similarities and the continuity the author examines the differences between the PCIJ and the ICJ. They are the following: the ICJ is a UN body, in comparison to PCIJ, the advisory jurisdiction and the bodies which are entitled to exercise it (the five main bodies of the United nations, as well other UN bodies and the specialized organizations, entitled by the General assembly). Furthermore in the legal regulation of ICJ the subject matter of the claim can be only legal question (while PCIJ gave opinions on every dispute and question, including without legal character). The advisory opinion procedure of ICJ is presented.

In paragraph 2 of Chapter 3 G. Gozanska presents the two advisory opinion of ICJ, concerning Bulgaria and the interpretation of the Peace Treaty of Paris of 1947 (the first from 30 March 1950, the second of 18 July 1950). The concrete occasion/cause for there advisory opinions is the claim of Australia to the General assembly entitles "supervision of the fundamental freedoms and rights in Bulgaria and Hungary, including the question of religious and civil rights, especially the suit cases against religious church leaders". This year is the 70 anniversary of the process/suit against the evangelical pastors so called Pastor process and despite the affirmation of G. Gozanska that it is widely researched in the Bulgarian literature, the monograph is a worthy contribution for the legal clarification and the international law impact of the events. The author presents the reactions of the UN General assembly, incorporated in two resolutions, expressing concern on the accusation against Hungary, Bulgaria and Rumania for violating human rights and the refusal of the tree countries to cooperate on the question. The questions of the General assembly to the Court, the written statement of the USA, the objection of the Bulgarian part (identical with those of Romania and Hungary) are presented in details. The Court finds that the diplomatic negotiations didn't give results and the dispute must be transferred to the commission with representatives of USA, Great Britain and USSR.

Because of the refusal of Bulgaria, Hungary and Romania to appoint their own members in the commission the mechanism for settlement of the dispute was blocked. The Court answers negative to the question if the General secretary can appoint a third member lacking the representatives of the one of the countries. G. Gozanska draw a well – grounded conclusion that this led to impossibility to resolve the dispute concerning the human rights and fundamental freedoms (p. 129). The analyze of the impact of this advisory opinion on the case-law of the UN is especially valuable. As G Gozanska pointed out the resolution of 22 October 1949 is between the first dealing with the human rights and it grounded on Art. 55 of the UN Charter. This resolution has importance for the strengthening and protection of the religious rights, as well for

the protection of human rights on universal level (at this moment Bulgaria and Hungary are not member states of the United nations). The impact of this advisory opinion on the arbitrage procedure is noted, as well the citation of this opinion in the jurisprudence. The arbitrage avoided this eventuality in the future.

Chapter 4 (38 p.) analyzes the decision of ICJ concerning Bulgaria. Paragraph 1 presents the decision and the Court's order on the Case concerning Aerial Incident of July 27, 1955 (Israel v. Bulgaria), where 58 persons died – the all aircraft crew and all passengers on board of the Israel company El Al making scheduled flight between Vienna and Lod. The parties did not reached an agreement on the compensation of the damages and Israel ceased the ICJ. The Bulgarian objections on this case concerning the mandatory jurisdiction of ICJ (the discontinuance, cessation of the declaration of the Kingdom Bulgaria of 12 August 1921, the fact that our country is a part to the Statute since 14 December 1955 when became a UN member state, etc.). The Court finds that Art. 36, p. 5 is not in force for the states not signed the UN Charter and the Statute of the Court. They cannot preserve the validity of their declarations and to transfer it to the new court, because the term was till the cloture of PCIJ. By decision of 26 May 1959 the Court has no competence to deal with the case, initiated by claim of Israel.

The research offers a brief systematic review of the Case concerning Aerial Incident of July 27 1955 (USA v. Bulgaria) and United Kingdom v. Bulgaria. G. Gozanska presents conscientious all arguments and commentaries on this case. Special interests present the separate opinions of the judge Badawi and judge Armand-Ugon.

In this Chapter G. Gozanska also researches the impact of this case on the further jurisprudence of the ICJ. She finds the importance of the case in the analyze of Art. 26, p. 5 of the Statute and in the fact that for the first time the impact of the dissolution of the PCIJ on the declarations of the states was discussed. The author presents two cases: the Case concerning the Temple of Preah Vihear (Cambodia v. Thailand) – Judgement of 26 May 1961 and Barcelona Tractation Light and Power Company, Limied, Belgium v. Spain, Judgement of 1964 г.

On the first case the Temple of Preah Vihear Thailand bases its objections on the Decision of the case Israel v. Bulgaria. The ICJ took another position, based on the fact that Thailand is UN member since 16 December 1946, but the state has renewed its declaration in 1940. Thailand is also among the states did not took place on the Conference in San Francisco, but has made actions according to Art. 36, p. 4 of the Statute, recognizing the competence of the Court in the meaning of Art. 36, p. 2.Thus the Court notes that Art. 36, p. 5 is not applicable to the Thailand's declaration.

In the case Barcelona Tractation Light and Power Company, Limied, Belgium v. Spain, the company in question with capital mainly owned by Belgian citizens, was declared insolvnt in 1948. Belgium claims compensation for damages from Spain. In this case the source for the jurisdiction of the Court is the Treaty for conciliation, court settlement and arbitrage between Belgium and Spain of 1927 and Art. 37 of the Statute of ICJ. Spain bases its defense on the conclusions of the case Israel v. Bulgaria, stating that Art. 37 of the Statute cannot ve applicable, because Spain was admitted as UN member in December 1955 and that this disposition is to be applied only to the initial member-states. Bacause of this the Court makes comparison between

the two cases. In the Judgment of the Barcelona Tractation case ICJ finds that the dissolution of the PCIJ does not affect the international treaties.

As result of the analyzes of this jurisprudence G. Gozanska makes a well – grounded conclusion that in both cases the Court differentiates from the decision on the Arial Incident. "The Court clear manifestates the will not to take it into consideration and to apply it in the further lase-law. In this way (the Court) rejects its jurisprudence" (,. 169).

The conclusion systematizes the conclusions and generalisations made in the book. The case-law of PCIJ contains two advisory opinions and tree decisions, while the jurisprudence of ICJ has one Judgement, two orders and two advisory opinions. In the conclusion G. Gozanska presents the Bulgarian lawyers, defending the country before the PCIJ – Teodor Teodorov and Ivan Altanov, the judge Teohar Papazov – judge ad hoc in app procedures concerning Bulgaria before the PCIJ. The lawyers remaining with their names in the cases before ICJ are prof. Nisim Mevorah, member corr. Evgeni Kamenov and prof. Vl. Kutikov.

In the competition for the academic vacancy "associate professor" G. Gozanska applies with 10 articles, 6 of them on the theme of the habilitation's monograph and 4 on other subjects. The 6 articles on the theme of "Bulgaria and the case-law of the Permanent Court of International Justice and the International Court of Justice" will be not reviewed, because they are steps towards the book still reviewed by me in detail.

The article "The Mechanism for Cooperation and Verification of the European Union for Bulgaria – legal and Sociological Dimensions" (in Compendium in memory of prof. R. Tashev "Law and Rights", University Edition Sofia University "St. Kl. Ohridski", S., 2016, p. 588 – 605) with co-author Plamen Nanov is an original contribution of G. Gozanska to the legal nature of this monitoring instrument, introduced on the eve of the accession of Bulgaria in the EU. As result of the analyzes made, G. Gozanska draw the well-founded conclusion that the mechanism for cooperation and verification has all indicators to be named "soft law".

In the article "General Assembly of the United Nations and the International Trade" (Annuary of EVUIM, book 17/2017, Edition of EVUIM, Plovdiv, 2017, p. 81-91) G. Gozanska systemizes tha main and subsidiary UN bodies competent in the matter of the international trade. The focus is on the Economic and Financial Committee (the Second Committee), the UN Conference on Trade and Development (UNCTAD) and the Commission on International Trade Law. Other relevant bodies are presented briefly.

The interest of the author on the matter of soft law is manifested in the article "Soft law in Practice of the Inter-American Court of Human Rights" (in compendium Soft Law and contemporary law, Edition SIBI, S., 2017, p. 294 – 306). It is to acclaim the choice of the research subject matter, because the case-law of the Inter-American Court of Human rights is less known and was not subject of research in deep from the aspect of the soft law. In this article G. Gozaanska proves that the Inter-American Court of Human rights widely uses the sources of soft law, and not only these adopted by the Organization of American states, but also by the United Nations and the Council of Europe.

The article "National Registration of a Mark on the Territory of Bulgaria" (in Compendium Legal Regime of the Beekeeping and the related activities, Edition of the Plovdiv University "P. Hilendarski", Plovdiv, 2019, p. 41 – 57) presents another aspect of the creative searches and interests of Dr. G. Gozanska, namely in the matter of the law of the mark and intellectual property. In this article G. Gozanska presents the whole regime of registration of mark by the beeoweners and registered farmers.

I would like to underline the long-standing pedagogical activities of Dr. G. Gozanska. I woud like to share also personal impression, because more than 10 years G. Gozanska makes the exercises on International public law at the Law faculty of the Plovdiv University, to wich disciplina I am a titular. Together we developed the exercises, which G. Gozanska enriches and makes actual for every new course. We introduced the writing and defending of essays, after that the success of the exams increased. In addition to the lectures in International public law and EU Law, G. Gozanska has 22 hours lectures in the course "Family and Heritage Law" and 100 hours in "Intellectual Property Law". She is professor also in the master programs of International Relations and Public administration. G. Gozanska is among the best scored pprofessors in all questionnaries for the quality of the education and teaching at the Law faculty. She has the capacity to work with people and is extremely ethical and team-working colleague.

III. Appreciation of the scientific and practical results and contributions

On the first place among the general theoretical contributions I would like to point out the choice of the monograph research subject. There are an original research of the case-law concerning Bulgaria before the PCIJ and the ICJ, on this basis are drowned important theoretical conclusion and generalisations.

- The aim formulated: to systematize and present the cases concerning Bulgaria before the PCIJ and the ICJ is achieved;
- The monograph represents the first systematic and in deep research of the jurisprudence of the PCIJ and the ICJ at a whole: advisory opinions, decisions of both courts;
- Other contribution is the analyze in detail of the Advisory Opinion on the Greco-Bulgarian "Communities" of 31 July 1930;
- The analyze of the definition of "community" of the PCIJ (p. 37, 39) is exceptionally important for the further development of the international legal protection of the minorities;
- Other important theoretical contribution of the author as result of the analyze of this Advisory opinion is that the Court adopt the primacy of the international to the domestic legislation;
- The analyze of the Advisory Opinion of 8 March 1932 on the interpretation of the Caphandaris-Molloff Agreement, showing that the PCIJ strictly differentiate the judicial from the advisory competence;
- For the first time research of the Decision Nr. 3 (1924) and Decision Nr. 4 (1925), concerning dispute on paragraph 4 of the Annex to Part IV, Section IX of the Treaty of

Neuilly is made. These decisions would be appreciate as a great international law victory for Bulgaria;

- For the first time the Judgment on the Case concerning the Electricity Company of Sofia and Bulgaria (Belgium v. Bulgaria) of 1939 is analyzed. This case has an great impact for the international procedural law and deals the theoretical question on the several sources of jurisdiction and the necessity the Court to examine all of them;

- Another principle, drawn from this case: "the only situations and facts, to be taken into account are these, which are ground for the dispute" is applied in the case concerning the Right of Passage over Indian Territory (Portugal v. India – Decision of 26 November 1957) and the case concerning the Certain Property (Liechtenstein v. Germany).

- The presentation of the "correlation" and "continuity" between the PCIJ and the ICJ;

- The analyze of the continuity between the contractual and mandatory jurisdiction of the PCIJ and the ICJ (p. 107 – 108). This continuity is examined for the first time regarding the declarations on the case Israel v. Bulgaria concerning the \Aerial Incident of 27 July 1955;

- The numerous well-founded conclusions (p. 99, p. 129, p. 162, p. 169 and other);

- The analyze of the case Israel v. Bulgaria concerning the Aerial Incident of 27 July 1955 and its importance for the declarations for the recognizing of the mandatory jurisdiction of PCIJ and the ICJ.

Practical contribution of the book

- The conclusions on the application of the reservation *ratione temporis*, citation on the case Belgium v. Bulgaria (p. 91);

- The international legal impact of the trial against the evangelic pastors, the so called pastor trial, analyzed in the Advisory Opinion of 30 March 1950;

- The presentation of the two advisory opinions of ICJ concerning Bulgaria, on the interpretation of the Paris Peace Treaty of 1947 and its impact to the arbitrage procedure.

IV. Critical remarks and recommendations

Despite the historical events on the conclusion of the Treaty of Neuilly, the Greco-Bulgarian Convention respecting Reciprocal Emigration of 1919 and the Caphandaria-Molloff Agreement are widely researched in the historical literature, it would be possible to present more the political context of the legal disputes. Of course, G. Gozanska strived and achieved maximal balance and objectivity of the content with focus of the legal problems.

It would be possible to enlarge the text on the eminent Bulgarian lawyers (some of them forgotten), taking part on the cases, subject of the monograph.

I would like to be prompt and to point out that the above mentioned critical remarks are not substantial and does not impact the quality of the monograph and the perfect impression of them.

R E V I E W

of prof. Irena Tzoneva Ilieva

candidate Stoyan Panteleev Memtsov

I . Short CV

Dr. Stoyan Memtsov was born on August 30, 1985 in the town of Smolyan. He graduated from the French Lycee "Antoine de Saint-Exupery" - Plovdiv in 2004 and has a master's degree in law from the University of Plovdiv "Paisii Hilendarski", graduated in 2010. From March 2013 to March 2016 he is a full-time PhD student at the Department of International Law, International Relations and EU Law at the Faculty of Law of the University of Plovdiv Hilendarski ", doctoral program "International Law and International Relations ".

In 2017, he successfully defended his dissertation on "Current issues of the international legal status of Kosovo" and received the educational and scientific degree "Doctor" in "International Law and International Relations".

From 24.10.2016 to 24.10.2018 he is an assistant at the Faculty of Law of PU "P. Hilendarski ", Department of International and Comparative Law. He has lectured on International Treaties Law and seminars on Private International Law (which was also his main job as an assistant).

From October 2010 to June 2011 he specialized in EU Law at the University of Leiden, the Netherlands.

Since July 25, 2013 he has been a lawyer at the Plovdiv Bar Association.

He has two monographs and 11 articles.

II. General description of the materials submitted

In the competition for the academic vacancy for "associated professor" on International law and International relations, promulgated in State Gazette nr. 31 of 12 April 2019 dr. Stoyan Memtsov has submitted one monography, one book published on the basis of the PhD thesis and 11 articles, 5 of them on the theme of the monography.

The materials submitted does not repeat the PhD thesis.

The candidate in the competition for "associate professor" fulfills the national minimum requirements according to Law for the Development of the academic staff in the R of Bulgaria (ZRASRB) (art. 2b) and the Regulations for its application (art. 1a, Para. 1). According to indicators from group A there are 50 points, indicators from group B -100 points, indicators from group D - 185 points, indicators from group D - 80 points, total - 415 points.

The monograph "Armed Humanitarian Intervention: International Aspects", Macros, Plovdiv, 2019, ISBN 978-954-561-478-1 in a volume of 236 pages, including footnotes and bibliography. The book is devoted to the debatable in modern international legal doctrine problem of armed humanitarian intervention.

The choice of the subject of research is a contribution to the active discussions in the international legal science on the existence of a positive or customary norm regarding this intervention.

The book is structured in an introduction, two parts, each of which contains two chapters, a conclusion and a list of references.

In the introduction (4 p.) the author justifies the importance and relevance of the chosen topic, points out that in the available specialized literature in Bulgaria the issue is studied in two works, but does not review the abundant foreign studies. The main content of both parts is presented.

Part One consists of two chapters. It examines the main content of the international legal framework for the use of force in interstate relations, with the stipulation that study is not the purpose of its comprehensive research.

Chapter One (p. 29) is devoted to the historical development of *ius ad bellum* until the adoption of the UN Charter. The development of the law of war from Late Antiquity, the Middle Ages, Spanish scholasticism, the period XVI-XIX centuries, the gradual emancipation of international law from religious postulates and the doctrine of natural law and its evolution to positivism. The conclusions in this part are generally recognized in international legal doctrine, such as that "... in the nineteenth century, international law in practice did not impose any restrictions on the right of states to wage war" (p. 34). The first attempts at legal regulation of the war (1899-1914) between the First and Second World Wars are traced, in particular the provisions of the Charter of the League of Nations and the Brian Kellogg Pact.

Chapter Two (p. 64) deals with the prohibition of the use of force under the UN Charter, regulated in Art. 2, § 4, and which, as is well known, derives from international custom. The text of the provision of Art. 2, § 4 is analyzed. In this part the author agrees with generally accepted conclusions such as that "It is considered indisputable that the prohibition of the use of force is applicable only in interstate conflicts. The differences stem from the different perceptions of the relevant facts and the application of the law to those facts "(p. 56). The used terms "force", "threat of force", "armed force", "armed attack" are analyzed, the issue of distinguishing actions that constitute the use of force from those that interfere in the internal affairs of a country is considered (pp. 58 - 59), briefly addresses the issue of cyber attacks and whether they constitute the use of force. An analysis of the "threat by force" was made according to Art. 2, § 4 and the case law of the International Court of Justice, as well as the last blank part of the same provision of the UN Charter.

In Section 2.2. the same chapter analyzes the right to individual and collective self-defense according to Art. 51 of the UN Charter. The content of the "armed attack" has been clarified on the basis of the relevant case law of the International Court of Justice, as in the case

of NATO's Allied Force operation against the Federal Republic of Yugoslavia in 1999; the requirement of necessity and proportionality. the so-called accumulation of events (p. 83), the requirement to notify the Security Council of the measures taken.

Section 2.3. considers the use of force on the basis of Chapter VII of the UN Charter. Here the research could be deepened, because the evolution of the sanctions under Art. 41 is extremely interesting. The author only mentioned the so-called "smart sanctions" (pp. 90-91). With regard to the assessment of the application of sanctions with armed force under Art. 42 conclusions of St. Memtsov are quite influenced by authors who believe that the non-application of Art. 43 and the current way of making decisions, giving mandates, etc. are justified from an international legal point of view.

In paragraph 2.4. other possible exceptions to the prohibition on the use of force have been considered, in particular the issue of armed intervention with the consent of the State in whose territory it takes place. The nature of the conflict in which intervention is requested (civil conflict, civil war), from whom the request was made (legitimate government or armed opposition), the validity of the consent (competence of the issuing authority) are analyzed in a logical sequence.

Part Two is essential to the monograph. It is also structured in two chapters. In the introductory part, preceding the third and fourth chapters, I find that there are contradictions between the exposition of St. Memtsov regarding the armed intervention with the consent of the state to which it is carried out and the conclusion that this hypothesis contradicts and violates Art. 2, § 4 of the UN Charter (p. 118).

Chapter Three (in a volume of 18 pages) is disproportionately smaller than the others. It is devoted to the important theoretical but of great practical importance question whether the prohibition of the use of force in interstate relations is the norm *ius cogens*. I consider the author's analyzes and judgments on the issue to be an original contribution to the monograph. In this regard, he has shown the scientific courage to question the almost generally accepted view that the prohibition of the use of force is a norm of the *ius cogens* type. The main questions that the author asks himself are about the permissible deviations from the ban on forced use and whether it is absolute. As a result of the analysis of the case law of the International Court of Justice St. Memtsov concludes that "... the perception of *ius cogens* of the nature of the prohibition on the use of force by the International Court of Justice cannot be accepted with certainty" (p. 129). Of particular interest is the section on the attitude of states to the ban (pp. 129 - 141), presenting two opposing conclusions on the issue. Refraining from a definite answer, however, St. Memtsov claims that "In my opinion, there is nothing wrong with perceiving the ban on the use of force as a norm that is not *ius cogens*. This would hardly open Pandora's box in international law. States are unlikely to use force more often than they do now "(p. 140).

Chapter Four (60 p.) Analyzes the controversial issue in the doctrine of armed humanitarian intervention in positive law, and in particular its legality and compliance with modern international law. The various opinions in international legal doctrine are presented in good faith.

In Section 4.1. the international humanitarian intervention is analyzed in the light of the provisions of the UN Charter. The conclusion of this part is, "... that the fact that the right to armed humanitarian intervention cannot be derived from the UN Charter does not mean that such an exception to the prohibition of the use of force does not exist in positive international law" (p. 155). In the following exposition, the author focuses on the study of the question of whether international humanitarian intervention has not become a norm of customary international law. Paragraph 4.2 is devoted to this problem. It is built methodologically and conceptually on the presentation of the practice of states and drawing conclusions and summaries of this practice. Situations that can be described as armed humanitarian intervention during the Cold War are presented: Bangladesh (1971), Cambodia (1978-1979), Uganda (1978-1879), Central African Empire (1979).), and after the end of the Cold War: Iraqi Kurdistan (1991), Liberia and Sierra Leone (1989-1999), Kosovo (1999).

In paragraph 4.2.9. the concept of "responsibility to protect", which excludes armed humanitarian intervention without authorization from the UN Security Council, is briefly presented.

The main conclusion of the author of this chapter is that "... the existence of the right to humanitarian intervention without the permission of the Security Council as an exception to the ban on the use of force resulting from international custom is problematic" (p. 200). However, St. Memtsov leaves open the question of the possibility of such a custom of international law.

In paragraph 4.3, the author attempts to systematize the substantive and procedural requirements for the admissibility of humanitarian intervention, based on a study by the International Law Association from the 1970s and without personal contribution to the issue.

The conclusion systematizes the conclusions and summaries made in the book. The main author's conclusion is that modern international public law does not contain a positive norm "... according to which one or more states have the right legally, in accordance with the UN Charter, to exercise force against another state in order to prevent serious human rights violations against local population carried out by the country concerned or to prevent a large-scale humanitarian catastrophe in the country concerned "(p. 215).

In the competition for the academic position "associate professor" St. Memtsov also participated with a published book based on a defended dissertation for the award of the educational and scientific degree "Doctor", which is not subject to review. Of the 11 articles presented in the competition, 5 are on the topic of habilitation work and are incorporated in the monograph reviewed above. I will not review them, because they are steps towards writing the already presented work.

The article "**The principle of *Uti possidetis* and its place in contemporary international public law** (Studia Iuris, issue № 2, December 2017, ISSN 2367-5314) examines the historical development of this principle from Roman private law to the principle of international law used in decolonization of Latin America in the nineteenth century and in Africa and Asia in the twentieth century. The author questions the extent to which *uti possidetis iuris* is also applicable in the case of the creation of new independent states in a non-colonial context, whether it is an international custom or a political principle.

The article **"The European Union's Commitment to Peace in the Western Balkans"** (Proceedings of the Institute of State and Law, BAS, Volume XVI, Sofia, 2017, 307-325, ISSN 1314-6459) examines the European Union's intervention to preserve peace and establishing the rule of law in the countries of the former Yugoslavia, through the work of the Badenterre Commission established in the early 1990s and through the current rule of law mission in Kosovo. EULEX.

In the article **"Traditional Criteria for Statehood** (Journal of Legal Thought, Issue 1, 2018, 41-58, ISSN 1310-7348) Art. Memtsov examines the classic, so-called Montevideo Convention criteria for the emergence of the state, based on the principle of efficiency - a permanent population, a certain territory, an effective government, the ability to enter into relations with other states and independence. Their nature and scope and their place in contemporary international public law have been clarified.

Article **EULEX at the Age of 10 and Its Struggle to Establish the Rule of Law in Kosovo**, (Conference proceedings of the International scientific conference "Towards a Better Future: the Rule of Law, Democracy and Polycentric Development", Faculty of Law - Kicevo, St. Kliment Ohridski University - Bitola, vol. I, 2018, 326-336, ISBN 978-608-4670-00-1) seeks an answer to the question of the current state of the rule of law in Kosovo after 10 years of operation. EULEX and how much of the progress (if any) is due to the work of EULEX.

The article **"Bulgaria and Operation Allied Force: International Legal Aspects of the Assistance Provided by Bulgaria to NATO Forces"** (collection "Law - Traditions and Perspectives" from the Jubilee Scientific Conference on the Occasion of the 25th Anniversary of the Faculty of Law of Plovdiv University Paisii Hilendarski ", June 2018, 889-905, ISBN 978-954-28-2625-5) aims to establish to what extent the use of force by NATO against the Federal Republic of Yugoslavia in 1999 was in accordance with the norms of international law. The second task of the author is, in case it is established that such compliance does not exist, to answer to what extent the assistance provided by Bulgaria may constitute a violation of international law and illegal from the point of view of international law act against the Federal Republic of Yugoslavia.

The article **"The right to self-defense according to art. 51 of the UN Charter and International Terrorism"**, Proceedings of the Annual University Scientific Conference. (Vasil Levski National Military University, Volume 8, Veliko Tarnovo, 14-15 June 2018, ISSN 1314-1937) examines the impact of international terrorism on the scope and nature of the inalienable right to self-defense under Article 51 of the UN Charter and the admissibility of the use of force against countries considered to be a refuge for terrorists.

The Information for pedagogical activity of Dr. St. Memtsov, attached to the documents for the competition shows that for the period 2016-2018 he gave lectures on "International Treaties Law" and seminars on Private International Law (which was his main job as an assistant).

III. Appreciation of the scientific and practical results and contributions

- The peer-reviewed monograph is a comprehensive study of armed humanitarian intervention in the context of contemporary international public law;

- There is an in-depth analysis of the ban on the use of force under the UN Charter, regulated in Art. 2, § 4;

- I fully share the well-founded conclusion that the right to humanitarian intervention without the permission of the Security Council, as an exception to the ban on forced use resulting from international custom, is problematic (p. 200);

- I agree with the general conclusion that in contemporary international law there is currently no positive customary law allowing armed humanitarian intervention as an exception to the ban on the use of force (p. 201).

- I consider the author's analyzes and judgments on the question of whether the prohibition of the use of force in interstate relations is the norm *ius cogens* to be an original contribution to the monograph.

- I highly appreciate the methodological approach in Chapter Four, where, based on the practice of the following countries: Bangladesh (1971), Cambodia (1978-1979), Uganda (1978-1879), the Central African Empire (1979), and after the end of the Cold War: Iraqi Kurdistan (1991), Liberia and Sierra Leone (1989-1999), Kosovo (1999), the author tries to argue that there is an international custom.

IV. Critical remarks and recommendations

My first critical remark is related to the strong influence of the main conclusions of St. Memtsov from the research of other authors, mainly in the part regarding the imposition of the sanctions under Art. 41 and 42 UN Charter and the non-application of Art. 43. Although the text is extremely well logically constructed, it largely repeats and systematizes those already presented in the foreign language specialized literature. At this time, the author could deepen the study of the so-called smart sanctions. The same goes for the concept of "responsibility to protect".

There is no clear personal opinion about the armed humanitarian intervention and the final general conclusion is open and prognostic.

I pointed out the imbalance in the volume of the heads, which is expressed in the relatively small Chapter Three.

Throughout the monograph, the term "Draft Convention on the Liability of States for International Offenses" is used (for example, pp. 97, 98, 103, 127, 134, 135), most likely as a translation in Bulgarian of the "Draft Articles on Responsibility of States for Internationally Wrongful Acts". However, the use of the term "draft convention" misleads the lay reader. These are "Draft Articles" that do not constitute a draft convention, but can only serve as one. As is well known, this has not happened since 2001.

I also have a lot of terminological remarks. I will mention only some of them. In the first place, the use of the term "Pact of the League of Nations" instead of the generally accepted in Bulgarian literature "Charter of the UN". Without pointing out all the international legal literature, I will give an example with the edition International Law of Prof. Bl. Vidin, Ciela, 2020, pp. 274 et seq.

Despite the good legal and literary style of the exposition as a whole, I cannot ignore the systematic use of the non-literary expression "преценя" instead of "преценява" (pp. 24, 28, 82, 83, 84).

V. Conclusion

The research production submitted by Dr. Gergana Gozanska in the matter of International public law and namely its procedural part gave ground for appreciation of its conformity with the requirements of the Law for the Development of the academic staff in the R of Bulgaria, as well the capacity of the candidate to choose for research important and actual problems with great theoretical and practical importance. The research production submitted is original and proper achievement of the author.

The presented scientific production of Dr. Stoyan Panteleev Memtsov meets the requirements of the Law for the Development of the academic staff in the R of Bulgaria and the Regulations for its implementation.

For the final evaluation of the scientific and applied achievements of the two candidates under equal conditions under Art. 26, para. 1 of ZRASRB, criteria under Art. 27, para. 4 ZRASRB:

1. Related to the learning activity:
a) (amended, SG No. 30/2018, effective 04.05.2018) classroom and extracurricular classes; innovations in teaching methods, providing classes in a practical environment outside the university or research organization;
b) (revoked, SG No. 30/2018, effective 04.05.2018)
c) work with students and doctoral students, including joint work with students and doctoral students in research and artistic projects;
2. related to the research activity:
a) (amended, SG No. 30/2018, effective 04.05.2018) membership in an authoritative creative and / or professional organization in the relevant scientific field;
3. (suppl. - SG 30/2018, in force from 04.05.2018) related to the artistic or sports activity:
a) (amended, SG No. 30/2018, effective 04.05.2018) participation in projects; membership in a creative or sports organization.

Under item 1, "a" I rank first Dr. Gergana Gozanska, who has more than 12 years of teaching experience in the field of international public law. Dr. St. Memtsov proved 2 years of teaching experience as an assistant professor of Private International Law and has given only lectures on "International Treaties Law" for part-time students.

According to item 1 "c" ranked first Dr. G. Gozanska, who works continuously with students so far, has a doctorate and leads the circle of "International Law".

Under item 2 "a" I rank first Dr. G. Gozanska, who is a member of the Bulgarian Association for Comparative Law and the United Nations Association in Bulgaria. From the submitted documents there is no evidence of membership of Dr. St. Memtsov in authoritative professional organizations in the field of international law.

Under item 3 "a" I rank first Dr. G. Gozanska, who presented evidence of participation in 4 projects funded by the Research Fund. From the presented by Dr. St. Memtsov in the competition documents do not find evidence of his participation in projects.

Taking into account the above review and according Art. 24 of Part 3 of the Law for the Development of the academic staff in the R of Bulgaria, Art. 53, Para. 1 of the Rules for its application and the Rules of the Plovdiv University, I give positive mark and propose Dr. Gergana Kostadinova Gozanska to be elected as ""associate professor" of International public law and International relations in the domain of higher education 3. Social, economic and law sciences, professional direction 3.6. Law

Sofia, 20 February 2022 г.

Prof. Irena Ilieva PhD